

By No. 4219/CR-15
9/11/15
92/15/15/RTI
9/11/15

10-101(A)/15

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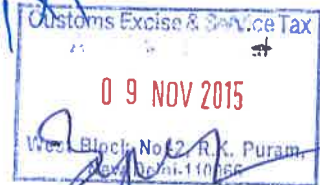
First Appeal under Section 19 of the Right to Information Act, 2005

Ref. No. : RTI/P-501/(9463/15)/Appeal/16061

Dated : 07-11-2015

To

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



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 S.K. Verma, Asstt Registrar/ 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)	14-09-2015	
3.	Details of the order appealed against	Letter F. No. 10-175/CESTAT/CPIO-ND/RP/2015 dated 23-10-2015	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	23-11-2015	
6.	Whether Appeal in Time.	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 22-9-2015 (Annexure-1) 2. Copy of Accounts Officer/CPIO letter dated 28-9-2015 (Annexure-2) 3. Copy of Assistant Registrar/CPIO letter dated 23-10-2015 (Annexure-3) 4. Copy of the Appellant's letter dated 8-	

		<p>10-2015 to the Registrar, CESTAT (Annexure-4)</p> <p>5. Copy of the Appellant's letter dated 12-10-2015 to the Registrar, CESTAT (Annexure-5)</p> <p>6. Copy of the CPIO's Order dated 20-10-2015 (Annexure-6)</p>
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BRIEF FACTS OF THE CASE

(1) That the appellant has filed an application dated 14-09-2015 (Annexure – 1) under Section 6 of the RTI Act, 2005 requesting for the following information:

(A) Please provide the copies of the note sheets and correspondence pages in which the appointment of Shri Vinay Kumar Mishra, as CPIO at CESTAT, Mumbai is dealt with.

(B) Please provide inspection of the file relating to the appointment of CPIO and First Appellate Authority in the CESTAT (All Benches) from 1-1-2011 till the date of providing the information.

(C) Please provide total number of the communications including D.O. letters sent by Registrar, CESTAT to the O/o the Revenue Secretary, O/o the Addl. Secretary, Revenue, O/o Joint Secretary, O/o the Chief Justice of India and O/o the Chief Justice of Delhi High Court, O/o the Registrar General, Supreme Court of India or O/o the Registrar General, Delhi High Court and any of the Law Officers, from 1-1-2015 till the date of providing the information. Please also provide copy of the said letters and copy of the response received. Please provide separate information in relation to each functionary.

(D) Please provide total number of the communications including D.O. letters sent by President, CESTAT to O/o the Prime Minister, O/o the Finance Minister, O/o the Revenue Secretary, O/o Additional/ Joint Secretary Revenue, O/o the Chief Justice of India, O/o the Chief Justice of Delhi High Court, O/o the Registrar General, Supreme Court of India, O/o the Registrar General, Delhi High Court and any of the

Law Officers, from 1-1-2014 till the date of providing the information. Please provide separate information in relation to each functionary.

(E) Please provide inspection of the files / folders maintained in the Office of President, CESTAT relating to DOs. and communications received or sent to the Office of Finance Minister, Office of the Revenue Secretary, Additional / Joint Secretary.

(F) Please provide inspection of the files / folders maintained in the Office of Registrar, CESTAT relating to DOs. and communications received or sent to the Office of Finance Minister, Office of the Revenue Secretary, Additional / Joint Secretary.

Secretary, Revenue, O/o the Chief Justice of India and O/o the Chief Justice of Delhi High Court, O/o the Registrar General, Supreme Court of India or O/o the Registrar General, Delhi High Court and any of the Law Officers, from 1-1-2014 till the date of providing the information. Please also provide copy of the said letter and copy of the response received. Please provide separate information in relation to each functionary.

(D) Please provide total number of the communications including D.O. letters sent by President, CESTAT to O/o the Prime Minister, O/o the Finance Minister, O/o the Revenue Secretary, O/o the Chief Justice of India, O/o the Chief Justice of Delhi High Court, O/o the Registrar General, Supreme Court of India, O/o the Registrar General, Delhi High Court and any of the Law Officers, from 1-1-2014 till the date of providing the information. Please provide separate information in relation to each functionary.

(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 S.K. Verma, Asstt Registrar/ CPIO, the Registrar, CESTAT and The Assistant Registrar (Admn.), CESTAT, 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 sprit 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 Registrar, CESTAT, Delhi, has deliberately and malafidely not provided the complete and correct information, as sought in the RTI Application, despite the said application, having been forwarded to him by the CPIO vide order dated 28-9-2015 (**Annexure-2**), reminder letter No.R16850 dated 8-10-2015 (**Annexure-4**) and reminder letter No.R16894 dated 12-10-2015 (**Annexure-5**). The appellant is restricting the information as sought by him from the Registrar, for the years 2014 & 2015 only. The CPIO and the Registrar may be directed to provide the information in question within time bound frame.
- (4) That Shri S.K. Verma, Asstt. Registrar (SM) and CPIO, by letter dated 20-10-2015 (**Annexure-6**) has not forwarded the request dated 12-10-2015 of the Appellant to the Registrar, CESTAT, though the information is also held and pertained to the Registrar, CESTAT. 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 CPIO and the Assistant Registrar (Admn.) and Deemed CPIO, have not provided the information as sought in Point (C) & (D) of the RTI Application on the ground that no separate records of DO's letters are kept

in Administration Section. The appellant has sought information only for the years 2014 & 2015 which could have been provided by the Deemed CPIO. Further, the Deemed CPIO has stated that the information is kept in the relevant files, thus he has admitted that he is holding the information, therefore, he should have provided the same. Therefore, the order of the CPIO and Deemed CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame.

- (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 : 07-11-2015

o/c

77112001-1 (7)

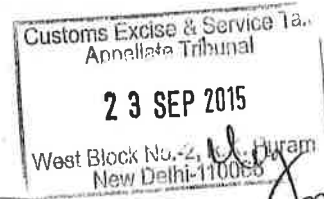
Application under Section 6 of the Right to Information Act, 2005

Ref. No. :RTI/P-195/9463/15

Dated : 22-9-2015

To

Shri Rajender Prasad
CPIO & Accounts Officer
Customs Excise & Service Tax Appellate Tribunal,
West Block 2, R.K.Puram,
New Delhi - 110066



1.	Name of the Applicant	R.K. Jain
2.	Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003
	(b) Phone Nos.	09810077977, 011-24651101, 011-24690707
	(c) Fax No.	011-24635243
3.	Whether a Citizen of India	Yes
4.	Particulars of Information	
	Details of information required	(A) Please provide the copies of the note sheets and correspondence pages in which the appointment of Shri Vinay Kumar Mishra, as CPIO at CESTAT, Mumbai is dealt with. (B) Please provide inspection of the file relating to the appointment of CPIO and First Appellate Authority in the CESTAT (All Benches) from 1-1-2011 till the date of providing the information. (C) Please provide total number of the communications including D.O. letters sent by Registrar, CESTAT to the O/o the Revenue Secretary, O/o the Addl. Secretary, Revenue, O/o Joint Secretary, O/o the Chief Justice of India and O/o the Chief Justice of Delhi High Court, O/o the Registrar General, Supreme Court of India or O/o the Registrar General, Delhi High Court and any of the Law Officers, from 1-1-2015 till the date of providing the information. Please also provide copy of the said letters and copy of the response received. Please provide separate information in relation to each functionary. (D) Please provide total number of the communications including D.O. letters sent by President, CESTAT to O/o the Prime Minister, O/o the Finance Minister, O/o the

		<p>Revenue Secretary, O/o Additional/ Joint Secretary Revenue, O/o the Chief Justice of India, O/o the Chief Justice of Delhi High Court, O/o the Registrar General, Supreme Court of India, O/o the Registrar General, Delhi High Court and any of the Law Officers, from 1-1-2014 till the date of providing the information. Please provide separate information in relation to each functionary.</p> <p>(E) Please provide inspection of the files / folders maintained in the Office of President, CESTAT relating to DOs. and communications received or sent to the Office of Finance Minister, Office of the Revenue Secretary, Additional / Joint Secretary.</p> <p>(F) Please provide inspection of the files / folders maintained in the Office of Registrar, CESTAT relating to DOs. and communications received or sent to the Office of Finance Minister, Office of the Revenue Secretary, Additional / Joint Secretary.</p> <p>Note:-Please provide pointwise information/ response for each of above points.</p>
5.	I state that the information sought is covered under RTI Act and does not fall within the exemptions contained in sections 8 or 9 or any other provisions of the Right to Information Act, 2005 and to the best of my knowledge it pertains to your office. Information is being sought in larger public interest.	
6.	A Postal Order No. 32F 041408 for Rs. 10 towards payment of fee is enclosed herewith. You are requested to filling the name in which the Postal Order is payable.	
7.	As per Section 7 of the RTI Act, 2005 information is to be provided within 30 days of the Application.	

Signature of Applicant
Telephone No. : 9810077977
011-24651101, 24690707
Fax No. 011-24635243

Place : New Delhi
Encl. : as above
Him/---9463

F.No...10775.../CESTAT/CPIO-ND/RP/2015,
Customs, Excise and Service Tax, Appellate Tribunal,
West block No.2, R.K.Puram, New Delhi-110066.

Dated 28/9/15

ID No. 10775/15

Subject: Information sought under RTI Act 2005.

Sir,

Please refer to RTI application of
Shri R.K. Jain
Under RTI Act 2005 vide No. 9463/15 dated
22/9/15 (copy enclosed) wherein certain information are sought
as mentioned therein is related to your section.

