

(10)

**F. No. 13-19/ CESTAT/CPIO-ND/VPP/2018**  
**Customs, Excise and Service Tax Appellate Tribunal**  
**West Block No. 2, R.K. Puram, New Delhi-110 066**

**CPIO ID No. 13-19/2018**

Subject: Information sought under RTI Act, 2005.

Sir/Madam,

Please refer to RTI application of Shri/Smt. Rakesh Garg (No. NIL dated 28.03.2018) received in this office, 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 5(4) read with Section 5(5) of RTI Act 2005 the RTI application CPIO ID No. **13-19/2018** is forwarded herewith to you as **CPIO** under section 5(4), with request to provide the correct and para wise information/inspection on or before 13.04.2018 directly to the applicant as permissible under the RTI Act & DOP & T. O.Ms within the stipulated time, failing which, as CPIO under section 5(4), you will be responsible for delay/denial and penalty if any, under section 20 of RTI Act. Further requested to follow OM No.12/31/2013-IR dated; 12.02.2013 circulated on 23.05.2013 and O.M. No.1/18/2011-IR dated 16.09.2011.

**Note:-**

- 1. If the information is not available with your section or you, if possible, please reply from where it may be retrieved, without delay within 05 days.**
- 2. 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.**
- 3. To provide the requisite information, if available and permissible, directly to the applicant, subject to the provisions of the Act and the rules made thereunder, under intimation to the undersigned.**

Encl: As above.

  
CPIO

CESTAT New Delhi  
Date: 02.04.2018

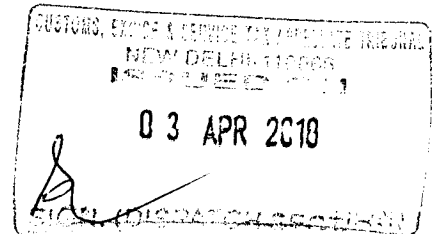
For Compliance to:

**1. A.R. Excise Branch**

Copy to: (For Information)

1. Sh. Rakesh Garg  
6/204, Tikonia, Belanganj,  
Near UCO, Bank  
Agra-282004

Note: 29, 30, 31<sup>st</sup> March & 01<sup>st</sup> April were Holidays.



959/CR/2018  
 To  
 28/03/2018

1 ID-13-19/2018

(8)

APPLICATION UNDER SECTION 6 OF THE RIGHT TO INFORMATION ACT, 2005

The Public Information Officer/Assistant Registrar,  
 C.E.S.T.A.T,  
 West Block No.2, R..K.Puram,  
 New Delhi-110 066

Customs Excise & Service Tax  
 Appellate Tribunal  
 28 MAR 2018  
 West Block No.-2, R.K. Puram  
 New Delhi-110066

28/03  
 CP10


1	Name of the Applicant	Rakesh Garg,
2	(a) Address	6/204, Tikonia, Belanganj, Agra.
	(b) Phone No.	9837055870
	(c) Fax No.	-
3	Whether a Citizen of India	Yes
4	Particulars of Information	It is to inform you that Asstt. Commissioner/CPIO, Central Excise, Kanpur vide RTI Order No. 72/RTI/2017 Dated 02/11/2017 informed to me that the copy of the CESTAT Final Order No. 280-288 of 2008, in the case of M/s Overseas Paints Pvt. Ltd, Kanpur, Mr. G.K.Agarwal, M/s New Paints Emporium, M/s Sanjay Enterprises, Smt. Meenu Agarwal Director, M/s Overseas Paints, Linker Agra, M/s Presting Alkydes (P) Ltd, M/s Overseas, Linkers, Vs CCE, Kanpur. ( In Appeal No. 3335-3343 of 2006-DB), had been received by them and in spite of the letter of even C.No. 3102-03 Dated 10/08/2017 and even C.No. 3918 Dated 03/10/2017 and even C.No.4837 Dated 26/10/2017 stating that their response is still awaited.( <b>Copy of the aforementioned RTI order alongwith copy of the CESTAT Final Order No. 280-288 of 2008 as drawn from EXCUS Site as well as copy of the information sent by Tribunal to me under RTI Act, intimating decision of the aforementioned case are enclosed herewith for ready reference</b> )
	(1)Details of information required.	Kindly intimate me urgently as to whether the copy of aforementioned order has been sent by you to the Commissioner CGST/Central Excise, Kanpur as desired by him.
5	I state that the information sought does not fall within the exemption contained in Sections 8 & 9 of the Right to information Act,2005 and to the best of my knowledge it pertains to your office.	
6	A Postal Order No. 37F-196747 for Rs.10/- towards payment of fee is enclosed herewith. You are requested to filing the name in which the Postal Oder is payable.	
7	As per Rule 4(a) of the Right to Information (Regulation of Fee and cost) Rules,2005	

