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11-47(A)/2016

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

Ref. No. : RTI/P-537/(9798/16)/Appeal/16262

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

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 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)	30-03-2016
3.	Details of the order appealed against	Letter ID No. 11-46/2016 dated 28-4-2016
4.	Prayer or relief sought	See Prayer clause at the end
5.	Last date for filing the appeal	28-5-2016
6.	Whether Appeal in Time.	Appeal in time
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 30-3-2016. <b>(Annexure-1)</b> 2. Copy of CPIO letter dated 28-4-2016. <b>(Annexure-2)</b> 3. Copy of appellant's letter dated 30-4-2016 <b>(Annexure-3)</b>

**BRIEF FACTS OF THE CASE**

SPS to follow up  
for AA  
13/05/16

(1) That the appellant has filed an application dated 30-03-2016 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:

- (A) *Please provide details of the number of note sheets and correspondence pages contained in file No. 01(10)(Reg)/Misc/CESTAT/2014*
- (B) *Please provide certified copies of all the note sheets and correspondence pages of the aforesaid file.*
- (C) *After providing the above information, please provide inspection of complete file, as referred above.*
- (D) *Please provide the previous file No. for the existing file No. 01(10)(Reg)/Misc/CESTAT/2014 and also provide inspection of the previous file.*
- (E) *Please provide copy of the letter F.No. A/50050/28/2015-Ad.IC/CESTAT dated 4-2-2016 received from the Deptt. of Revenue, with all enclosures thereto. Please also provide the file No. in which the said letter is dealt with and provide inspection of the said file.*
- (F) *Please provide inspection of the communication received from the CESTAT Members from 1-1-2001 till the date 15-8-2011. This information is held by the registrar CESTAT and by the SPS to the President, therefore, this part of the application may also be forwarded/transferred to them.*
- (G) *Please provide inspection of the file relating to transfer of Members from 2001 till the date of providing the information.*
- (H) *Please provide the details of the expenditure made including for tour and travels in relation to the Member's Conference held in January, 2016. Please also indicate the head from which such expenditure was made.*

**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 & 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.

- (4) 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 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 A. Mohan Kumar, Registrar and Deemed CPIO has wrongly denied the information as sought in point (F) of the RTI application. On inspection of the Daily Diary of the Office of the President, CESTAT, it is apparent that most of the communications received by the President, are marked to the Registrar for action. The appellant has not sought any information regarding any judicial file in the RTI application and by making reference to the judicial matter, 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.
- (4) 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
- (5) 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
- (6) 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.

- (7) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (8) 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.
- (9) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (10) 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 : 12-05-2016

*Received on*  
*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.11-47(A)/2016

CPIO ID No.11-46/2016

In the matter of

Shri R.K. Jain

Appellant

Vs.

CPIO, CESTAT Delhi

Respondent

Order No.     *145/2016*

Per V. Padmanabhan:

Shri R.K.Jain, applicant has submitted that with reference to the point (F), Registrar has offered inspection in respect of which files are in his custody. He has requested that a list of such files may kindly be made available to enable him to specify the requisite files. In respect of other information asked for, he has already been offered inspection for which he will undertake.

2. The same may be made available to him within a period of three weeks from the date of receipt of this order.

  
(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.