

11-45(A)/2016

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

Ref. No. : RTI/P-537/(9776/16)/Appeal/16275
Dated : 12-05-2016

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
13 MAY 2016
West Block No. 2, R.K. Puram,
New Delhi - 110066
13/05/16

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 (1) Shri V.P. Pandey CPIO & Asst. Registrar (2) Shri A. Mohan Kumar, Registrar and Deemed CPIO (3) Shri Sunil Kumar, Technical Officer and Deemed CPIO (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)	26-03-2016
3.	Details of the order appealed against	Letter ID No. 11-43/2016 dated 26-4-2016
4.	Prayer or relief sought	See Prayer clause at the end
5.	Last date for filing the appeal	26-5-2016
6.	Whether Appeal in Time.	Appeal in time
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 26-3-2016. (Annexure-1) 2. Copy of CPIO's letter dated 26-4-2016 read with letter dated 28-4-2016. (Annexure-2) 3. Copy of CPIO's letter dated 12-4-2016

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	with replies of the Deemed CPIOs (Annexure-3) 4. Copy of the letter dated 28-4-2016 of the Assistant Registrar (GAR) (Annexure-4)
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BRIEF FACTS OF THE CASE

(1) That the appellant has filed an application dated 26-03-2016 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:

- (A) *Please provide date-wise details regarding the development of the new website for the Customs Excise and Service Tax Appellate Tribunal (CESTAT).*
- (B) *Please provide the file No. in which the aforesaid matters are dealt with and thereafter also provide the inspection of the said file.*
- (C) *Please provide inspection of the website so far developed for the CESTAT and also provide copies of the correspondence exchanged between NIC and CESTAT in this regard from 1-1-2014 till date.*
- (D) *Please provide the current status about the launching of the new website for the CESTAT and also inform about the expected date by which the new website is likely to be launched.*
- (E) *Please provide the list of the vehicles used by the Hon'ble President, CESTAT from 1-1-2015 till the date of providing the information.*
- (F) *Please also provide certified copies of the Log Book for the vehicles used by the Hon'ble President CESTAT from 1-1-2015 till date of providing the information.*
- (G) *Please provide date wise details of letters received by the Office of the Registrar from the Deptt. of Revenue and from the Office of the President, from 1-10-2015 till the date of providing the information. After providing the details of such letters, please also provide inspection of the relevant file in which each one of the them is dealt with.*
- (H) *Please provide copies of all the communications sent by the Registrar to the Deptt. of Revenue including Under Secretary, Ad-IC Section,*

Director, Revenue HQ, Jt. Secretary, from 1-10-2015 till the date of providing the information Please also provide inspection of the file in which the said communications are dealt with.

- (I) *Please provide the copy of the Peon Book of the Office of the Registrar and of Admn. Section, CESTAT from 1-7-2015 till date.*

Note.: That the information sought in point (G) to (I) is also held by the Registrar, therefore this RTI application may also be forwarded to him.

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, Shri A. Mohan Kumar, Registrar and Deemed CPIO and Shri Sunil Kumar, Technical Officer and Deemed CPIO, have 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 Shri Sunil Kumar, Technical Officer and Deemed CPIO, vide his reply dated 11-4-2016 (**Annexure-3**) has not provided complete and correct information. As per the claim of the NIC, the CESTAT is not providing the contents as well as the Technical person despite repeated reminders. This is resulting in delay in the launch of the work flow systems as well as the new website. Therefore, the orders of the CPIO and Deemed CPIO

are liable to be set aside with direction to provide point-wise information to the appellant within time bound frame.