Mr. Bhupendra  
 PA to CPIO  
 10/3/18  
 Registrar  
 if Panel put  
 up before  
 CPIO  
 28/03/18

AR E&me

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	a fee of Rs.2/- per page is payable. Kindly Intimate the Amount Payable and the name in which DD/Postal Order is to be drawn.
8	As per Section 7 of the RTI Act,2005 information is to be provided within 30 days of the application.

  
 (Rakesh Garg)  
 Signature of Applicant.  
 Mobile No. 9837055870.  
 Place:- AGRA.  
 Encl:- As above.

Copy to the Commissioner(**BY NAME**) Central Excise/CGST Commionerate, Kanpur for information and necessary action with request to kindly intimate me as to whether copy of the aforementioned CESTAT order has been received in your office and if so as to whether remand proceedings, as ordered by the CESTAT in his order No. . 280-288 of 2008, in the case of M/s Overseas Paints Pvt. Ltd, Kanpur, Mr. G.K. Agarwal, M/s New Paints Emporium, M/s Sanjay Enterprises, Smt. Meenu Agarwal Director, M/s Overseas Paints, Linker Agra, M/s Presting Alkydes (P) Ltd, M/s Overseas, Linkers, Vs CCE, Kanpur, has been initiated against these parties.

**It is learnt by me that Officers of your Kanpur department is under the pressure of Mr. G.K.Agarwal owner of these units and the Departmental Officers do not want to take any action against the party for the reason best known to them and huge amount of department revenue to the tune of Rs.2.00 crore relating to evasion of duty case, could not be decided by the Department due to the nexus of the Officers of the Kanpur Commissinerate, with Mr. G.K.Agarwal owner of these units.**

2. Copy to the Chief Commissioner, CGST, 7-A Ashok Marg, Lucknow for information and necessary action.
3. Copy to the Chairman CBEC( Indirect Taxes) North Block, New Delhi. 110 001 for information and necessary action.

(Rakesh Garg)  
 Signature of Applicant.  
 Mobile No. 9837055870.  
 Place:- AGRA.

117/7, सर्वोदय नगर, कानपुर

पत्र सं० 75/RTI/CEX/KNP/2017 5514

दिनांक: 11-12-2017

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आदेश संख्या: 8//आर.टी.आई./2017

दिनांक: : 11.12.2017

श्री राकेश गर्ग, 06/204, तिकोनिया बेलन गंज आगरा ने केन्द्रीय जनसूचना अधिकारी, केन्द्रीय वस्तु एवं सेवाकर CESTAT NEW DELHI को सूचना के अधिकार अधिनियम 2005 के अन्तर्गत सूचना प्राप्त करने हेतु प्रार्थना-पत्र दिनांक 15.11.2017 को प्रेषित किया है जो कि इस कार्यालय में दिनांक 17.11.2017 को प्राप्त हुआ है।

उपरोक्त आवेदन-पत्र के प्राप्त होने पर, मैं आवेदनकर्ता को सूचना के अधिकार अधिनियम, 2005 की धारा 7(1) के अन्तर्गत आवेदन-पत्र के सम्बन्ध में निम्न जानकारी प्रदान करता हूँ।

Asstt. Registrar. CESTAT, Allahabad vide his letter C.No. 36(1) misc/judicial/CESTAT/Alld/2015 dated 23.08.2017 has informed that excise Appeal No. 3335 to 3343/2006-EX dated 19.03.2007 has already been decided vide Final Order No. 280-288/2008 and old records of the above appeal are not available with them. They further informed to approach CESTAT, New Delhi regarding copy of aforementioned final order of CESTAT, New Delhi. This office also approached to CESTAT, New Delhi to get copy of the said order vide this office letter even C.No. 3102-03 dated 10.08.2017 and letter C.No. 3918 dated 04.10. 2017 and letter C.No 4837 dated 26.10.2017 but their response is still awaited.

