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25/7/16

Appeal No. 11-78(A)/2016

PD No. 11-96/2016

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

Ref. No. :RTI/P-537/(9969/16)/Appeal/16408

Dated : 19-07-2016

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

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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 & Assistant 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	Letter ID No. 11-96/2016 dated 28-6-2016	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	28-7-2016	
6.	Whether 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 letter dated 1-6-2016. (Annexure-2) 3. Copy of CPIO letter dated 28-6-2016. (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.*

Note:-Please provide point-wise information / response for each of above points.

- (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 has deliberately and malafidely not provided complete and correct information as sought by the appellant. The appellant being aggrieved by the said order of the CPIO is filing the present appeal.

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 information sought by the appellant is not exempted under Section 8 or 9 or any other provisions of the RTI Act, 2005, therefore, there was no valid cause or reason or ground for not providing the information.
- (3) That the CPIO / Deemed CPIOs have erred in not providing the information in relation to Point (D) of the RTI Application, the listing of cases without issue of notice of hearing is an irregularities and corrupt practice, therefore, the information sought by the appellant is required to be provided as per the Hon'ble Supreme Court decisions in the cases of Aditya Bandopadhyaya and Institute of Chartered Secretaries. 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 the CPIO has erred in not providing the 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.
- (5) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.

- (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 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 : 19-07-2016

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

Recd
21-11-2016

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, Bhisnm Pitamah Marg, Wazir Nagar, New Delhi -110003.