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

Ref. No. : RTI/P-537/(9865/16)/Appeal/16298

Dated : 23-05-2016

211/SICM/RTI/16  
24/5/16

To

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

Customs Excise & Service Tax  
Appellate Tribunal  
West Block No. 2, R.K. Puram  
New Delhi - 110066  
23/05/16

**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)	18-04-2016	
3.	Details of the order appealed against	Letter ID No. 11-71/2016 dated 12-5-2016	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	12-6-2016	
6.	Whether Appeal in Time.	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 18-4-2016. <b>(Annexure-1)</b> 2. Copy of CPIO's letter dated 21-4-20-16 <b>(Annexure-2)</b> 3. Copy of appellant's letter dated 2-5-2016 <b>(Annexure-3)</b> 4. Copy of appellant's letter dated 2-5-2016 <b>(Annexure-4).</b>	

		5. Copy of appellant's letter dated 2-5-23016 (Annexure-5)
		6. Copy of appellant's letter dated 2-5-2016 (Annexure-6)
		7. Copy of CPIO's letter dated 12-5-2016 (Annexure-7)

### BRIEF FACTS OF THE CASE

- (1) That the appellant has filed an application dated 18-04-2016 (Annexure – 1) under Section 6 of the RTI Act, 2005 requesting for the following information:
- (A) *Please provide details of the tours undertaken by the Former President, CESTAT, from 1-1-2015 to 4-3-2016*
- (B) *Please provide copies of all protocol messages of communications issued by the Registrar, CESTAT and the Administration, CESTAT, for the tours of Mr. G. Raghuram, Former President, CESTAT, from 4-3-2013 to 4-3-2016. These copies may be provided irrespective of whether tours undertaken were official or otherwise.*
- (C) *Please provide dates on which Shri G. Raghuram, Former President, CESTAT, has been away from CESTAT Headquarter, on official tours or otherwise.*
- (D) *Please provide dates on which Shri G. Raghuram, Former President, CESTAT, has been on station leave*
- (E) *Please provide dates on which Shri G. Raghuram, Former President, CESTAT, has been out of CESTAT Headquarter without applying or obtaining station leave.*
- (F) *Please provide the amount claimed by Mrs. Archana Wadhwa for her travel from Bangalore to Delhi and Delhi to Bangalore, from 1-1-2016 till the date of providing the information.*
- (G) *Please provide copy of the log book for the vehicles provided to Mrs. Archana Wadhwa at CESTAT, Delhi from 1-1-2016 till the date of providing the information and particularly for her travel to and from the Delhi Airport.*

*(H) Please provide details of the tickets provided for travel by Air / Rail to Mrs. Archana Wadhwa from 1-1-2016 till the date of providing the information. Please also intimate the amount of each ticket with copy of the same. Please also provide inspection of the file maintained in the Caretaker Section, Accounts Section and Administration Section, for tour & travel and ticketing of the CESTAT Staff including CESTAT Members & President.*

**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 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 Shri V.P. Pandey, CPIO and Assistant Registrar (Excise) has dm deliberately and malafidely not provided the information as sought in Point (A), (C), (D), (E), (F) & (H) of the RTI Application. Therefore, he may be directed to provide the information in question to the appellant within time bound frame.
- (3) That the Assistant Registrar (GAR) has not provided the correct, complete and up-to-date information as sought in Point (B) of the RTI Application. Therefore, he may be directed to provide the information in question to the appellant within time bound frame.
- (4) That the Assistant Registrar (GAR) has not provided the correct, complete

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and up-to-date information as sought in Point (G) of the RTI Application.

As per the Government Rules, the log book is to be maintained by the Driver of the vehicle and not by the CT Section. Merely because the vehicle provided to the Hon'ble Members on monthly hire basis is no ground for non-maintenance of log book, as there is a provision for payment of additional hours and kilometers. Even otherwise, when the records are required to be maintained, particularly in relation to the matters which also involve financial transactions, non-maintenance of records cannot be ground for refusing information. Therefore, he may be directed to provide the information in question to the appellant within time bound frame.

- (5) 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.
- (6) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (7) 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.
- (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 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 : 23-05-2016

Received  
23/08/2016

**APPELLATE AUTHORITY**  
**UNDER RIGHT TO INFORMATION ACT, 2005**  
Customs, Excise & Service Tax Appellate Tribunal  
West Block-2, R.K. Puram, New Delhi-66.

**Appeal No.11-054(A)/CESTAT/FAA-SKM/2016**  
**CPIO ID NO.11-71/CESTAT/CPIO-VP/2016**

Shri R.K. Jain ...Appellant

Vs.

Shri V.P. Pandey, Asst. Registrar/CPIO ...Respondent

Date of Hearing/Decision: 11.07.2016

**ORDER** 29/2016

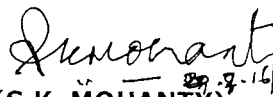
Appellant by his RTI Application dated 18.04.2016 has sought information regarding the log-book of the vehicle provided to Mrs. Archana Wadhwa at CESTAT, Delhi from 01.01.2016 till the date of providing the information and particularly for her travel to and from the Delhi Air port. In response to the RTI application, the Asstt. Registrar (GAR) vide his letter dated 09.05.2016 has communicated to the appellant through the CPIO that the log-book for the vehicle provided to the Member is not maintained by the C.T. Section as the vehicle used by the Member is private vehicle on hire basis.

2. Feeling aggrieved with the communication of the Assistant Registrar (GAR), the appellant has preferred appeal before this forum. The grievance of the appellant has been recorded in paragraph 4 in the appeal memorandum, which are extracted herein below:-

*"As per the Government Rules, the log book is to be maintained by the Driver of the vehicle and not by the CT Section. Merely because the vehicle provided to the Hon'ble Members on monthly hire basis is no ground for non-maintenance of log book, as there is a provision for payment of additional hours and kilometers. Even otherwise, when the records are required to be maintained,*

*particularly in relation to the matters which also involve financial transactions , non-maintenance of records cannot be ground for refusing information."*

3. It is his further submission of the appellant that in previous occasions, Delhi Bench of the CESTAT has offered such information and that the other Benches of the Tribunal are maintaining the log book.
4. Heard both sides and perused the records.
5. RTI Statute provides for filing appeal by the appellant where the information sought for has not been provided by the CPIO. In the present case, since the information pursuant to the RTI application has been provided by the CPIO specifically stating that no such records are being maintained in the C.T. Section, the said reply, in my opinion, meets the requirement of the RTI stature in-as-much-as the information available, can only be furnished and not otherwise.
6. In view of the fact that no such records are being maintained in the Registry of Delhi Bench of the CESTAT concerning the information sought for, I am of the considered opinion that non-submission of the unavailable information cannot violate any of conditions contained in the RTI Act read with the Rules framed there under. Therefore, I do not find any merit in the appeal filed by the appellant, and thus, the same is dismissed.

  
(S.K. MOHANTY)  
APPELLATE AUTHORITY

Copy to:-

1. Shri.R.K.Jain, 1512-B, Bhishm Pitamah Marg, Wazir Nagar, New Delhi-110003
2. Shri V.P. Pandey, Asst. Registrar/ CPIO, CESTAT, New Delhi.
3. Office Copy