यदि आवेदक इस आदेश से असन्तुष्ट है तो वह सूचना अधिकार अधिनियम की धारा 19(1)के अन्तर्गत इस आदेश की प्राप्ति के 30 दिन के भीतर, संयुक्त आयुक्त प्रथम अपीलीय प्राधिकारी (सूचना अधिकार) केन्द्रीय वस्तु एवं सेवाकर, आयुक्तालय कानपुर 117/7, सर्वोदय नगर के समक्ष अपील कर सकता है। सेवा में,

✓ श्री राकेश गर्ग  
06/204, तिकोनिया  
बेलन गंज,  
आगरा

(एम्.एम.सक्सेना)

सहायक आयुक्त / केन्द्रीय जन सूचना अधिकारी,  
केन्द्रीय उत्पाद शुल्क, कानपुर

प्रतिलिपि- CPIO, CESTAT NEW DELHI को उनके पत्र सं० F.NO. 102/CESTAT/CPIO-ND/VPP/2017 दिनांक 15.11.2017 जोकि इस कार्यालय में दिनांक 17.11.2017 को प्राप्त हुआ है, के संदर्भ में सूचनार्थ प्रेषित की जा रही है।

(एम्.एम.सक्सेना)

(4)

F. No. 1244 / CESTAT/CPIO-ND/VPP/2017  
Customs Excise and Service Tax Appellate Tribunal  
West Block No 2, R.K. Puram, New Delhi-110 066

Dated. 7/7/17  
ID No. 1244/17

To,

Sh. Rakesh Singh  
6/204, Tekonia  
Balanganj Near UCL Bank  
Agar - 282004

Subject: Information under Right to Information Act 2005.

Sir,

Please refer to your RTI application No. \_\_\_\_\_ Dt. 17/4/17 and our ID No. 12-44/17 the information received from AR/Excise containing 01 Page is enclosed herewith for your reference please.

You are, Therefore, requested to please acknowledge the receipt and deposit Rs. X (@ 2/- per page) to this Tribunal by cash or DD in favour of Accounts Officer, 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.

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.

(V.P. Pandey)  
Central Public Information Officer

Recd.  
12/7/17

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


ID No.12-44/2017

**Excise Division Bench**

**Point:4** Appeal No. E/3335-3343/2006 is already decided vide Final order No. 280-288/2008. As per record of software. However, for confirmation inspection of record may be made as per the CESTAT procedure rules.

COPY To

C.P.I.O.

  
Assistant Registrar  
Excise Appeal Branch

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IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,

WEST BLOCK NO. 2, R.K. PURAM,

NEW DELHI

COURT T II

E/STAY APPLICATION Nos.2670 to 2678/2006 in

& EXCISE APPEAL Nos. 3335 to 3343 of 2006-DB

[Arising out of Order-in-Original No. 7/Commnr/MP/2006 dated 31.3.2006 passed by the  
Commissioner of Central Excise, Kanpur]

For approval and signature:

Hon<sup>ble</sup> Mr. S.S. Kang, Vice President,

Hon<sup>ble</sup> Mr. Rakesh Kumar, Member (Technical)

1. Whether Press Reporters may be allowed to see the order for publication as per Rule 27 of the CESTAT (Procedure) Rules, 1982?
2. Whether it would be released under Rule 27 of the CESTAT (Procedure) Rules, 1982 for publication in any authoritative report or not?
3. Whether their Lordships wish to see the fair copy of the order?
4. Whether order is to be circulated to the Departmental authorities?

M/s. Overseas Paints Pvt. Ltd.,

Shri G.K. Agarwal,

M/s. New Paints Emporium,

M/s. Sanjay Enterprises,

Smt. Meenu Agarwal, Director,

M/s. Overseas Paints Linkers,

M/s. Presting Alkydes (P) Ltd.,

M/s. Overseas Linkers

Appellants

Vs.

CCE, Kanpur

Respondent

Appearance:

(2)

Shri K.K. Anand & Shri Prem Ranjan Advocates for the appellants,

Shri V. Choudhary, SDR Departmental Representative, for the Revenue

Coram:

Hon<sup>ble</sup> Mr. S.S. Kang, Vice President,

Hon<sup>ble</sup> Mr. Rakesh Kumar, Member (Technical)

Date of Hearing: 31st March, 2008

FINAL ORDER NO. \_\_\_\_\_ dated \_\_\_\_\_

Per S.S. Kang:

Heard both sides.