- (4) That Shri A. Mohan Kumar, Registrar and Deemed CPIO has deliberately, wrongly and malafidely denied the information as sought in point (G) of the RTI application. These communications have been received in the Office of the Registrar and he is aware of the subject matter of the communications received by him. In order to deny the information, he is asking the appellant to intimate the subject of the communications, which are in the exclusive knowledge of the Office of the Registrar. The appellant has sought information about all the communications received in the Office of the Registrar for limited period. Therefore, there is no need of the subject of the communications for providing the information to the appellant. In case these communications are not presently available in the Office of the Registrar, he should have forwarded the RTI Application to the present holder of the information. 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 Shri A. Mohan Kumar, Registrar and Deemed CPIO, has deliberately and malafidely denied the information as sought in Point (G) & (H) of the RTI Application on the grounds that the information is not maintained in a single file. Under the RTI Act, for providing information it is not necessary that such information is maintained in a single file. The Deemed CPIO is denying the information with a view to suppress the same. 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
- (6) That Shri A. Mohan Kumar, Registrar and Deemed CPIO, has deliberately and malafidely denied the information as sought in Point (H) of the RTI Application, regarding the communication sent by him to the Department of Revenue Headquarter. As per the Cabinet Secretariats Manual of Office Procedures, records and copies of all the communications sent by

an officer are maintained. Moreover, all communications are now duly computerised, therefore, the data is available with the Office of the Registrar. Even if the information was held by any other official of the CESTAT, the RTI Application should have been forwarded by him to such information. 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

- (7) Shri A. Mohan Kumar, Registrar and Deemed CPIO is trying to create confusion to delay and deny the information. The CPIO has admitted that the letter received by him from the office of the President, has been forwarded to the Dy. Registrar (Admn.) or Asstt. Registrar (Admn.) and other officers for action. Therefore Shri A. Mohan Kumar, Registrar and Deemed CPIO has been in the loop and all such communications have been also dealt with at his level and his office is having records of all such documents and communications. The malafide of the Shri A. Mohan Kumar, Registrar and Deemed CPIO is reflected from the fact that he has offered inspection of such files for which information is sought by the appellant, while he has denied availability of the same records. 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.
- (8) That Shri A. Mohan Kumar, Registrar and Deemed CPIO has claimed that the information sought about the communications in question has been forwarded by him to the Dy. Registrar / Asstt. Registrar and other officers, therefore he was in the know about the holder of the information and should have been forwarded the RTI application to the concerned Official, who is holding the information but he has deliberately and malafidely not

done so with a view to deny the information. 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

- (9) That in relation to point (G) of the RTI Application, Shri A. Mohan Kumar, Registrar and Deemed CPIO has observed that the information pertains to the Dy. Registrar (Admn.) and similarly, for point (H), he has stated that the information pertains to Accounts Section. In such circumstances, he should have forwarded the RTI application to the holder of the information, the appellant has not so far received the said information. 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
- (10) 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.
- (11) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (12) 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.
- (13) That a personal hearing may be granted to the appellant before deciding the present appeal.

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 : 12-05-2016

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 - 045(A)/CESTAT/FAA- SKM/2016
CPIO ID NO. 11 - 43/2015

Shri R.K.Jain

...Appellant

Vs.

CPIO, CESTAT

...Respondent

Date of decision: 29.6.2016

ORDER 87/2016

Pursuant to the appeal, the Deputy Registrar (Administration) submits that there was no column for mentioning the origin of the correspondences received in the office of Registrar. Now on being pointed out a new column has been introduced in this date register mentioning the origin of the correspondence to identify the particulars of the correspondences.

2. The appellant also agrees that whatever documents as available may be furnished to him.

3. Considering the above submission, I direct the CPIO to collect the available information from the concerned Section and to forward the same within a period of four weeks from the date of receipt of this order.

4. The appeal is disposed of accordingly.


(S.K. MOHANTY)
APPELLATE AUTHORITY

Copy to:-

1. Shri.R.K.Jain, 1512-B, Bhishm Pitamah Marg, Wazir Nagar, New Delhi-110003, w.r.t. letter No. RTI/10-102(A)/CESTAT/FAA-SKM/2015.
2. CPIO, CESTAT, New Delhi.
3. Office Copy