Therefore, in terms of the provisions of Section 6(3) and Section
5(4) read with Section 5(5) of RTI Act, 2005, the RTI application
No. 9463/15 dated 22/9/15 CPIO ID No 10-175/15 is
forwarded herewith to the following officers as deemed CPIO with the
request to provide correct and para-wise information/inspection on or
before 12/10/15 directly to the applicant and intimate the
undersigned within the stipulated time, failing which you are
personally responsible for delay and penalty if any, under section 20 of
RTI Act. You are, further requested to follow OM No.12/31/2013-IR
dated 12-02-2013 circulated on 23-05-2013

Encl: as above


(Rajender Prasad)
Accounts Officer/CPIO

To

1. SPS to Hon'ble President, CESTAT, New Delhi
2. Registrar, CESTAT, New Delhi
3. AR, Admin, CESTAT, New Delhi
4. AR/IO, Computer Plc for uploading on website

Copy for information to:-

Sh. R.K. Jain
1512-B BHISHAM PITAMAH MARG,
WAZIR NAGAR

F.No.10-175/CESTAT/CPIO-ND/RP/2015
 Customs Excise and Service Tax Appellate Tribunal
 West Block No 2, R.K.Puram, New Delhi-110 066

Dated- 23/10/15
 ID No. 10-175/2015

To,


Shri R.K. Jain,
 1512-B, Bhishm Pitamahi Marg,
 WAZIR NAGAR,
 New Delhi - 110003

Subject: Information under Right to Information Act 2005.

Sir,

Please refer to your RTI application No. 9463/15 Dt. 22/9/15
 and our ID No. 10-175/15 the information received from AP Admin
 containing 1+5 pages is enclosed herewith for your reference
 please.

You are, Therefore, requested to please acknowledge the
 receipt and deposit Rs. --- (@2/- per page) to this Tribunal by
 cash or DD in favour of Accounts Officer, CESTAT, New Delhi.


 (S.K. VERMA)
 Ass'tt Registrar/CPIO

Encl:- As above

Copy to:- Computer Section for Website

16772
 Ground file.

(11)

F.No. 33(324)/RTI/Misc./CESTAT-ND/Admn.2015
Customs Excise & Service Tax Appellate Tribunal
West Block No. 2, R.K. Puram, New Delhi - 66

Dated : 09.10.2015
I.D. No. 10-175/2015

Sub : Information sought under Right to Information Act, 2005

Sir,

Please refer to the RTI application no. RTI/P-195/9463/15 dated 22.9.2015 filed by Shri R.K. Jain in CPIO I.D. No. 10-175/2015. The point wise reply to the RTI is as under :

- (A) Copies of notesheet and correspondence of the concerned matter containing 05 pages is enclosed herewith.
- (B) The files may be inspected by the applicant on any working day on ~~or before 16.10.2015.~~
- (C)(D) No separate records of D.O. letters are being kept in Admn. section. They are being placed in the respective files, depending upon the subject matter.
- (E)(F) Does not pertain to Admn. Section.


(Kripa Shankar)
Asstt. Registrar (Admn.)

To

Shri S.K. Verma, Asstt. Registrar/ CPIO, CESTAT, New Delhi

etc

Amnenu 4
RTI

12

R.K. JAIN M.Com., LL.B.

President, Excise and Customs Bar Association

Editor of

EXCISE LAW TIMES & SERVICE TAX REVIEW

and author of

Central Excise Law Guide; Central Excise Tariff of India;
Central Excise Law Manual; Customs Tariff of India;
Customs Law Manual; Excise & Customs Circulars
& Clarifications; Excise & Customs Case Referencer;
Service Tax Law Guide; Service Tax Handbook;
Handbook of Duty Drawback on Goods &
Services; Valuation under Central Excise; Hand-
book of Foreign Trade Policy & Procedures

Customs Excise & Service Tax

09 OCT 2015

West Block No.-2, R.K. Puram,
New Delhi-110066

1512-B, Bhisim Pitamahi Marg

Wazir Nagar

NEW DELHI - 110 003.

PHONE : 24693001-3004

MOBILE : 9810077977

Fax No. 011-24635243

9/10/15

RTI/P-195/9463/15/R16850

08-10-2015

Registrar

Customs Excise & Service Tax Appellate Tribunal,

West Block 2, R.K.Puram,

New Delhi- 110066

Sub: My RTI Application No. RTI/9463/15, dated 14/9/2015

Dear Sir,

This refers to the letter F.No. 10-175/CESTAT/CPIO-ND/RP/2015 dated 28-9-2015 of Mr. Rajender Prasad, Accounts Officer/ CPIO, transferring my aforesaid RTI application to you under section 6(3) and section 5(4) read with section 5(5) of the RTI Act, 2005, for providing the information to me. You are requested to kindly provide the information at the earliest as under section 7(1) of the RTI Act, information is to be provided within 30 days of the RTI Application.

Thanking you,

Yours faithfully,

[R.K. Jain]

o/c

ANNEXURE-5

13

Customs Excise & Service Tax
Appellate Tribunal
13 OCT 2015
West Block No. 2, R.K. Puram
New Delhi 110066

13/10/2015

R.K. JAIN M.Com., LL.B.
President, Excise and Customs Bar Association
Editor of
EXCISE LAW TIMES & SERVICE TAX REVIEW
and author of

Central Excise Law Guide; Central Excise Tariff of India;
Central Excise Law Manual; Customs Tariff of India;
Customs Law Manual; Excise & Customs Circulars
& Clarifications; Excise & Customs Case Referencer;
Service Tax Law Guide; Service Tax Handbook;
Handbook of Duty Drawback on Goods &
Services; Valuation under Central Excise; Hand-
book of Foreign Trade Policy & Procedures

1512-B, Bhishm Pitamah Marg,
Wazir Nagar,
NEW DELHI - 110 003.
PHONE : 24693001-3004
MOBILE : 9810077977
Fax No. 011-24635243

RTI/P-195/9463/15/R16894
12-10-2015

Shri S.K. Verma
CPIO & Accounts Officer
Customs Excise & Service Tax Appellate Tribunal,
West Block 2, R.K. Puram,
New Delhi - 110066

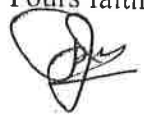
Sub: My RTI Application No. RTI/9463/15, dated 14/9/2015

Dear Sir,

This refers to your letter ID No. 10-175/15 dated 9-10-2015. Please note that in the aforesaid RTI Application, I have also requested for supply of information and copies of the D.O. letters sent by the Hon'ble President and the Registrar and the letters received by them. The said information and copies have not so far been provided to me. You are requested to provide complete reply in relation to each points of the aforesaid RTI Application.

Thanking you,

Yours faithfully,



[R.K. Jain]

ANNEXURE 16

(14)

F.No. 10-175 /CESTAT/CPIO-ND/RP/2015
Customs, Excise and Service Tax, Appellate Tribunal,
West block No.2, R.K.Puram, New Delhi-110066.

Dated 20/10/15

ID No. 10-175/2015

Subject : Information sought under RTI Act.

Please refer to RTI application No. 9463/15 dated 22/9/15 of Shri R.K. Jain CPIO ID 10-175/15 the requisite information was called for from you, the same have not been provided by you till dated 28/9/15 despite of letter/reminder dated 28/9/15 issued to you as deemed CPIO under section 6(3) and section 5(4) read with section 5(5) of Right to Information Act as you are the custodian of the information.

You are again requested to please provide the information within immediately days failing which you are responsible for any action or penal action imposed by the First appellate Authority or the Central Information Commission.


Accounts Officer/CPIO

To

EPI- President

(Alongwith copy of letter 16894, dated 12/10/15 of Shri Karam)

Copy to: - Sh. R.K. Jain,
1512B, Bhisam Pitmah Marg,
Wazir Nagar,
New Delhi-110003.

V-16729
Ground file.

Received
07 05/07/16

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.10-101(A)/CESTAT/FAA- SKM/2015
CPIO ID NO. 10-175/2015

Shri R.K.Jain

...Appellant

Vs.

CPIO, CESTAT

...Respondent

Date of decision: 21.6.2016

ORDER 28/16

When the matter called, the appellant submits that he is not pressing for points A, B & D for the reason that information sought for are already been provided by the CESTAT. The submission of the appellant is considered, and thus, the appeal to the extent of furnishing information contained in paragraph A, B & D is dismissed as not pressed.

2. The other information contained in point C, E & F relate to the correspondences exchanged between the CESTAT and the Ministry/ other authorities. The grievance of the appellant is that since the part information have been provided by the SPS to the President, the other part of the information can be furnished by the Registrar, who maintain similar records relating to such correspondences.

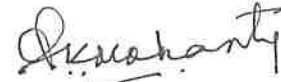
3. In responses to the submissions by the appellant, the CPIO submits that CESTAT has no objection in furnishing the information sought for by the appellant. However, the information can be furnished only on receiving the specific reference of the letter/ correspondence from the appellant.

4. Heard both sides.

SKM

4. In view of the fact that the CPIO has no objection in furnishing the available information, I direct the appellant to submit the reference of specific letter/ correspondence to the CPIO, who on receipt of the same shall furnish the information contained therein to the appellant.

6. The appeal with regard to Point No.s C, E, & F is disposed of in above terms.



(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

10-102(A)/2015

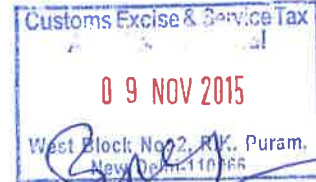
①

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

Ref. No. : RTI/P-537/(9550/15)/Appeal/16053

Dated : 06-11-2015

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



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 S.K. Verma 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)	12-10-2015	
3.	Details of the order appealed against	Letter F.No. 10-209/CESTAT/CPIO-ND/SKV/2015 dated 4-11-2015	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	4-12-2015	
6.	Whether Appeal in Time.	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 12-10-2015 (Annexure-1) 2. Copy of CPIO letter dated 4-11-2015 (Annexure-2) 3. Copy of CIC decision in Nanak Chand Arora (Annexure-3) 4. Copy of Delhi H.C. decision in MCD v.	

		<p>R.K.Jain (Annexure-4)</p> <p>5. Copy of CIC decision in Shri V.K. Sinha v. Oriental Insurance Company – Appeal No. CIC/AT/A/2009/00295 dated 7-3-2009 (Annexure-5)</p> <p>6. Copy of CIC decision in Shri Anil Kumar v. CPIO & DGM (Admn.), BSNL – Appeal No. CIC/LS/A/2011/000173/BS/0433 dated 9-7-2012 (Annexure-6)</p> <p>7. Copy of CIC decision in Shri Mansur Alam v. CPIO & DGM (Admn.), BSNL – Appeal No. CIC/BS/A/2012/000116/2054 dated 14-3-2013 (Annexure-7)</p>
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BRIEF FACTS OF THE CASE

(1) That the appellant has filed an application dated 12-10-2015 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:

(A) *Please provide the following information in relation to (i) Appeal No E/277-280 & 298/2012-EX(BR) [Century Metal Recycling] (ii) E/3561-63, 3580, 3594, 3693/2012 [Pepsico India Holding Pvt. Ltd.] and*

(iii) E/279, 291-294/05 [Raja Dyeing]:-

(i) Computerized "Query Entry" Report also containing details of Case History, Application History, Appeal/Application details etc. with Diary No. and Impugned Order details as available on CESTAT Database for each of the above cases.

