

CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI-110 066
09 OCT 2017
SIGN. (DISPATCH SECTION)

Sh. V. Ganesh Kumar
U.S. Sect. of India
Ministry of Finance, Dept of Revenue
C.B.C., West Block New Delhi

Copy to:-

Central Public Information Officer
(V.P. Pandey)

If aggrieved, you may file an appeal under section 19 of RTI Act within thirty days before Hon'ble First Appellate Authority, CESTAT New Delhi.

Note:- RTI application's replies which are related to outer benches may be gathered form there by filing RTI applications there directly, for facilitation, CPIOs are nominated at all outer benches separately.

You are, therefore, requested to please acknowledge the receipt and deposit Rs. ~~---~~ @ 2/- per page) to this Tribunal by cash or DD in favour of Accounts Officer, CESTAT, New Delhi.

Please refer to your RTI application No. 29/8/17 and our ID No. 12-78/17 the information received from AR (S), DR (P), I.O. containing 31+1+1=33 pages is enclosed herewith for your reference please.

Sir/Madam,

Subject: Information under Right to Information Act 2005.

Sh. Rajesh Tothi
754, Sector A-1, Scheme No-136
Vijay Nagar, Indore-452010

To,

ID No. 12-78/2017

Dated. 05/10/2017

F. No. 12-78/1 CESTAT/CPIO-ND/VPP/2017
Customs Excise and Service Tax Appellate Tribunal
West Block No 2, R.K. Puram, New Delhi-110 066

F. No. 53(RTI)/ Miscn./CESTAT/ N.D.-2016 Vol.-II
Customs Excise and Service Tax Appellate Tribunal
West Block No 2, R.K. Puram, New Delhi-110 066
Admn. SECTION

CPIO ID No: 12-78/2017
Date: 27.09.2017

Sub: information sought under RTI Act 2005 - reg.

Sir,
Please refer to the RTI No. CBCE/R/2017/51035 DT. 10/8/2017 of
Shri Rajesh Joshi and find Para wise reply as under:

1 & 2) Does not pertain to this section.
3) The details of postings of Shri M. V. Ravindran, Member (Judicial) is
enclosed herewith - 01 Pages
The question of action taken by the Department is vague, hence
cannot be answered.

Yours faithfully,

(Bineesh Kumar K. S.)
Dy. Registrar (Admn.)

To:
CPIO CESTAT New Delhi

12/9/17

F.NO.32(33) MISC/RTI-SM/2017
CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K.Puram, New Delhi,
SM APPEAL BRANCH.

INFORMATION NOTE

Dated: 19/09/2017

Subject: Information sought under RTI Act 2005 - RTI
registration No. CBCE/R/2017/51035 dated
10/08/2017 filed by Sh. Rajesh Joshi - reg.

Ref : CPIO ID NO.12-78/CESAT/CPIO-
ND/PP/2017 dated 24/08/2017.

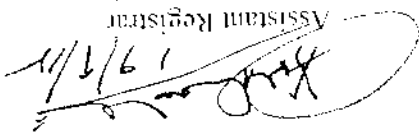
Please refer to CPIO note dated 24/08/2017 issued under I.D.
No.12-78/2017 received in SM Branch on 15/9/2017 on the captioned
subject. The Para wise reply is as under:-

1. Enclosed attested copy of final order No. A/52551/2016 dt. 23/06/2017
in Application Nos. E/Misc./50881 and 50882/2016-SM appeal No.
E/51793/2016-SM consisting of 31 pages.

2. The Single Member Branch does not possess the information, may be
obtained from concerned section.

3. The Single Member Branch does not possess the information, may be
obtained from concerned section.

The applicant may be informed accordingly.


Assistant Registrar
Single Member Branch

Date: 19/09/2017.

To,

The CPIO & Assistant Registrar(RTI Branch)
New Delhi.
Enclosure: Total page 31.

19/9/17


CENTRAL REGISTRY

NOTE

Sub: Information sought by Shri Rajesh Joshi

under the RTI Act 2005 ----reg.

