

11-48(A)/2016

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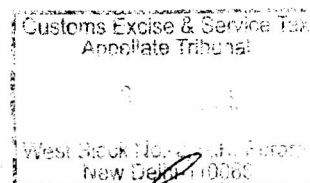
To

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

Ref. No. : RTI/P-537/(9734/16)/Appeal/16268

Dated : 13-05-2016

1st Appellate Authority under RTI Act, 2005,
Customs, Excise & Service Tax Appellate Tribunal,
West Block 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 (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)	07-03-2016
3.	Details of the order appealed against	Letter ID No. 11-59/2016 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 7-3-2016. (Annexure-1) 2. Copy of CPIO letter dated 4-4-2016. (Annexure-2) 3. Copy of Appellant letter dated 9-4-2016. (Annexure-3) 4. Copy of CPIO letter dated 28-4-2016. (Annexure-4)

SPS to JTA
16/5/16

BRIEF FACTS OF THE CASE

(1) That the appellant has filed an application dated 07-03-2016 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:

(A) Please provide copies of all the communications received or sent to the President CESTAT regarding posting and transfers of the CESTAT Members and staff from 1-6-2015 till the date of providing the information.

(B) Please provide file No in which the aforesaid matter/letters are dealt with and provide copies of all the note sheets of the said files from 1-10-2015

(C) Please provide the file No. in which the matter regarding appointment of HOD to the CESTAT is being dealt with and provide copies of all note sheets and correspondence pages of the said file from 1-1-2015 till date.

(D) Please provide date-wise details of the compliance to the Ministry's DO Letter No A-12026/1/2011-Ad IC dated 30-4-2014 and DO F.No.27/49/2006-Ad I (CESTAT) dated 2-12-2015 by the CESTAT and provide copies of all subsequent received or sent in this regard. Please provide copies of all the note sheets of said file from 1-10-2015 till date.

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.

GROUNDS 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 and Shri A. Mohan Kumar, Registrar and Deemed CPIO, have wrongly denied the information as sought by the appellant. Being the Registrar of CESTAT, he is in the know of the action taken and compliance done to the communication received from the Headquarter / Ministry of Finance. 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 : 13-05-2016

received on
03/08/2016

**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.11-048(A)/CESTAT/FAA-SKM/2016
CPIO ID NO.10-59/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 96/2016

The grievance of appellant in this appeal is that the information sought for in para D has not been satisfactorily furnished / stated by the Registrar. During the course of personal hearing, the appellant submits that the information relates to compliance made by CESTAT on the D.O. letter issued by the Ministry and for furnishing copies of subsequent correspondences exchanged between the Ministry and the CESTAT. Further, the appellant has sought for copies of note sheets of the relevant file. By referring to the communication dated 27.04.2016 of the Registrar, the appellant brought to the notice of this forum that no clear cut reply to the effect whether the letters from the Ministry were received by the Registrar and what action has been taken are forthcoming. He further submits that vide his said communication he has only conveyed that no information is available but such reply cannot be taken for granted that construed that the information sought for are not available in any other section of the CESTAT.



2. In response to the submissions of the appellant, the Dy. Registrar (Administration) submits that some of the documents are available with Registrar and the SPS to the President and the available information can be furnished to the appellant.

3. Considered the submissions of both sides.

4. Since the Dy. Registrar has confirmed that the information can be furnished, I direct the CPIO to obtain the same from the concerned officials and to forward the same to the appellant within a period of ²4 weeks from the date of receipt of this order.

5. I direct the Registrar /SPS to the then President to furnish the same to the CPIO enabling him to forward the same to the appellant within the above period. The appeal is disposed of by way of remand.


(S.K. MOHANTY)
29.7.12
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

Anitha