(ii) Copies of all Orders, Order Sheets / Record of Proceedings except Final Orders.

(iii) Copies of all the notes put up by the registry/Member with orders thereon.

(iv) Copies of any order/directions for out of turn listing of the matter

- (v) *Details of the date on which the aforesaid matter was mentioned. Please also provide copies of the mention memo and directions thereon.*
 - (vi) *Copies of all the After Court Supplementary Cause Lists, if any.*
 - (vii) *Copies of all notice of hearing issued to parties.*
 - (viii) *Copies of directions/orders received from Courts in the aforesaid matter.*
 - (ix) *Copy of compliance report, if any and current status of the case with next Date of hearing.*
 - (x) *Copies of all Vakalatnamas and no objections filed in case of change of lawyer. Please also intimate the date of filing of each Vakalatnama.*
- (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 S.K. Verma, Asstt. Registrar/ CPIO has by his order dated 29-10-2015 (**Annexure-2**) has denied the information by deliberately and malafidely claiming an inapplicable exemption under section 8(1)(h) of the RTI Act and also on the ground that matter is sub-judice. The CPIO has also illegally and without authority, directed the deemed CPIO to calculate the additional cost under section 7(3) of the RTI Act contrary to Full Bench Decision of the CIC. The appellant being aggrieved by the said order of the CPIO is filing the present appeal.
- (4) The CPIO has deliberately and malafidely obstructed the information without any reasonable cause therefore he is 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 sprit 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 has deliberately and malafidely denied the information on the ground that the matter is sub-judice. In this regard, the Central Information Commission in the case of *Shri Nanak Chand Arora v. State Bank of India* – Case No. CIC/MA/A/2006/00018, decided on 30-6-2006 (**Annexure-3**), has held that the information cannot be denied on the ground that the matter is sub-judice because there is no provision in the RTI Act, which restricts the disclosure of information on the ground that the matter is sub-judice before the Court. Further, the Hon'ble Delhi High Court in the case of *MCD V. R.K. Jain* – WP (C) No. 14120 of 2009, decided 23-9-2010 (**Annexure-4**) has held that merely because the matter is sub-judice before a Court, is not a ground for denial of information under the RTI Act. In specific words, the Hon'ble Court held as under:

“The matter being sub judice before a court is not one of the categories of information which is exempt from disclosure under any of the clauses of Section 8(1) of the RTI Act.”

In view of the above binding decisions, the CPIO cannot deny the information under RTI on the ground that the matter is sub-judice. 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 Shri S.K. Verma, Asstt. Registrar (SM) and CPIO has deliberately and malafidely denied the information as sought in the RTI application by

wrongly applying section 8(1)(h) of the RTI Act. The said Section 8(1)(h) of the RTI Act, 2005 reads as under:

'information which would impede the process of investigation or apprehension or prosecution of offenders'

A perusal of the above would show that disclosure of information is exempted when it would impede any of the following three:

- 1) Investigation
- 2) Apprehension of offenders
- 3) Prosecution of offenders

None of the above elements are involved in relation to the information as sought by the appellant under the present RTI application as Tribunal is neither an Investigating Agency nor Law Enforcing Agency nor a Prosecuting Authority, but is an Appellate Forum. The information sought relates to the orders passed by the quasi-judicial authority and records created by the Registry in relation to the appeals before it, thus, section 8(1)(h) has no applicability. 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 appellant has merely sought copies of the Orders, Record of Proceedings, Note Sheets of the Registry, directions for listing of the cases out of turn, date and copies of Mention Memo, copies of After Court Cause Lists, Notice of Hearings and Vakalatnamas and copy of the Compliance Report of CESTAT order and current status of the case, which are records of the quasi-judicial authority, therefore, are part of the 'public records' and are disclosable under the RTI Act and section 8(1)(h) has no applicability as there is no investigation that is pending in the matter. Moreover, these records are created by the Tribunal and not emanating from any third party, they are 'public records' created by public authorities. As per Section 74(1)(ii) of the Evidence Act, the documents

confirming the records of the acts of official body or Tribunal, are treated as public documents. The section 74(1)(ii) of the Evidence Act, 1872, reads as under :

"74. Public documents. – The following documents are public documents :-

- (1) documents forming the acts or records of the
 - Acts - (i) of the sovereign authority;
 - (ii) **of official bodies and tribunals, and**
 - (iii) of public officers, legislative, judicial and executive [of any part of India or of the Commonwealth], or of a foreign country.
- (2) public records kept in [any State] of private documents.

In view of the above provisions read with section 76 of the Evidence Act, the records of the Tribunal being public records and are disclosable to public. On the basis of these provisions, Allahabad High Court in the case of *Alla Buksh v. Ratan* – A.I.R. 1958 (All) 829, held, that an "assessment order" passed by Sales Tax Officer to be a public document. Similarly, the Mysore High Court in the case of *Mahboob Mills Co. Ltd. v. Vittal* – A.I.R. 1959 Mys. 180 held that the records of the Labour Tribunal as public documents; likewise Patna High Court in the case of *Hira Lal v. Ramanand Chaudhury* – A.I.R. 1959 Patna 515 held that assessment order is a public documents. In these circumstances, the order of Shri S.K. Verma, Asstt. Registrar (SM) and CPIO claiming exemption under section 8(1)(h) of the RTI Act is bad in law and liable to be set aside and the CPIO be directed to provide the information.

- (6) That the Shri S.K. Verma, Asstt. Registrar (SM) and CPIO has wrongly claimed exemption u/s 8(1)(h) of the RTI Act, as the said section is applicable only when disclosure of the information would cause impediment to the on-going investigation. The information sought by the appellant does not relate to a case where any investigation is pending. Even if it is assumed that investigation in the matter is still pending, the key issue for consideration in that whether disclosure of information as

sought by the appellant/complainant would, in any way, impede the process of said inquiry/investigation. The Hon'ble Delhi High Court in Addl. Commissioner of Police (Crime) Vs CIC; W.P(C). No. 7930 of 2009 while dealing with the provision of this section had made following observations:

"85. Mere pendency of investigation, or apprehension or prosecution of offenders is not a good ground to deny information. Information, however, can be denied when furnishing of the same would impede process of investigation, apprehension or prosecution of offenders. The word —impedell indicates that furnishing of information can be denied when disclosure would jeopardize or would hamper investigation, apprehension or prosecution of offenders. In Law Lexicon, Ramanatha Aiyar 2nd Edition 1997 it is observed that —the word —impedell is not synonymous with obstruct'. An obstacle which renders access to an inclosure inconvenient, impedes the entrance thereto, but does not obstruct it, if sufficient room be left to pass in and out. Obstruct' means to prevent, to close up."

86. The word —impede therefore does not mean total obstruction and compared to the word obstruction' or prevention', the word impede' requires hindrance of a lesser degree. It is less injurious than prevention or an absolute obstacle. Contextually in Section 8(1)(h) it will mean anything which would hamper and interfere with procedure followed in the investigation and have the effect to hold back the progress of investigation, apprehension of offenders or prosecution of offenders. However, the impediment, if alleged, must be actual and not make belief and a camouflage to deny information. To claim exemption under the said Sub-section it has to be ascertained in each case whether the claim by the public authority has any reasonable basis. Onus under Section 19(5) of the RTI Act is on the public authority. The Section does not provide for a blanket exemption covering all information relating to investigation process and even partial information wherever justified can be granted. Exemption under Section 8(1)(h) necessarily is for a limited period and has a end point i.e. when process of investigation is complete or offender has been apprehended and prosecution ends. Protection from disclosure will also come to an end when disclosure of information no longer causes impediment to prosecution of offenders, apprehension of offenders or further investigation."

(7) In another matter of Bhagat Singh Vs CIC; W.P. (C) No. 3114/2007; dated 03.12.2007 the Hon'ble Delhi High Court had observed as follows:

“Access to information, under Section 3 of the Act, is the rule and exemptions under Section 8, the exception. Section 8 being a restriction on this fundamental right, must therefore be strictly construed. It should not be interpreted in manner as to shadow the very right itself. Under Section 8, exemption from releasing information is granted if it would impede the process of investigation or the prosecution of the offenders. It is apparent that the mere existence of an investigation process cannot be a ground for refusal of the information; the authority withholding information must show satisfactory reasons as to why the release of such information would hamper the investigation process. Such reasons should be germane, and the opinion of the process being hampered should be reasonable and based on some material. Sans this consideration, Section 8(1)(h) and other such provisions would become the haven for dodging demands for information”

The decision of Delhi High Court in Bhagat Singh’s case has been approved by Division Bench in Addl. Commissioner of Income Tax Vs. UOI – LPA No. 1377/2007 decided on 17-12-2007

(8) That Hon’ble Delhi High Court again in the case of B.S. Mathur v. Delhi High Court – W.P.(C) No. 295/2011 dated 3-6-2011 again held as under:-

“The mere pendency of an investigation or inquiry is by itself not a sufficient justification for withholding information. It must be shown that the disclosure of the information sought would ‘impede’ or even on a lesser threshold ‘hamper’ or ‘interfere with’ the investigation. This burden the Respondent has failed to discharge”

(9) That as per the above judgments of Hon’ble Delhi High Court mere pendency of an investigation cannot be the ground for denial of information under section 8(1)(h) of the RTI Act, but the CPIO must show that the disclosure of such information would certainly impede the process of investigation. Hon’ble Court has further clarified that section 8(1)(h) does not provide for blanket exemption from providing information relating to investigation process. Even partial information wherever justified needs to be disclosed. Further, onus to prove that denial is justified is on the public authority. However, unfortunately in the present case, the CPIO has not properly examined the contents of the information in question, but just has denied the information by invoking section 8(1)(h) without giving any

reason or ground. Therefore, the order of the Shri S.K. Verma, Asstt. Registrār (SM) and CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame..