Ref: I.D.No.12-78/2017


Please refer to note dated 24/08/2017 of CPIO issued vide F.No.12-78/CESTAT/CPIO-NDV/PP/2017 received on 22/09/2017. The

point wise reply to information sought by the applicant is as under:-

Reply to (ii) : The information sought is not clear.

F.No. 10/CESTAT/CR/2015-16

Date: 22/09/2017

Technical Officer


To,

Shri V.P. Pandey,
CPIO/Asstt. Registrar,
CESTAT, New Delhi.

25/9/17

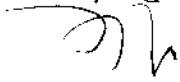

Customs Excise and service Tax Appellate Tribunal
West Block No. 2 R.K. Puram, New Delhi-110066

Excise Division Bench

CPIO ID No.12-78/2017

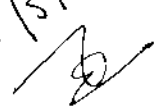
Information sought by information seeker given as below for said
RTI.

Point-(A): Appeal No. E/51793/2016 Not pertains to Excise
Division Branch related to Single Member Branch.



Assistant Registrar
Excise Division Branch

15/09/17

15/09/17


F. No. 12-78 / CESTAT/CPIO-ND/VFP/2017
Customs Excise and Service Tax Appellate Tribunal
West Block No 2, R.K. Puram, New Delhi-110 066

Dated:- 24/8/17
ID No. 12-78/17

Subject: Information sought under RTI Act, 2005.

Sir/Madam,

Please refer to RTI application No. CESTAT/P/2017/51035 dated 24/8/17 of Shri/Smt. ROJESH JOSHI under RTI Act 2005 (copy enclosed) wherein certain information are sought as mentioned therein is related to your section.

Therefore, in terms of the provisions of Section 6(3) and Section 5(4) read with Section 5(5) of RTI Act 2005 the RTI application No. 12-78/2017 dated 24/8/17 CPIO ID No. 12-78/2017 is forwarded herewith to the you as deemed CPIO with the request to provide the correct and para wise information/inspection on or before 02/9/17 directly to the applicant and intimate the undersigned within the stipulated time failing which, you will be responsible for delay and penalty if any, under section 20 of RTI Act. You are, further requested to follow OM No.12/31/2013-IR dated;12.02.2013 circulated on 23.05.2013.

If the information is not with your section or you, please reply from where it may be retrieved, without delay.
Note:- RTI application's replies which are related to outer benches may be gathered form there by filling RTI applications there directly, for facilitation, CPIOs are nominated at all outer benches separately.

Encl: As above.

DR (A) may reply on point '3' separately ✓

(V.P. Pandey)

by 28.9.2017 pl. Central Public Information Officer

Pl. provide the info within week from today i.e. 15.9.17
Send it to AR (SM) as it does not perform to D.B. as per my AR (D.B.)

- 1. A-R. Excise
- 2. A.R. (SM)
- 4. ~~SH. ROJESH JOSHI~~

756, Sector A, T. Scheme HO-136

Vishay Nagar-Indore-452010

T.B (C.R) may reply on point 2 by 28.9.2017 pl. ✓

21/9/17

✓

24/8/17

Done - 18-78/2017

SPEED POST
RTI MATTER

F.No.295/1/2017-CX-9

Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise and Customs

New Delhi, dated 17.08.2017

To

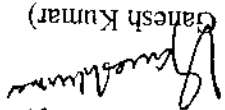
Shri Rajesh Joshi,
751 Sector A - 1, Scheme No.136,
Vijay Nagar, Indore - 452010.

Subject: Application seeking information under RTI Act, 2005 -reg.