2. The applicants filed these stay applications for waiver of pre-deposit of duty of Rs. 1,74,71,910/- and penalties.
3. Demand is against M/s. Prestige Paints. The Counsel appearing on behalf of M/s. Prestige Paints submitted that the impugned order is passed ex-parte. Contention is that when the show cause notice was received they filed an application before the Settlement Commission and also filed a declaration admitting their liability to the extent of approximately Rs. 21 lakhs and the said amount has already been deposited by them. Contention is that the Settlement Commission rejected their application and against rejection of their application they filed a writ petition in the Hon<sup>ble</sup> Allahabad High Court. During the pendency of writ petition the adjudicating authority fixed date of hearing on 26.7.2006 and the applicants made a request for adjournment on the ground that writ petition against order passed by the Settlement Commission is pending. Hon<sup>ble</sup> High Court dismissed the writ petition with observation that the applicants can seek remedy of review. In pursuance of the order of High Court the applicants filed application for review before the Settlement Commission and the same was again rejected. The applicants also submitted that the impugned order was passed in violation of principle of natural justice as cross-examination of witnesses whose statements were relied upon by the adjudicating authority for confirmation of demand was disallowed.
4. Contention is that trading firms are also dealing with the goods of other manufacturers. Case of the Revenue is that all paints & varnishes cleared under invoices of dealers are manufactured by appellants. Ground of demand is also that other manufacturers like Overseas Paints and Presting Alkydes are not independent manufacturers of paints and varnishes. Case of the Revenue is that Prestige Paints are procuring raw material in the name of these two firms, manufacturing the goods and clearing the same under invoices of these manufacturers. Contention is that out of the same investigation show cause notice was issued to Prestige Paints for confiscation of varnishes which were alleged to be cleared without payment of duty. Commissioner (Appeals) vide order dated 27.3.2002 set aside the adjudication order in respect of confiscation of goods in the case of Overseas Paints Pvt. Ltd. Contention is that as the Revenue is considering Overseas Paints as independent manufacturer and separate proceedings which is part of the same investigation, now



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the revenue alleged that goods were actually manufactured by Prestige Paints but are shown to be manufactured by Overseas Paints Pvt. Ltd.. Therefore, demand is not sustainable.

5. Contention of the Revenue is that the case was fixed for hearing on various dates but on each and every date the applicants asked for adjournment and ultimately case was adjudicated on the evidence on record. In respect of cross-examination contention is that the applicants in most of the cases asked for cross-examination of co-noticees. Co-noticees are the firms either manufacturer or traders which are controlled by the proprietor of Prestige Paints Shri G.K. Agarwal. In these circumstances request for cross examination was rightly denied.

6. Revenue also submitted that before Settlement Commission the applicants had taken different stands at different stages regarding their liabilities.

7. In reply the applicants submitted that there are some dealers which are not related to Shri G.K. Agarwal, proprietor of Prestige Paints. Contention is that M/s. Raj Ram Vinod Kumar, and M/s. Sethi Paints, Kanpur are not related to Shri G.K. Agarwal, proprietor of Prestige Paints but their cross examination was also declined.

8. In this case the adjudicating order was ex-parte. The applicants during pendency of the adjudicating proceedings approached the Settlement Commission and admitted their liability to the extent of approximately Rs. 21 lakh. Settlement Commission rejected their application and applicants filed writ petition in Allahabad High Court. During pendency of the writ petition adjudicating authority fixed the date of hearing but the applicants asked for adjournment on the ground that the matter is pending before the High Court. Hon<sup>ble</sup> Allahabad Court vide order dated 30.4.2003 dismissed the writ petition with the observation that the applicants may seek remedy of review. Thereafter, the applicants approached the Settlement Commission and the Settlement Commissioner rejected their application. In these circumstances we find that it is a fit case for reconsideration by the adjudicating authority. The amount already deposited is sufficient for hearing of the appeal. Accordingly, we waive the condition of pre-deposit of remaining amount of duty and penalty and set aside the impugned order. The matter is remanded to the adjudicating authority to decide the same after affording reasonable opportunity of hearing to the appellants and to re-consider the request of the appellants for cross-examination. Appeals are disposed of by way of remand.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)

VICE PRESIDENT

(RAKESH KUMAR)

MEMBER (TECHNICAL)

Dated 31st March, 2008-05-05

RK