

Appeal No. 11-73(CA)/2016

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258 / 504 / RTI/16  
11/7/16  
To

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

Ref. No. : RTI/P-537/(9969/16)/Appeal/16400

Dated : 09-07-2016

To  
Shri S.K.Mohanty  
1st Appellate Authority Under RTI Act, 2005,  
Customs, Excise & Service Tax Appellate Tribunal,  
West Block 2, R.K.Puram,  
New Delhi - 110066

by her  
Customs Excise & Service Tax  
Appellate Tribunal  
11 JUL 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	Shri V.P.Pandey, CPIO & Asst. Registrar
		(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)	30-05-2016	
3.	Details of the order appealed against	Deemed Refusal	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	30-7-2016	
6.	If appeal is being filed after 30 days, the reasons which prevented from filing appeal in time	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI application dated 30-5-2016.(Annexure-1) 2. Copy of CPIO's letter dated 1-6-2016.(Annexure-2) 3. Copy of Appellant's letters dated 6-6-2016.(Annexure-3)	

### BRIEF FACTS OF THE CASE

(1) That the appellant has filed an application dated 30-05-2016 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:

(A) *Please provide copies of reserved orders register for Excise Bench, Customs & Service Tax Bench and Single Member Bench from 1-1-2015 till the date of providing the information. In case, no register is presently maintained, then provide the details of reserve orders from 1-1-2015 till date. If manual records are not maintained, then provide digital records or in whatever form the records are available including from the PS to the Members and Court Masters.*

**NOTE: In the past, such information has been provided to me by CESTAT, New Delhi, but the Deemed CPIOs are wrongly denying such information, being not maintained to cover-up the delay in passing and issue of orders long after the final hearing. If any Deemed CPIO claims that such records are not being maintained at present then kindly intimate the date from which maintenance of such records has been discontinued in relation to that particular Bench and copy of the instructions under which it has been discontinued.**

(B) *Please provide inspection of all pending RTI first appeal files of R.K. Jain including those in which the Appeals were heard by Shri S.K. Mohanty, but orders were not passed by 15th May, 2016.*

(C) *Please provide inspection of all RTI files in relation to RTI Applications filed by me from 1-9-2015 till the date of providing the information.*

(D) *Recently one of the High Court has held that the CESTAT cannot hear cases without issuing notice of hearing. In this respect, please provide the details of the cases, which have been heard at CESTAT, New Delhi, from 1-7-2015 till date, without issuing notice to the parties. This information may be provided for Excise Bench, Customs & Service Tax Bench and Single Member Bench.*

(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 the appellant received letter dated 1-6-2016 (**Annexure-2**) of Shri V.P.Pandey, CPIO to various Deemed CPIOs. The Appellant vide letters dated 6-6-2016 (**Annexure-3**) requested the said authorities to provide the desired information within the period of 30 days as stipulated under Section 7(1) of the RTI Act, 2005. The Appellant has neither received any information nor any response from the said authorities, therefore, as per Section 7(2) of the RTI Act, 2005, the request for information shall be deemed to have been refused. Thus being aggrieved by such refusal, this Appeal.

### GROUND OF APPEAL

- (1) That the action of the learned CPIO and the deemed CPIO in not providing the information to the appellant is illegal and contrary to the provisions and spirit of the RTI Act, 2005.
- (2) That the information sought by the appellant is not exempted under Section 8 or 9 or any other provisions of the RTI Act, 2005 and therefore, there was no valid cause or reason or ground for not providing the information.
- (3) That the inaction of CPIO/Deemed CPIOs is in violation of Sections 7(1) and 7(2) of the RTI Act, 2005 and is therefore, illegal. Such inaction is deemed to be a refusal to the request of the appellant without any reasonable cause or ground hence is illegal.
- (4) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (5) That the appellant is citizen of India and fulfilled all other requirements of the RTI Act and the Rules made thereunder and is entitled to the information in question.
- (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) 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.
- (8) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (9) 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 CPIO/Deemed CPIOs may be directed to provide the information in question within a 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 : 09-07-2016

*Received*  
*21-11-2016*

FIRST APPELLATE AUTHORITY UNDER RTI Act  
Customs, Excise & Service Tax Appellate Tribunal,  
West Block No.2, R.K.Puram, New Delhi -110066

Date of hearing: 18.11.2016

Appeal No.11-73(A)/2016  
Appeal No.11-78(A)/2016

CPIO ID No.11-96/2016

In the matter of

Shri R.K. Jain

Appellant

Vs.

CPIO, CESTAT Delhi


Respondent

Order No. *146/2016*

Per V. Padmanabhan:

Shri R.K. Jain, applicant submits that reply on the points (A) to (C) is offered. Regarding point (D) the applicant is not pressing for which he has right to file fresh detailed application.

Appeals are disposed of.

  
(V. Padmanabhan)  
First Appellate Authority

To

Shri V.P. Pandey, CPIO, CESTAT, New Delhi

Copy to:

Shri R.K. Jain,, 1512-B, Bhishm Pitamah Marg, Wazir Nagar, New Delhi -110003.