Sir,

I am to refer to your online RTI application No.CBCE/R/2017/51035 dated 10.08.2017 and to say that the information sought is not held by me. A copy of the application is, however, being transferred under Section 6(3) of the RTI Act to the (i) CPIO, O/o Chief Commissioner of Central Excise & Service Tax (Bhopal Zone), 48, Administrative Area, Arera Hills, Hoshangabad Road, Bhopal, Madhya Pradesh - 462011 for information on Point No.1, 2 & 2nd part of Point 3 and (ii) CPIO, Customs Excise and Service Tax Appellate Tribunal (CESTAT), West Block No.2, R K Puram, New Delhi - 110066, for information on 1st part of Point 3, with the request to send information, if available, directly to the applicant under RTI Act, 2005, subject to the provisions of the RTI Act and rules made thereunder.

Yours faithfully,


(V Ganesh Kumar)

Under Secretary to the Govt. of India

Tel: 23092413

Copy with a copy of RTI application is transferred under section 6 (3) of the RTI Act, with the request to provide the requisite information, if available, directly to the applicant, subject to the provisions of the Act and the rules made thereunder, to the -

- (i) CPIO, O/o Chief Commissioner of Central Excise & Service Tax (Bhopal Zone), 48, Administrative Area, Arera Hills, Hoshangabad Road, Bhopal, Madhya Pradesh - 462011.
- (ii) CPIO, Customs Excise and Service Tax Appellate Tribunal (CESTAT), West Block No.2, R K Puram, New Delhi - 110066.

17/8/17
24/8/17

RTI REQUEST DETAILS

Registration No. : CBCE/R/2017/51035	Date of Receipt : 10/08/2017
Type of Receipt : Online Receipt	Language of Request : English
Name : rajesh joshi	Gender : Male
Address : 751 Sector A-1, Scheme No 136, vijay nagar, indore, Pin:452010	State : Madhya Pradesh
Country : India	Phone No. : Details not provided
Mobile No. : +91-8462000010	Email : daringandfaiih@gmail.com
Status(Rural/Urban) : Urban	Education Status :
Is Requester Below Poverty Line ? No	Citizenship Status Indian
Amount Paid : 10)	Mode of Payment Payment Gateway
Request Pertains to :	

I need certified copy of following

1. Order of Customs, excise and service tax appellate tribunal, New delhi. (Application No E/Misc/50881 and 50882/16 in appeal no E/51793 of 2016)

Information Sought :

2. In above order how much fees deposited by applicant.

3. Judicial Member Mr. M.V. Rayindran History of posting and action taken by department.

Print Save Close

Appeal (High Court)--Whether rejection of request of cross-examination was an appealable order

Conclusion: It was trite and well-settled position in law that statements recorded behind the back of an assessee could not be relied upon, in adjudication proceedings, without allowing the assessee an opportunity to test the said evidence by cross-examining the makers of the said statements.

Assessee contended that the it was eligible for cross-examination of statements relied upon by the department for deciding the case. However, it was not provided opportunity of cross-examination of the statements relied upon. **Held:** Once examination-in-chief, of the makers of the statements, on whom the Revenue relied in adjudication proceedings, takes place, and a copy thereof was made available to the assessee, it would be open to the assessee to seek permission to cross-examine the persons who had made the said statements, should it choose to do so. In case any such request was made by the assessee, it would be incumbent on the adjudicating authority, to allow the said request, as it was trite and well-settled position in law that statements recorded behind the back of an assessee could not be relied upon, in adjudication proceedings, without allowing the assessee an opportunity to test the said evidence by cross-examining the makers of the said statements.

Decision: In assessee's favour.

Cases Cited: J & K Cigarettes Ltd. v. CCE 2009-TIOL-478-HC-DEL-CX, Swiber Offshore Construction Pvt. Ltd. v. CC 2014-TIOL-58-CESTAT-AHM, Delta Overseas v Commissioner of C.Ex & S.T v. Delta Overseas, Jhaveri Polymers Pvt Ltd v. CCE, Arya AbhusshanBhandar v UOI, Swadeshi Polytex Ltd v CCE, Basudev Garg v. CC 2013-TIOL-464-HC-DEL-CUS, Sukhwani Singh v. State of Punjab, Karnataka in Sharadamma v. Kenchamma, CCE v. Farmath Iron Pvt Ltd, CC v. Bussa Overseas Properties Ltd. 2007-TIOL-185-SC-CUS, Bussa Overseas Properties Ltd v. CC, Nazir Ahmed v King Emperor, Mohimuddin Jamal Alvi v. UOI, CCE v. Kuber Tobacco Ltd 2016-TIOL-769-CESTAT-DEL, Alliance Alloys Pvt Ltd v. CCE 2016-TIOL-1922-CESTAT-CHD, Ambika International 2016-TIOL-1238-HC-P&H-CX