(10) That further, as observed by the Hon'ble Delhi High Court in the above quoted judgment, the onus to prove that a denial is justified shall be on the CPIO as per section 19(5) of the RTI Act. But, in the instant case, nowhere in the order of the CPIO denial of information has been justified. He did not even indicate a single reason which made him believe that disclosure of information would impede the process of investigation/examination. Shri S.K. Verma, Asstt. Registrar (SM) and CPIO did not give any such reason in support of denial of information. Therefore, the order of the CPIO is incorrect and illegal and liable to be set aside and the CPIO be directed to provide the information in time bound frame.

(11) That Shri S.K. Verma, Asstt. Registrar (SM) and CPIO has erred in not appreciating that the information sought relates to evasion of taxes and violation of the statutory provisions adversely effecting the public revenue, therefore the information sought is in larger public interest. Therefore the CPIO should have applied section 8(2) of the RTI Act and provided the information.

(12) That Shri S.K. Verma, Asstt. Registrar (SM) and CPIO has not given any reasons or grounds as to how the information is exempted from disclosure under section 8(1)(h) of the RTI Act, therefore his order is a non-speaking order and passed in violation of the principles of natural justice, hence is liable to be set aside on this ground alone.

(13) That Shri S.K. Verma, Asstt. Registrar (SM) and CPIO has been providing copies of similar information to the appellant till now and as the appellant has made certain complaints to the authorities against irregularities and manipulations of Shri S.K. Verma, Asstt. Registrar, he is causing harassment and inconvenience to the appellant by denying the

information which CESTAT has continuously been providing to the appellant as per the provisions of the RTI Act. 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.

(14) That Shri S.K. Verma, Asstt. Registrar (SM) and CPIO has deliberately and malafidely denied the copies of the documents as sought by the appellant by wrongly applying section 8(1)(h) of the RTI Act, so as to cause delay and deny the information with malafide intent and purpose therefore, he is liable for penal action under Section 20 of the RTI Act, 2005 and the appellant is also entitled to compensation for the harassment and inconvenience caused to him. The appellant reserves his right to file a direct complaint to CIC, as the First Appellate Authority has no powers to take penal action under section 20 of the RTI Act.

(15) That Shri S.K. Verma, Asstt. Registrar (SM) and CPIO, is deliberately and malafidely asking for the "further fee" under Section 7(3) of the RTI Act with a view to delay and deny the information, whereas the Full Bench of CIC in the case of *Subodh Jain v. DCP, Delhi Police*, in Case No.CIC/WB/C/2007/00943, decided on 30.10.2009 has already held that no fee is chargeable under Section 7(3) of the RTI Act by the CPIO. In this regard, the Full Bench of CIC has held as under:

"40. Thus, there is provision for charging of fee only under Section 6(1) which is the application fee; Section 7(1) which is the fee charged for photocopying etc and Section 7(5) which is for getting information in printed or electronic format. But there is no provision for any further fee and if any further fee is being charged by the Public Authorities in addition to what is already prescribed under Sections 6(1), 7(1) and 7(5) of the Act, the same would be in contravention of the Right to Information Act. The "further fee" mentioned in Section 7(3) only refers to the procedure in availing of the further fee already prescribed under 7(5) of the RTI Act, which is "further" in terms of the basic fee of Rs 10/-.

Section 7(3), therefore, provides for procedure for realizing the fees so prescribed."

Emphasis supplied.

(16) Further, Shri S.K. Verma, Asstt. Registrar (SM) and CPIO in the following decisions has set aside the demand for "further fee" as raised under Section 7(3) of the RTI Act by the CPIO

- (a) Shri V.K. Sinha v. Oriental Insurance Company – Appeal No. CIC/AT/A/2009/00295 dated 7-3-2009 (Annexure-5)
- (b) Shri Anil Kumar v. CPIO & DGM (Admn.), BSNL – Appeal No. CIC/LS/A/2011/000173/BS/0433 dated 9-7-2012 (Annexure-6)
- (c) Shri Mansur Alam v. CPIO & DGM (Admn.), BSNL – Appeal No. CIC/BS/A/2012/000116/ 2054 dated 14-3-2013 (Annexure-7)

In view of the above decisions, particularly, the Full Bench decision of CIC, the demand raised by the CPIO towards Further Fee / Cost, is incorrect, illegal and without any authority of law, therefore, the same may be quashed and the CPIO may be directed to provide the information within time bound frame.

- (17) That even otherwise the information sought by the appellant should have been placed on the CESTAT website as per the provisions of Section 4 of the RTI Act and the Office Memoranda issued by DoPT. Thus, the information which is otherwise required to be proactively disclosed under Section 4 of the RTI Act by the Public Authority, no fee / cost is chargeable from the appellant. Therefore, the demand for any fee / cost is liable to be set aside.
- (18) That Shri S.K. Verma, Asstt. Registrar (SM) and 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.
- (19) That the information sought is neither voluminous nor relate to older

and larger period, thus could have easily been provided by the learned CPIO.

- (20) 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.
- (21) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (22) 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 : 06-11-2015

O/c

ARTICLE 13

13

Application under Section 6 of the Right to Information Act, 2005

Ref. No. :RTI/P-195/9550/15

Dated: 14-10-2015
CUSTOMS EXCISE & SERVICE TAX
14 OCT 2015
West Block No. 2, R.K. Puram
New Delhi-110066

To

Shri S.K. Verma
CPIO & Assistant Registrar
Customs Excise & Service Tax Appellate Tribunal,
West Block 2, R.K. Puram,
New Delhi - 110066

14/10/15


1.	Name of the Applicant	R.K. Jain
2.	Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003
	(b) Phone Nos.	09810077977, 011-24651101, 011-24690707
	(c) Fax No.	011-24635243
3.	Whether a Citizen of India	Yes
4.	Particulars of Information	
	Details of information required	<p>(A) Please provide the following information in relation to (i) Appeal No E/277-280 & 298/2012-EX(BR) [Century Metal Recycling] (ii) E/3561-63, 3580, 3594, 3693/2012 [Pepsico India Holding Pvt. Ltd.] and (iii) E/279, 291-294/05 [Raja Dyeing]:-</p> <p>(i) Computerized "Query Entry" Report also containing details of Case History, Application History, Appeal/Application details etc. with Diary No. and Impugned Order details as available on CESTAT Database for each of the above cases.</p> <p>(ii) Copies of all Orders, Order Sheets / Record of Proceedings except Final Orders.</p> <p>(iii) Copies of all the notes put up by the registry/Member with orders thereon.</p> <p>(iv) Copies of any order/directions for out of turn listing of the matter</p> <p>(v) Details of the date on which the aforesaid matter was mentioned. Please also provide copies of the mention memo and directions thereon.</p> <p>(vi) Copies of all the After Court Supplementary Cause Lists, if any.</p> <p>(vii) Copies of all notice of hearing issued to parties.</p>

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14

		<p>(viii) Copies of directions/orders received from Courts in the aforesaid matter.</p> <p>(ix) Copy of compliance report, if any and current status of the case with next Date of hearing.</p> <p>(x) Copies of all Vakalatnamas and no objections filed in case of change of lawyer. Please also intimate the date of filing of each Vakalatnama.</p> <p>Note:- Please provide point-wise information/ response for each of above points.</p>
5.	I state that the information sought is covered under RTI Act and does not fall within the exemptions contained in sections 8 or 9 or any other provisions of the Right to Information Act, 2005 and to the best of my knowledge it pertains to your office. Information is being sought in larger public interest.	
6.	A Postal Order No. 32F 042652 for Rs. 10 towards payment of fee is enclosed herewith. You are requested to filling the name in which the Postal Order is payable.	
7.	As per Section 7 of the RTI Act, 2005 information is to be provided within 30 days of the Application.	


Signature of Applicant
Telephone No. : 9810077977
011-24651101, 24690707
Fax No. 011-24635243

Place : New Delhi
Encl. : as above

Hira/---
HR

F.No. 10-209/CESTAT/CPIO-ND/SKV/2015
Customs, Excise & Service Tax Appellate Tribunal
West Block 2, R.K. Puram, New Delhi – 110066

Date: 04.11.2015
ID No.10-209/2015

To,

✓ Sh. R. K. Jain
1512-B, Bhisim Pitamah Marg
Wazir Nagar, New Delhi-03

Subject : Information sought under RTI Act 2005.

Sir,

With reference to your Application No RTI/P-195/9550/15 dated 12.10.2015 received on 14.10.2015, the following appeals are sub-judice before the Hon'ble Tribunal, Therefore, the information sought by you is exempted under section 8(1)(h) of the RTI Act 2005 and hence it can not be provided :-

Appeal NO. E/277-280/2012 & E/298/2012.

The undersigned CPIO is also seeking the assistance of Mr. V. P. Pandey, Asst. Registrar (Excise Branch), CESTAT, New Delhi under section 5(4) read with section 5(5) of the RTI Act in the following matters :-

Appeal No. E/3561-63,3580,3594,3693/2012 & E/279,291-294/2005. (A copy of the RTI application is enclosed herewith).

Mr. V. P. Pandey is also requested to calculate the cost of the information to be provided under section 7(3) of the RTI Act, If any, for collection of segregate information to the undersigned immediately.

If the applicant is aggrieved from the above order, he can file an appeal before Hon'ble Sh. S.K. Mohanty, FAA, under RTI Act, within 30 days after the receipt of this order.


(S.K. Verma)
CPIO, CESTAT, New Delhi

4/12

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V-16864

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Matter being Subjudice is no ground to reject RTI

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Central Information Commission

Decision No. 80 /IC(A)/2006
F.No.CIC/MA/A/2006/00018

Dated, the 30th June, 2006

Name of the Appellant : Shri Nanak Chand Arora, R/o -1111, Rani Bagh,
New Delhi-110034.

Name of the Public Authority : State Bank of India, Shakur Basti, Delhi-110034.

