

4277/CR/2016
16/12/2016

11-98(A)/2016
CPIO

Recd
20/12/16

20/12/16

45/VP/2016
20/12/16

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

Ref. No. : RTI/P-537/(10220/16)/Appeal/16643

Dated : 15-12-2016

To

Shri V.Padmanabhan
Hon'ble 1st Appellate Authority & Member (T)
Customs, Excise & Service Tax Appellate Tribunal,
West Block 2, R.K.Puram,
New Delhi - 110066

Stamp: Customs, Excise & Service Tax Appellate Tribunal
15 DEC 2016
West Block No.-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 against whose order appeal is preferred	(a) Name	(1) Shri V.P.Pandey CPIO & Asst. Registrar (2) Shri Mohinder Singh, Deemed CPIO & DR (Cus., ST & AD)
		(b) Address	Customs Excise & Service Tax Appellate Tribunal, West Block 2, R.K.Puram, New Delhi - 110066
2.	Date of submission of application (Copy of application attached)	28-10-2016	
3.	Details of the order appealed against	CPIO's letter ID No.11-161/16 dated 22-11-2016 received on 1-12-2016	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	1-1-2017	
6.	Whether Appeal in Time.	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI application dated 28-10-2016. (Annexure-1) 2. Copy of CPIO's letter dated 31-10-2016. (Annexure-2) 3. Copy of Appellant's letter dated 5-11-	

	2016 to various CPIOs. (Annexure-3 to 5) 4. Copy of CPIO's letter dated 22-11-2016. (Annexure-6 & 7) 5. Copy of Appellant's letter dated 2-12-2016. (Annexure-8 & 9)
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BRIEF FACTS OF THE CASE

- (1) That the appellant has filed an application dated 28-10-2016 (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 and Assistant Registrar (Excise) and Shri Mohinder Singh, Dy. Registrar (Customs, Service Tax and Antidumping Branch) and Deemed CPIO have neither responded to the RTI Application nor provided any information despite the RTI Application having been forwarded to them on 31-10-2016 (Annexure-2) directing them to provide information by 15-10-2016 and the reminders dated 5-11-2016 (Annexure-3 to 5) and 2-12-2016 (Annexure-8 & 9). They have even not responded to the reminder dated 22-11-2016 (Annexure-7). The appellant being aggrieved by the said order of the CPIO is filing the present appeal.
- (4) That 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 Shri V.P. Pandey, CPIO and Assistant Registrar (Excise) and Shri Mohinder Singh, Dy. Registrar (Customs, Service Tax and Antidumping Branch) and Deemed CPIO have neither responded to the RTI Application nor provided any information despite the RTI Application having been forwarded to them on 31-10-2016 (**Annexure-2**) directing them to provide information by 15-10-2016 and the reminders dated 5-11-2016 (**Annexure-3 to 5**) and 2-12-2016 (**Annexure-8 & 9**). They have even not responded to the reminder dated 22-11-2016 (**Annexure-7**). The malafide of Shri V.P. Pandey, CPIO and Assistant Registrar (Excise) and Shri Mohinder Singh, Dy. Registrar (Customs, Service Tax and Antidumping Branch) and Deemed CPIO is clearly reflected from the fact that the Asst. Registrar and Deemed CPIO of Single Member bench in relation to the said RTI Application has already provided information on 22-11-2016 (**Annexure-6**). Therefore, the order of the CPIO/Deemed CPIOs is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame and they are 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 Shri V.P. Pandey, CPIO and Assistant Registrar (Excise) is deliberately and malafidely defying the provisions of the RTI Act to cause obstruction to the information and unnecessarily causing inconvenience and harassment to the appellant to dissuade the appellant from moving the RTI Applications. He is persistently and repeatedly obstructing the information, therefore is liable for penalty and disciplinary action.
- (4) That the malafide of Shri V.P. Pandey, CPIO and Assistant Registrar (Excise) and Shri Mohinder Singh, Dy. Registrar (Customs, Service Tax and Antidumping Branch) and Deemed CPIO is further reflected from the fact that they have neither responded to the reminder and direction fo te

CPIO and repeated reminders of the appellant. Therefore, the order of the CPIO/Deemed CPIOs is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame and they are 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

- (5) 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.
- (6) That as per proviso to Section 8(1) of the RTI Act, 2005, the information which can not 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.
- (7) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (8) 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 any other relief as the Appellate Authority deem fit and proper may also be ordered in favour of the appellant.
- (d) 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 : 15-12-2016

IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK 2, R.K. PURAM, NEW DELHI 110 066

APPELLATE AUTHORITY

Date of Hearing/Decision : 16.01.2017

Appeal No. 11-98(A)/2016

CPIO ID No. 11-161/2016

Shri R.K. Jain

... Appellants

Vs.

Shri V.P. Pandey, Asst. Registrar

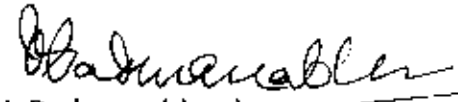
... Respondent

Coram: Hon'ble Mr. V. Padmanabhan, Member (Technical)

Order — 157/2016

Shri R.K. Jain submitted that he is pressing for the information sought at point No. "A (i)".

2. It is directed that the information sought will be provided within a period of four weeks.


(V. Padmanabhan)
Appellate Authority

Copy to :

1. Shri R.K. Jain, 1512, Bhishm Pitamah Marg
Wazir Nagar, New Delhi – 110 003
2. Shri V.P. Pandey, Assistant Registrar/ CPIO, CESTAT, New Delhi
3. Office Copy.