

3196/CR/2016  
10/10/2016

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15/11/16

**First Appeal under Section 19 of the Right to Information Act, 2005**

Ref. No. : RTI/P-501/(9910/16)/Appeal/655/

Dated : 07.10.2016

To

1st Appellate Authority under RTI ACT, 2005,  
Customs, Excise & Service Tax Appellate Tribunal,  
West Block 2, R.K. Puram,  
New Delhi - 110066



**A. Contact Details :**

- 1 Name of the Appellant R.K. Jain
- 2 Address 1512-B, Bhishm Pitamah Marg,  
Wazir Nagar,  
New Delhi-110003

**B. Details About RTI Request :**

- 1 Particulars of the CPIO (a) Name Shri V.P. Pandey, CPIO  
against whose order appeal is  
preferred (b) Address Customs, Excise & Service  
Tax Appellate Tribunal,  
West Block No. 2, R.K.  
Puram, New Delhi - 110066
- 2 Date of submission of application 02-05-2016  
(Copy of application attached)
- 3 Details of the order appealed against letter F. No. 11-85 & 11-  
107/CESAT/CPIO-ND/VPP/2016, dated  
26-9-2016
- 4 Prayer or relief sought See Prayer clause at the end
- 5 Last date for filing the appeal 26-10-2016
- 6 Whether Appeal in Time Appeal in time
- 7 Copies of documents relied upon by the applicant
  - 1 Copy of the RTI Application No. 9910,  
dated 2-5-2016 (Annexure-1)
  - 2 Copy of the RTI Application No. 10016,  
dated 1-7-2016 (Annexure-2)
  - 3 Copy of CPIO's letter dated 22-8-2016.  
(Annexure-3)
  - 4 Copy of appellant's letter dated 2-8-  
2016. (Annexure-4)

29/CAA  
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5. Copy of the CPIO's Letter F.No. 11-85 & 11-107/CLSTAT/CPIO-ND/VPP/2016 dated 26-9-2016 (**Annexure-5**)
6. Copy of appellant's letter dated 29-9-2016 (**Annexure-6**)

#### **BRIEF FACTS OF THE CASE**

- (1) That the appellant has filed an application dated 02-05-2016 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the information as specified in para 4 thereof.
- (2) That the appellant vide para 5 of his said application has also made a declaration that the information sought for is not exempted under Section 8 or 9 of the RTI Act, 2005 and also stated that to the best of the knowledge of the appellant, the information pertains to the Office of the CPIO in question
- (3) That Shri V.P. Pandey, CPIO, has failed to provide complete and correct information as sought by the appellant within the specified period. The appellant being aggrieved by the said order of the CPIO is filing the present appeal
- (4) The CPIO and the Deemed CPIOs are deliberately and malafidely obstructing the information without any reasonable cause therefore they are liable for penal action. The First Appellate Authority is not empowered to take action under section 20 of the RTI Act, therefore the appellant reserves his right to move direct complaint to CIC u/s 18 of the RTI Act.

#### **GROUND OF APPEAL**

- (1) That the order in question of the CPIO is incorrect and illegal and contrary to the provisions and spirit of the RTI Act, 2005 hence liable to be set aside.
- (2) That the CPIO and Deemed CPIO by his letter dated 22-6-2016 (**Annexure-3**) has stated to have also enclosed the copies of AR Diary from 1-3-2016 to 30-4-2016, but infact these copies were not found

enclosed with this letter. The appellant by his letter dated 28-8-2016 informed the Dy. Registrar (Customs/ST) and Deemed CPIO that the AR Diary for the month of April has not been received. Thereafter, the CPIO and Deemed CPIO again by their letter dated 26-9-2016 (**Annexure-5**) claimed to have forwarded the AR diary from 1-4-2016 to 19-9-2016, but again the AR diary for the month of April was not found enclosed and the appellant by his letter dated 29-9-2016 (**Annexure-6**) informed the Dy. Registrar (Customs/ST) and the Deemed CPIO that the AR Diary for month of April 2016 has not been received. The CPIO and Deemed CPIOs in this respect are deliberately and malafidely delaying and denying the information to the appellant and thereby causing obstruction to the information with malafide intent and purpose. Therefore the order of the CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame and he is liable for penalty under section 20(1) of the RTI Act and recommendation for disciplinary action under section 20(2) of the RTI Act, for delaying and obstructing the information in question, without any reasonable cause

- (3) That the CPIO has erred in not providing the complete and correct information to the appellant though as per the provisions of the RTI Act the appellant is entitled to information as sought by him. Therefore the order of the CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame
- (4) That as per proviso to Section 8(1) of the RTI Act, 2005, the information which cannot be denied to the Parliament or the State Legislatures shall not be denied to any person. The information sought by the appellant in the subject application is the one which cannot be denied to the Parliament or the State Legislatures and hence it cannot be denied or refused to the appellant
- (5) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (6) This is without prejudice to the right of the appellant to add, alter or

modify any of the grounds of this appeal and adduce oral or written evidence at the time of hearing or till the appeal is disposed of.

**PRAYER**

Under the circumstances, the appellant prays as under.

- (a) That the Original Records may be summoned and perused.
- (b) That the order of the CPIO may be set aside to the extent it has been appealed against and CPIO/Deemed CPIOs may be directed to provide the information in question within time bound frame.
- (c) That imposition of penalty may also be recommended against the CPIO for not providing the complete and correct information
- (d) That any other relief as the Appellate Authority deem fit and proper may also be ordered in favour of the appellant.
- (e) That a personal hearing may be granted to the appellant before deciding the appeal.



Signature of Appellant  
Telephone No. : 9810077977  
24651101  
Fax No. 011-24635243

Place : New Delhi  
Dated : 07-10-2016

THE FIRST APPELLATE AUTHORITY, CESTAT, NEW DELHI.

Appeal filed  
again both  
11-85 & 107  
is right -  
may be listed  
again

DATE OF HEARING 16.01.2017

APPEAL NO. 11-91(A)/2016

CPIO ID NO. 11-85/2016 & 11-107/2016

In the matter of

Sh. R.K Jain

Appellant

V/S


CPIO CESTAT, Delhi

Respondent

ORDER 01/2017


On CPIO ID 11-107/2016,<sup>85</sup>

is not not processed. 11-107/2016  
may registered separately

  
16.1.17.

8/3/17  
ADJUTANT 11-91(A)/2016  
D.O.N 11-107/2016

Appeal already disposed  
as not processed.

  
8/3/17