(Complaint u/s 18 of Right to Information Act)

DECISION

Facts of the Case:

1. The complainant was sanctioned a loan of Rs. 3 lakhs in 1997 for purchase of Truck Chassis and fabrication of its body. He has alleged that due to the negligence of the Bank, the sanctioned loan was not disbursed. The respondent has however mentioned that for the release of loan amount he was required to deposit the required margin money, which he could not do. Therefore, on his request the Bank returned all the papers and the amount deposited by him. The Bank accordingly complied with his request.

2. The Complainant was however aggrieved by the manner in which his case was dealt with by the officials of Shakur Basti Branch of the State Bank of India. He lodged a complaint with the Head Office of the SBI, in which he stated that he was harassed and forced to withdraw his application for loan. As per the direction of the Chief General Manager, SBI, Sansad Marg, New Delhi, the matter was enquired by the Vigilance Department of the Bank.

3. In his complaint to the Commission, the appellant has mentioned that the Bank informed him that his complaint was investigated and on the basis of its findings the concerned officers have been cautioned. Subsequently, the appellant asked for 'a copy of the investigation report' under RTI Act on 21.10.2005. He also requested for inspection of records pertaining to investigations of his complaint. The Chief Manager, SBI, Shakur Basti Branch informed him on 31.12.2005 that:

"The matter is under consideration and we shall advise you accordingly very soon on the matter".

Subsequently, on 19.1.2006, he was informed as under:

"We advise that we are not in position to accede to your request for supply of copies under RTI Act, as the matter is su-judice. It is also informed that under the said Act there is no provision for inspection of the record".

4. On the petition received from the complainant, the respondent was asked by the Commission to furnish a detailed reply on the petition filed by the complainant.

5. The respondent has mentioned that there is a dispute between the Bank and the complainant and the matter is pending before the State Consumer Disputes Redressal Commission (SCDRC), New Delhi. The complainant has already filed an appeal before the SCDRC for redressal of his grievances and for providing access to the complete file.

6. The respondent Bank has also mentioned that the request for information by the complainant could not be accepted *"due to the exemptions provided under section 8(1) and not covered under section 8(2) of the Right to Information Act, 2005 and was informed accordingly that the matter being sub-judice at the time as well as now"*.

7. The case was heard on 29.6.2006. The complainant was represented by his Counsel, Shri Chandu Ram and the Bank was represented by its Counsel Shri S.N. Relan along with the official of the Bank.

8. Both the parties were heard. The complainant mentioned that under the RTI Act he has the right to acquire a copy of the Investigation Report, which was conducted on his complaint against the erring officials, who did not disburse him the sanctioned loan.

9. The respondent contended that the matter was sub-judice and, therefore, the report in question should not be disclosed till the SCDRC has finally adjudicated on the matter of appeal filed by the complainant. He has however not mentioned the specific section of the Act under which exemption from disclosure was sought.

Commission's Decision:

10. The CPIO and the Chief Manager of the Bank has not responded to the information seeker in the spirit in which the Act seeks to promote transparency in functioning of the Bank. He has mis-interpreted the provision of the Act and informed that there was no provision for inspection of the record in the Act. This is contrary to the provision u/s 2(f) (i). He has also not indicated as to why the report could not be disclosed, except that the matter was sub-judice. There is no provision in the Act which restricts the disclosure of information merely on the ground of the fact that matter is pending with the Consumer Court. In the instant case, the Court has not forbidden the disclosure of investigation report or inspection of record.

11. The CPIO has also not mentioned the name of the appellate authority of the Bank to whom the appellant would have filed his 1st appeal.

12. In view of the above, the CPIO and the Chief Manager is directed to furnish a certified copy of the information sought within 15 working days of issuance of this decision and provide access to the relevant file for inspection u/s 2(f) (i) of the Act.

13. The CPIO is also required to Show Cause as to why penalty u/s 20 (1) of the Act should not be imposed for not complying with provisions of the Act. He is therefore directed to appear before the Commission at 2.30 pm on July 14, 2006 to give his explanation in this regard.

14. The appeal is accordingly disposed of.

Sd/-
(Prof. M.M. Ansari)
Information Commissioner

Authenticated true copy :

(L.C. Singhi)
Additional Registrar

Cc:

- 1. Shri Nanak Chand Arora, R/o 1111, Rani Bagh, New Delhi-110034.
- 2. Shri R. S. Schrawat, Chief manager & CPIO, State Bank of India, Shakur Basti, Delhi-110034.
- 3. The Chief General Manager, State Bank of India, Sansad Marg, New Delhi.

IN THE HIGH COURT OF DELHI AT NEW DELHI
R-29

W.P.(C) 14120/2009

670-1 (19)

MUNICIPAL CORPORATION OF DELHI Petitioner
Through : Mr. Gaurang Kanth, Advocate.

versus

SHRI R.K. JAIN
Respondent
Through : None.

CORAM: JUSTICE S. MURALIDHAR

ORDER
23.09.2010

1. There are two principal grounds urged by the petitioner, Municipal Corporation of Delhi (?MCD?), to assail the impugned order dated 30th October, 2009 passed earlier by the Central Information Commission (?CIC?) levying a penalty of `10,750/- on Mr. A Karthikeyan, Head Clerk of MCD and `19,000/- to be recovered from Mr. Ravinder Kumar, Public Information Officer (?PIO?) for their respective roles in the delay in furnishing to the Respondent the information sought by him.

2. On 27th April, 2009, the Respondent filed an application under the Right to Information Act, 2005 (?RTI Act?) before the PIO seeking a complete set of attested copies of the file notings as well as the correspondence side of the file wherein a note which had been moved by the Central Vigilance officer (?CVO?) suggesting that MCD should appeal against the judgment dated 26th March, 2009 of the Central Administrative Tribunal (?CAT?). By the said judgment the CAT had set aside an order dated 7th April, 2006 of the MCD dismissing the Respondent and 16 other Executive Engineers (Civil). The CAT ordered their reinstatement. It appears that although the stand taken by the Head Clerk was

that he had forwarded the application for information under the RTI Act to Mr. Anil Kumar Gupta who was supposed to provide the information, on the same date i.e. 27th April, 2009, he was unable to produce before the CIC any documentary proof to that effect. The records showed that the RTI application was eventually received by Mr. Anil Kumar Gupta only on 10th July, 2009 by which

time 43 days had already elapsed. Since the date of seeking the information in terms of Section 7(1), the information should be provided to the Respondent within thirty days from 27th April, 2009.

3. It may be noticed at this stage that neither before the CIC nor before this Court the Petitioner has been able to provide any justification for the above delay of 43 days in forwarding the Respondent's RTI application to the concerned officer of the MCD which had to provide the information. It is also stated that the penalty of ` 10,750/- levied on Mr. Karthikeyan already stands deducted from his salary. Accordingly, that part of the impugned order of the CIC calls for no interference.

4. As far as the PIO was concerned, by the time request reached him, the respondent herein had already filed an appeal before the CIC. On 7th July, 2009, the CIC issued notice to the PIO asking him to provide information to the Respondent before 1st August, 2009. In response thereto the PIO wrote to the Respondent on 31st July, 2009 stating that the order of the CAT had been challenged in this Court by means of a writ petition which was pending. A stay had been granted against the judgment of the CAT. It was accordingly contended by the PIO that since the petition was sub-judice, the copies of the notings side of the file as well as the correspondence side could not be provided. It was stated by the PIO that the information sought was exempt from disclosure under Section 8(1)(d) of the RTI Act.

5. As the CIC has rightly noted, there was no explanation why Section 8(1)(d) would apply. That exemption applies only to matters relating to commercial confidence, trade secrets or intellectual property. The matter being sub judice before a court is not one of the categories of information which is exempt from disclosure under any of the clauses of Section 8(1) of the RTI Act.

6. It may be noted that as regards the above finding of the CIC, there is again no defence of the MCD. The disclosure of the information sought could not have been withheld only on the ground that the matter was sub judice before this Court.

7. The first point put forth by the learned counsel for the Petitioner is that the Respondent could not have, without first exercising the remedy of going before the Appellate Authority of the MCD, filed an appeal directly before the CIC. Reliance is placed on the decision of the CIC passed in Shri Milap Choraria v. Shri Jai Raj Singh, Commissioner of Income Tax (decided on 9th April, 2007). This Court does not find any merit in this contention. The Appellate Authority in this case would have been an officer of the MCD. It is unlikely he would have decided the appeal contrary to the stand of the MCD that since the matter was sub judice, the information could not be provided to the Respondent. Moreover, no such plea questioning the non- exhaustion of the remedy of first appeal appears to have been raised before the CIC.

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8. The second point urged is that in terms of Section 20(1) RTI Act, the maximum penalty for delay in providing information was `25,000/- whereas the penalty imposed on both, Mr. A.Karthikeyan and Mr. Ravinder Kumar worked out to be more than `25,000/-. It is, also, urged that the penalty on Mr. Ravinder Kumar was not leviable for he had reasonable grounds for not providing the information.

9. As regards the second submission regarding the total amount of penalty, this Court finds merit in the contention that in terms of Section 20(2) of the RTI Act the maximum penalty vis-a-vis a complaint about the delay in providing information cannot exceed `25,000/-.

10. Section 20 reads as under:-

20. Penalties.- (1) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause, refused to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall impose a penalty of two hundred and fifty rupees each day till application is received or information is furnished, so however, the total amount of such penalty shall not exceed twenty-five thousand rupees;

Provided that the Central Public Information Officer or the State Public Information Officer, as the case may be, shall be given a reasonable opportunity of being heard before any penalty is imposed on him:

Provided further that the burden of proving that he acted reasonably and diligently shall be on the Central Public Information Officer or the State Public Information Officer, as the case may be.

(2) Where the Central Information Commission or the State Information Commission, as the case may be, at the time of deciding any complaint or appeal is of the opinion that the Central Public Information Officer or the State Public Information Officer, as the case may be, has, without any reasonable cause and persistently, failed to receive an application for information or has not furnished information within the time specified under sub-section (1) of section 7 or malafidely denied the request for information or knowingly given incorrect, incomplete or misleading information or destroyed information which was the subject of the request or obstructed in any manner in furnishing the information, it shall recommend for disciplinary action against the Central Public Information Officer or the State Public Information Officer, as the case may be, under the service rules applicable to him.?