IN THE CESTAT, NEW DELHI BENCH [COURT NO. 1]

M.V. RAVINDRAN, J.M.

MSS Foods Processors v. Commissioner of Central Excise, C & ST

Appeal No. E/Misc/50881 and 50882/2016 Appeal No. E/51793 of 2016-(SM)

23 June 2016

Appellant by: S Sunil, Advocate

Respondent by: M.R. Sharma AR

Final Order No. 52551/2016

M.V. Ravindran, J.M.

The appellant, in the present appeal has challenged the decision taken by the Principal Commissioner rejecting the request for cross-examination of Shri Anmol Mishra and Ramesh Kumar Dammani, which has been communicated by the impugned letter dated 20-5-2016. The issue in controversy in the present appeals being

extremely limited in nature, it is not necessary to dwell deep into the appreciation of facts and evidence of case.

2. MSS Food Processors, Plot D, Sector E, Industrial Area, Sanwer Road, Indore (Appellant) is registered with the Central Excise Authorities for manufacture of Pan Masala and Gutkha, classifiable under Sub Heading 2106 9020 and 2403 9990, respectively of the First Schedule to the Central Excise Tariff Act, 1985. Show Cause Notice, dated 6-7-2012, was issued to the appellant and other noticees, proposing differential duty demand along with interest and penalty, and calling upon the appellant to show cause there against. Any detailed reference to the allegations in the Show Cause Notice would not be merited in the present case, however, it may be mentioned that the Show Cause Notice relied on the statements of the following persons, recorded under section 14 of the Central Excise Act, 1944 [hereinafter referred to as "the Act"]:

- (i) Shri Anmol Mishra, Manager of M/s. Mahadev,
- (ii) Shri Ramesh Kumar Dhammani, Supervisor of Mahadev,
- (iii) Shri Ram Avatar Sangle, Packing Supervisor of Mahadev
- (iv) Shri Surendra Kumar Jain, Machine Operator in the factory of Mahadev,
- (v) Shri Amar Verma, engaged in loading of packing rolls in the Factory of Mahadev
- (vi) Shri Ramakant Mishra
- (vii) Shri Pintu Sharma, Machine Operator in the factory of Mahadev
- (viii) Shri Vinod Kumar Shukla, who was engaged in filling loose Gutkha in pouch packing machines,
- (ix) Shri Nathu Singh, Security guard in the factory of Mahadev,
- (x) Shri D.B. Pujari, Notary
- (xi) Shri Omprakash Talreja
- (xii) Shri Gani Khan
- (xiii) Shri Abdul Salam, S/o Shri Gani Khan,
- (xiv) Shri Paras Kumar,
- (xv) Shri K M Jaiswal, Notary
- (xvi) Shri H.S. Tuteja, hand-writing expert
- (xvii) Shri Suresh Katiyal of M/s. Shiv Udyog
- (xviii) Shri Jay Kumar Lohani, S/o Omprakash Wadhvani, Sole Proprietor of M/s. Shiv Udyog
- (xix) Shri Liyakat Ali, owner of Godown at 28-A, Sector C, Industrial Area, Sanwer Road, Indore,
- (xx) Shri Sadhwani, partner of the appellant,
- (xxi) Shri Amarchand Upadhyay, partner of appellant,
- (xxii) Shri Nish Wadhvani and
- (xxiii) Shri Kishore Wadhvani