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11. This Court is unable to accept the contention of the Petitioner that unless the information was deliberately withheld a penalty should not be levied. The mere fact that the information was not disclosed in the time specified under Section 7(1) of the Act, is enough to attract the penalty already fixed under Section 20(1). There is also no discretion but to award penalty of `250/- for every day of delay subject however to a maximum of `25,000/- . In this case, the mere fact that the information was provided to the Respondents after a delay of 76 days attracted Section 20(1). It may be noticed that there is no denial by the MCD that the information sought was ultimately provided only on 15th October, 2009 with a delay of 76 days.

12. Secondly, since this Court accepts the submission that the total amount of penalty leviable was `25,000/- and since learned counsel for the MCD informed the Court that the penalty of `10,750/- levied on Mr. Karthikeyan had already been recovered, the penalty levied on Mr. Ravinder Kumar is reduced from `19,000/- to `14,250/- in terms of Section 20(1) of the RTI Act.

13. Only to this limited extent, the impugned order of the CIC dated 30th October, 2009 and subsequent order dated 1st December, 2009 rejecting the review petition of Mr. Ravinder Kumar will stand modified. ✓

14. In compliance of the CIC's order, the extent of the penalty amount of `14,250/- that is to be recovered from Mr. Ravinder Kumar, would be by way of three installments of `5,000/-, `5,000/- and `4,250/- to be deducted from the salary of Mr. Ravinder Kumar beginning from October, 2010. The necessary compliance be filed before the Joint Registrar of the CIC as directed in the impugned order.

15. The writ petition is disposed of in the above terms without any order as to costs.

S. MURALIDHAR, J
SEPTEMBER 23, 2010
AK

W.P.(C) 14120/2009
Page 1 of 7

CENTRAL INFORMATION COMMISSION

Appeal No. CIC/AT/A/2009/00295 dated 7-3-2009

Right to Information Act 2005 – Section 19

Appellant: Shri V. K. Sinha,
Respondent: Oriental Insurance Co.

Decision Announced 9.11.09**FACTS**

By an application of 25-8-08 Shri V.K. Sinha, General Manager, Oriental Insurance Co. Ltd. applied to the CPIO, Oriental Insurance Co. Ltd. seeking the following information:

1. Number of Company's accommodation at GK I and II at Delhi for Scale V Officers and above.
2. Waiting list with priority number for the allotment of residential accommodation at GK- I and II, New Delhi as on date.
3. Name, present designation, present Place of posting and flat number of employees who are occupying residential accommodations at GK I and II New Delhi as of now, Date of their application for allotment of residential flats and their seniority in the waiting list for allotment, on the date of allotment of accommodation.
4. Request by employees for allotment of residential houses at GK I and II New Delhi by the employees after 1.9.2006 copy of each such application with the priority number for allotment of the houses.
5. Has any of the present occupant has been allotted accommodation in violation of waiting list, if so on what ground and under which provision/ rule of the Company. Their name, designation and place of posting.
6. What are the fittings and fixture/ facilities are provided in GK I and II, New Delhi flats to scale V Officers?
7. Please provide information on Flat Number E-409 and M-68, GK II, New Delhi to whom they are allotted, date of allotment and the waiting list of eligible officer's as on the date of allotment.
8. Has the Company provided/ reimbursed Cable TV connection in charges/ Set Top Box charges/ DTH instrument charges to any officer occupying GK I and II or NOIDA or any other flats in Delhi Company's owned accommodation? If so what steps company is taking to recover the amount from the sanctioning authorities/ beneficiary as per the reply given under RTI vide letter dated 14.8.2008 and delivered on 18.8.2008 there is no provision for reimbursement for such costs.

- 9. Number company's owned NOIDA flats, number of flats having 3 phase electricity connection at NOIDA, number of flats provided with Godrej Almirah at NOIDA, flat numbers of those beneficiary and their occupants name, designation and place of posting.
- 10. Does the Company have system of maintaining Expenses incurred by the company for the maintenance (other than Govt dues) of GK I and II flats and NOIDA flats. If so then provide flat wise repair and maintenance expenses incurred during last Financial year (2007-08). Or there is no such system of book keeping in the company for the expenses incurred for the repair and maintenance of those flats?
- 11. Is there any system of maintaining service request register/ complaint register for the occupants of Company owned / provided residential accommodation? If so with whom and where it is kept? Or it is on whims and fancy of the Estate/ Establishment Department officials to provide or not to provide service requested for?"

To this Shri V.K. Sinha received a response dated 26-9-08 from CPIO with the following information:

- '1. There are 12 flats in G. K. I and G. K. II for scale V officers and above.
- 2. Enclosed as per Annexure 1.
- 3. The list of occupants of G. K. I and G. K. II flats as on date is enclosed as per Annexure II. Date of occupation is as old as 1993. The remaining information sought by you has to be searched out from the old records and an officer is required to work for three full working days to go through the records. This will cost Rs. 3658/- to the company, which will have to be borne by you.
- 4.& 5. The information sought by you is not readily available in the format desired by you and requires an officer to work for another three full working days to go through the records and extract information from the records for compiling the information. The Company would incur a further cost of RS. 3658/- on the same, which will also have to be borne by you.
- 6,8,9,10&11 We have been informed by the Estate Department that the information sought by you on these points requires the services of 4 officers/staff specially for compiling this information, as under:-

1. Scale-III Officer	1-day (Approx.)	Rs. 1,000/-
2. Scale-I Officer	1 day	Rs. 500/-
3. Stenographer	½ day	Rs. 500/-
4. Record Clerk	½ day	Rs. 300/-
5. Misc. Stationery, Computer etc		Rs. 300/-

TOTAL

Rs. 2,600/-

7. Information sought by you is enclosed herewith as Annexure III, IV and V.

Accordingly you are requested to remit us Rs. 7316 by Pay Order or DD in the name of the Oriental Insurance Company Ltd., payable at Delhi so that we may direct the concerned Departments to initiate the exercise of compilation of the data."

Not satisfied, however, Shri Sinha moved an appeal before Shri S.K. Chanana, GM, Oriental Insurance Co. Ltd. pleading that "I have not asked for any particular format but CPIO is mentioning format I desire."

In his order of 4-11-08 appellate authority Shri Chanana GM has directed as follows:

"It appears that the concerned Department has prepared statements as various annexure from the registers/ documents available with them. The basic spirit of the RTI Act in providing information is to supply the 'material information' readily available with the Public Authority, so that the dispute raised by the appellant in the current case, does not come up. Accordingly, it appears that information to the satisfaction of the appellant can only be provided if the appellant is allowed to inspect the related files/ documents/ register available with the concerned Department/s. As such the CPIO/ DGM, HQ, New Delhi is hereby directed to have the documents inspected by the appellant in the concerned Department/s by intimating place, date, time and the name of the contact Officer for the inspection, to the appellant, within 10 days of receipt of this decision."

Consequently, through a letter of 7-11-08 received by Shri Sinha on 11-11-'08 CPIO, Shri P.K. Jha, Dy. GM, Oriental Insurance Co. Ltd. has informed appellant Shri Sinha of the dates when he could inspect the files together with the names of the contact persons. Nevertheless, Shri Sinha has moved his second appeal before us with the following prayer:

"CPIO and the 1st appellate authority are denying information by demanding as cost/ further fee which is in respect of very few Houses owned by the Company (hardly 12-15 houses)."

The appeal was heard on 9-11-2009. The following are present.

Respondents

Shri V. V. Mohlla, Manager.
Shri P.K. Jha, DGM/CPIO.
Shri Amitava Das, Chief Manager.

Although informed of the date of hearing through our letter of 7-10-2009 appellant Shri V. K. Sinha opted not to be present.

Shri P.K. Jha, CPIO submitted that in fact subsequent to the order of Appellate Authority the information sought has been provided to appellant without charging the additional fee. Moreover, in compliance with the earlier order of this Commission the Public Authority has also placed information with regard to such properties owned by them on the website in accordance with Section 4 (1)(b) (i) and (x).

DECISION NOTICE

For the same of clarity with regard to recovery "of further fees" as was proposed in the present case, the following is the final decision of this Commission in **Complaint No.CIC/WB/C/2007/00943** along with **Appeal No. CIC/MA/A/2008/01085 Subodh Jain & Anr. vs. DCP (West Dist) & Anr.** announced on 30.10.'09. In this case the Full Bench of this Commission has decided as follows:

"40. Thus, there is provision for charging of fee only under Section 6(1) which is the application fee; Section 7(1) which is the fee charged for photocopying etc and Section 7(5) which is for getting information in printed or electronic format. But there is no provision for any further fee and if any further fee is being charged by the Public Authorities in addition to what is already prescribed under Sections 6(1), 7(1) and 7(5) of the Act, the same would be in contravention of the Right to Information Act. **The "further fee" mentioned in Section 7(3) only refers to the procedure in availing of the further fee already prescribed under 7(5) of the RTI Act,**¹ which is "further" in terms of the basic fee of Rs 10/-. Section 7(3), therefore, provides for procedure for realizing the fees so prescribed."

While the Oriental Insurance Co. Ltd. may note this for further action, in the present case it is clear that the information sought by appellant Shri Sinha, who is also reported to have inspected the file, has been given and there is no scope for further intervention by this Commission. The appeal is, therefore, dismissed.

¹ Emphasis added

Announced in the hearing. Notice of this decision be given free of cost to the parties.

(Wajahat Habibullah)
Chief Information Commissioner
9-11-2009

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges prescribed under the Act to the CPIO of this Commission.

(Pankaj K.P. Shreyaskar)
Joint Registrar
9-11-2009

CENTRAL INFORMATION COMMISSION
Club Building (Near Post Office)
Old JNU Campus, New Delhi - 110067
Tel: +91-11-26101592

File No.CIC/LS/A/2011/000173/BS/0433

Relevant Facts emerging from the Appeal

Appellant : Mr. Anil Kumar
S/o Mr. Bhanwar Singh
345 Indira Colony,
Nagaur, Rajasthan

Respondent : CPIO & Dy. General Manager (Admin.)
BSNL
O/o GMTD,
Nagaur – 341001, Rajasthan

RTI application filed on : 19/02/2010
PIO replied : 24/02/2010 & 15/04/2010
First appeal filed on : Not enclosed.
First Appellate Authority order : Not enclosed.
Second Appeal received on : 27/09/2010

Information Sought:

Appellant has sought information in nine points regarding the recruitment of data feeders.

Reply of the CPIO:

The PIO vide letter dated 24/02/2010 informed the appellant to deposit the IPO in the name of Account Officer. After receiving the same the appellant was requested to deposit an amount of Rs 4554/- for obtaining the information sought by him.

Grounds for the First Appeal:

Not enclosed.

Order of the FAA:

Not enclosed.

Grounds for the Second Appeal:

Unreasonable charges/fee was demanded from the appellant to obtain the information.

Relevant Facts emerging during Hearing:

The following were present

Appellant: Absent

Respondent: Mr. O P Khatri, PIO through videoconferencing.

Appellant was given an opportunity to participate in the hearing, however, he is absent. The PIO stated that they had requested fee of RS. 4554/- to supply the information relying on the Commission's order in appeal no. CIC/AT/C/2007/00282,

dated 15/10/2007. It is noted that the issue of levy of "further fees" has been settled by this Commission's full bench order in appeal no.CIC/MA/A/2008/01085, dated 30/10/2009 in terms of which the fees as prescribed under section 7(1) & 7(5) of RTI Act can only be charged and there is no provision for levy of any further fees.

Decision Notice:

As the PIO has failed to provide the information within time limit prescribed for furnishing of information the Commission directs that complete and correct information as requested by the appellant in his RTI application dated 19/02/2010 should be furnished to him free of cost in terms of section 7(6) of the RTI Act.

A compliance report in this regard should be furnished to the Commission by 10/08/2012.

Appeal stands disposed of accordingly.

This decision is announced in open chamber.
Notice of this decision be given free of cost to the parties.

BASANT SETH
Information Commissioner
July 09, 2012

(In any correspondence on this decision, mention the complete decision number.) (AS)

CENTRAL INFORMATION COMMISSION
Club Building (Near Post Office)
Old JNU Campus, New Delhi - 110067
Tel: +91-11-26101592

File No.CIC/BS/A/2012/000116/2054
14 March 2013

Relevant Facts emerging from the Appeal

Appellant	:	Mr. Mansur Alam H.No.1723, Sector-8, Faridabad Haryana
Respondent	:	CPIO & DGM (Admn) BSNL O/o the General Manager Telecom District Sector 15A, Faridabad, Haryana
RTI application filed on	:	20/10/2011
PIO replied on	:	21/11/2011
First appeal filed on	:	28/12/2011
First Appellate Authority order	:	31/01/2012
Second Appeal received on	:	21/02/2012

Information sought:

- 1- In every month 2000 kms of each hired vehicle are sanctioned. It may be made known that from May 2011 to Sep 2011 extra mileage sanction was given to which vehicle/vehicles in the Faridabad SSA.
- 2- Earlier when the Tender/Tenders for the earthing in all RSU's and RLU's telephone Exchange was/were floated and when the works completed. At that time the earth value was valid for how many years. In the year of 2011 the details of tender/tenderers for the earthing in all telephone exchanges has/have floated may kindly be provided.

Grounds for the Second Appeal:

The PIO has not given the desired information.

Relevant Facts emerging during Hearing:

The following were present

Appellant: Mr. Mansur Alam

Respondent: Mr. Vishan Chandra Sharma CPIO's representative & other

The appellant stated that he has not been provided the information requested in his RTI application dated 20/10/2011 on the ground that it requires huge efforts for compiling and a fee of Rs.2300/- was demanded without providing its computation as laid down in Section 7(3) of the RTI Act. To a query from the Commission the CPIO's representative explained that 275 pages of documents are involved for which photocopying charges aggregate to Rs.550/- @ Rs.2/- per page

Recd on 30/6/16

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.10-102(A)/CESTAT/FAA- SKM/2015
CPIO ID NO. 10-209/2015

Shri R.K.Jain

...Appellant

Vs.

CPIO, CESTAT

...Respondent

Date of decision: 21.6.2016

ORDER *83/2016*

Heard both the sides.

2. The issue for consideration in this appeal is as to whether the information with regard to appeal subjudice before this Tribunal can be furnished under the RTI Act. During the course of hearing, the appellant brought to the notice of this forum the earlier order dated 26.11.2015 wherein it has been held that information relating to the appeals which are subjudice before the court or Tribunal can be furnished under the RTI statute. Accordingly, in the said order this forum has directed the CPIO to furnish the information to the appellant.

3. Following the above decision, I direct the CPIO to provide copies of document/ information sought by the appellant within a period of 4 weeks from the date of receipt of this order.

S.K. Mohanty
(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

10-103(A)15

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Dy. No. 4217/CR-15
9/11/15

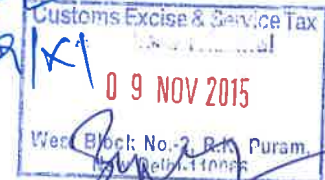
First Appeal under Section 19 of the Right to Information Act, 2005

Ref. No. : RTI/P-537/(9562/15)/Appeal/16052

Dated : 06-11-2015

99/5100/15/R72
9/11/15 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



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 S.K.Verma 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)	15-10-2015	
3.	Details of the order appealed against	Letter F.No. 10-210/CESTAT/CPIO-ND/SKV/2015 dated 4-11-2015	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	4-12-2015	
6.	Whether Appeal in Time.	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 15-10-2015 (Annexure-1) 2. Copy of CPIO letter dated 4-11-2015 (Annexure-2) 3. Copy of CIC decision in Shri V.K. Sinha v. Oriental Insurance Company – Appeal No. CIC/AT/A/2009/00295	

		<p>dated 7-3-2009 (Annexure-3)</p> <p>4. Copy of CIC decision in Shri Anil Kumar v. CPIO & DGM (Admn.), BSNL – Appeal No. CIC/LS/A/2011/000173/BS/0433 dated 9-7-2012 (Annexure-4)</p> <p>5. Copy of CIC decision in Shri Mansur Alam v. CPIO & DGM (Admn.), BSNL – Appeal No. CIC/BS/A/2012/000116/2054 dated 14-3-2013 (Annexure-5)</p> <p>6.</p>
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BRIEF FACTS OF THE CASE

(1) That the appellant has filed an application dated 15-10-2015 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:

- (A) Please provide the following information in relation to the Appeals and application (i) Appeal No. ST/59755/2013 (Sahara India T.V. Network vs. CCE, Noida), (ii) Appeal No. ST/58068/2013 (CCE & ST, Rohtak vs. Indian Oil Corporation Ltd.), (iii) Appeal No. ST/57583/2013 (KEC International Ltd. vs. CST, Delhi), (iv) Appeal No. ST/55848/2013 (Khem Sale Agencies vs. CCE & ST, Bhopal), (v) Appeal No. ST/59854/2013 (Avinash Builders vs. CCE & ST, Raipur), (vi) Appeal No. ST/828/2010 (Microsoft Corporation (India) Pvt. Ltd. & Ors. vs. CST, Delhi), (vii) Appeal No. ST/55736/2013 (Loesche India Pvt. Ltd. vs. CCE & ST, Noida), (viii) Appeal No. ST/118/2007 (Airport Authority of India vs. CST, New Delhi).
- (i) Computerized Report from CESTAT Case Information System also containing details of Case History, Application History, Appeal/Application details etc. with Diary No. and Impugned Order details as available on CESTAT Database for each of the above cases.
- (ii) Copies of all Order Sheets / Record of Proceedings excluding Final Order.
- (iii) Copies of all the notes put by the registry/Members with orders thereon.

- (iv) *Copies of all Supplementary After Court Cause Lists and copy of relevant daily diary of the Court Master in Form XXXVI and daily diary of AR in Form XXXVII.*
 - (v) *Copies of all notice of hearing.*
 - (vi) *Copies of all Vakalatnamas and date of filing and no objection certificate in case of change of Counsel.*
- (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 S.K. Verma, Asstt. Registrar/ CPIO has by his order dated 29-10-2015 (**Annexure-2**) has denied the information by deliberately and malafidely claiming an inapplicable exemption under section 8(1)(h) of the RTI Act and also on the ground that matter is sub-judice. The CPIO has also illegally and without authority, directed the deemed CPIO to calculate the additional cost under section 7(3) of the RTI Act contrary to Full Bench Decision of the CIC. The appellant being aggrieved by the said order of the CPIO is filing the present appeal.
- (4) The CPIO has deliberately and malafidely obstructed the information without any reasonable cause therefore he is 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

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 has deliberately and malafidely denied the information on the ground that the matter is sub-judice. In this regard, the Central Information Commission in the case of *Shri Nanak Chand Arora v. State Bank of India* – Case No. CIC/MA/A/2006/00018, decided on 30-6-2006 (copy enclosed), has held that the information cannot be denied on the ground that the matter is sub-judice because there is no provision in the RTI Act, which restricts the disclosure of information on the ground that the matter is sub-judice before the Court. Further, the Hon'ble Delhi High Court in the case of *MCD V. R.K. Jain* – WP (C) No. 14120 of 2009, decided 23-9-2010 (copy enclosed), has held that merely because the matter is sub-judice before a Court, is not a ground for denial of information under the RTI Act. In specific words, the Hon'ble Court held as under:

“The matter being sub judice before a court is not one of the categories of information which is exempt from disclosure under any of the clauses of Section 8(1) of the RTI Act.”

In view of the above binding decisions, the CPIO cannot deny the information under RTI on the ground that the matter is sub-judice. 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 Shri S.K. Verma, Asstt. Registrar (SM) and CPIO has deliberately and malafidely denied the information as sought in the RTI application by wrongly applying section 8(1)(h) of the RTI Act. The said Section 8(1)(h) of the RTI Act, 2005 reads as under:

‘information which would impede the process of investigation or apprehension or prosecution of offenders’

A perusal of the above would show that disclosure of information is exempted when it would impede any of the following three:

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- 1) Investigation
- 2) Apprehension of offenders
- 3) Prosecution of offenders

None of the above elements are involved in relation to the information as sought by the appellant under the present RTI application as Tribunal is neither an Investigating Agency nor Law Enforcing Agency nor a Prosecuting Authority, but is an Appellate Forum. The information sought relates to the orders passed by the quasi-judicial authority and records created by the Registry in relation to the appeals before it, thus, section 8(1)(h) has no applicability. 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 appellant has merely sought copies of the Orders, Record of Proceedings, Note Sheets of the Registry, directions for listing of the cases out of turn, date and copies of Mention Memo, copies of After Court Cause Lists, Notice of Hearings and Vakalatnamas and copy of the Compliance Report of CESTAT order and current status of the case, which are records of the quasi-judicial authority, therefore, are part of the 'public records' and are disclosable under the RTI Act and section 8(1)(h) has no applicability as there is no investigation that is pending in the matter. Moreover, these records are created by the Tribunal and not emanating from any third party, they are 'public records' created by public authorities. As per Section 74(1)(ii) of the Evidence Act, the documents confirming the records of the acts of official body or Tribunal, are treated as public documents. The section 74(1)(ii) of the Evidence Act, 1872, reads as under :

"74. Public documents. – The following documents are public documents :-

- (1) documents forming the acts or records of the

Acts -

- (i) of the sovereign authority;
 - (ii) of official bodies and tribunals, and
 - (iii) of public officers, legislative, judicial and executive [of any part of India or of the Commonwealth], or of a foreign country.
- (2) public records kept in [any State] of private documents.

In view of the above provisions read with section 76 of the Evidence Act, the records of the Tribunal being public records and are disclosable to public. On the basis of these provisions, Allahabad High Court in the case of *Alla Buksh v. Ratan* – A.I.R. 1958 (All) 829, held, that an “assessment order” passed by Sales Tax Officer to be a public document. Similarly, the Mysore High Court in the case of *Mahboob Mills Co. Ltd. v. Vittal* – A.I.R. 1959 Mys. 180 held that the records of the Labour Tribunal as public documents; likewise Patna High Court in the case of *Hira Lal v. Ramanand Chaudhury* – A.I.R. 1959 Patna 515 held that assessment order is a public documents. In these circumstances, the order of Shri S.K. Verma, Asstt. Registrar (SM) and CPIO claiming exemption under section 8(1)(h) of the RTI Act is bad in law and liable to be set aside and the CPIO be directed to provide the information.

(6) That the Shri S.K. Verma, Asstt. Registrar (SM) and CPIO has wrongly claimed exemption u/s 8(1)(h) of the RTI Act, as the said section is applicable only when disclosure of the information would cause impediment to the on-going investigation. The information sought by the appellant does not relate to a case where any investigation is pending. Even if it is assumed that investigation in the matter is still pending, the key issue for consideration in that whether disclosure of information as sought by the appellant/complainant would, in any way, impede the process of said inquiry/investigation. The Hon’ble Delhi High Court in *Addl. Commissioner of Police (Crime) Vs CIC; W.P(C). No. 7930 of 2009* while dealing with the provision of this section had made following observations:

“85. Mere pendency of investigation, or apprehension or prosecution of offenders is not a good ground to deny information.”

Information, however, can be denied when furnishing of the same would impede process of investigation, apprehension or prosecution of offenders. The word —impede indicates that furnishing of information can be denied when disclosure would jeopardize or would hamper investigation, apprehension or prosecution of offenders. In Law Lexicon, Ramanatha Aiyar 2nd Edition 1997 it is observed that —the word —impede is not synonymous with —obstruct’. An obstacle which renders access to an inclosure inconvenient, impedes the entrance thereto, but does not obstruct it, if sufficient room be left to pass in and out. —Obstruct’ means to prevent, to close up.”

86. The word —impede therefore does not mean total obstruction and compared to the word —obstruction’ or —prevention’, the word —impede’ requires hindrance of a lesser degree. It is less injurious than prevention or an absolute obstacle. Contextually in Section 8(1)(h) it will mean anything which would hamper and interfere with procedure followed in the investigation and have the effect to hold back the progress of investigation, apprehension of offenders or prosecution of offenders. However, the impediment, if alleged, must be actual and not make belief and a camouflage to deny information. To claim exemption under the said Sub-section it has to be ascertained in each case whether the claim by the public authority has any reasonable basis. Onus under Section 19(5) of the RTI Act is on the public authority. The Section does not provide for a blanket exemption covering all information relating to investigation process and even partial information wherever justified can be granted. Exemption under Section 8(1)(h) necessarily is for a limited period and has a end point i.e. when process of investigation is complete or offender has been apprehended and prosecution ends. Protection from disclosure will also come to an end when disclosure of information no longer causes impediment to prosecution of offenders, apprehension of offenders or further investigation.”

(7) In another matter of Bhagat Singh Vs CIC; W.P. (C) No. 3114/2007; dated 03.12.2007 the Hon’ble Delhi High Court had observed as follows:

“Access to information, under Section 3 of the Act, is the rule and exemptions under Section 8, the exception. Section 8 being a restriction on this fundamental right, must therefore be strictly construed. It should not be interpreted in manner as to shadow the very right itself. Under Section 8, exemption from releasing information is granted if it would impede the process of investigation or the prosecution of the offenders. It is apparent that

the mere existence of an investigation process cannot be a ground for refusal of the information; the authority withholding information must show satisfactory reasons as to why the release of such information would hamper the investigation process. Such reasons should be germane, and the opinion of the process being hampered should be reasonable and based on some material. Sans this consideration, Section 8(1)(h) and other such provisions would become the haven for dodging demands for information"

The decision of Delhi High Court in Bhagat Singh's case has been approved by Division Bench in Addl. Commissioner of Income Tax Vs. UOI – LPA No. 1377/2007 decided on 17-12-2007

- (8) That Hon'ble Delhi High Court again in the case of B.S. Mathur v. Delhi High Court – W.P.(C) No. 295/2011 dated 3-6-2011 again held as under:-

"The mere pendency of an investigation or inquiry is by itself not a sufficient justification for withholding information. It must be shown that the disclosure of the information sought would 'impede' or even on a lesser threshold 'hamper' or 'interfere with' the investigation. This burden the Respondent has failed to discharge"

- (9) That as per the above judgments of Hon'ble Delhi High Court mere pendency of an investigation cannot be the ground for denial of information under section 8(1)(h) of the RTI Act, but the CPIO must show that the disclosure of such information would certainly impede the process of investigation. Hon'ble Court has further clarified that section 8(1)(h) does not provide for blanket exemption from providing information relating to investigation process. Even partial information wherever justified needs to be disclosed. Further, onus to prove that denial is justified is on the public authority. However, unfortunately in the present case, the CPIO has not properly examined the contents of the information in question, but just has denied the information by invoking section 8(1)(h) without giving any reason or ground. Therefore, the order of the Shri S.K. Verma, Asstt. Registrar (SM) and CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame..

- (10) That further, as observed by the Hon'ble Delhi High Court in the above quoted judgment, the onus to prove that a denial is justified shall be on the CPIO as per section 19(5) of the RTI Act. But, in the instant case, nowhere in the order of the CPIO denial of information has been justified. He did not even indicate a single reason which made him believe that disclosure of information would impede the process of investigation/examination. Shri S.K. Verma, Asstt. Registrar (SM) and CPIO did not give any such reason in support of denial of information. Therefore, the order of the CPIO is incorrect and illegal and liable to be set aside and the CPIO be directed to provide the information in time bound frame.
- (11) That Shri S.K. Verma, Asstt. Registrar (SM) and CPIO has erred in not appreciating that the information sought relates to evasion of taxes and violation of the statutory provisions adversely affecting the public revenue, therefore the information sought is in larger public interest. Therefore the CPIO should have applied section 8(2) of the RTI Act and provided the information.
- (12) That Shri S.K. Verma, Asstt. Registrar (SM) and CPIO has not given any reasons or grounds as to how the information is exempted from disclosure under section 8(1)(h) of the RTI Act, therefore his order is a non-speaking order and passed in violation of the principles of natural justice, hence is liable to be set aside on this ground alone.
- (13) That Shri S.K. Verma, Asstt. Registrar (SM) and CPIO has been providing copies of similar information to the appellant till now and as the appellant has made certain complaints to the authorities against irregularities and manipulations of Shri S.K. Verma, Asstt. Registrar, he is causing harassment and inconvenience to the appellant by denying the information which CESTAT has continuously been providing to the appellant as per the provisions of the RTI Act. 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.

(14) That Shri S.K. Verma, Asstt. Registrar (SM) and CPIO has deliberately and malafidely denied the copies of the documents as sought by the appellant by wrongly applying section 8(1)(h) of the RTI Act, so as to cause delay and deny the information with malafide intent and purpose therefore, he is liable for penal action under Section 20 of the RTI Act, 2005 and the appellant is also entitled to compensation for the harassment and inconvenience caused to him. The appellant reserves his right to file a direct complaint to CIC, as the First Appellate Authority has no powers to take penal action under section 20 of the RTI Act.

(15) That Shri S.K. Verma, Asstt. Registrar (SM) and CPIO, is deliberately and malafidely asking for the "further fee" under Section 7(3) of the RTI Act with a view to delay and deny the information, whereas the Full Bench of CIC in the case of *Subodh Jain v. DCP, Delhi Police*, in Case No.CIC/WB/C/2007/00943, decided on 30.10.2009 has already held that no fee is chargeable under Section 7(3) of the RTI Act by the CPIO. In this regard, the Full Bench of CIC has held as under:

"40. Thus, there is provision for charging of fee only under Section 6(1) which is the application fee; Section 7(1) which is the fee charged for photocopying etc and Section 7(5) which is for getting information in printed or electronic format. But there is no provision for any further fee and if any further fee is being charged by the Public Authorities in addition to what is already prescribed under Sections 6(1), 7(1) and 7(5) of the Act, the same would be in contravention of the Right to Information Act. The "further fee" mentioned in Section 7(3) only refers to the procedure in availing of the further fee already prescribed under 7(5) of the RTI Act, which is "further" in terms of the basic fee of Rs 10/-. Section 7(3), therefore, provides for procedure for realizing the fees so prescribed."

Emphasis supplied.

(16) Further, Shri S.K. Verma, Asstt. Registrar (SM) and CPIO in the following decisions has set aside the demand for "further fee" as raised under Section 7(3) of the RTI Act by the CPIO

(a) Shri V.K. Sinha v. Oriental Insurance Company – Appeal No. CIC/AT/A/2009/00295 dated 7-3-2009 (Annexure-3)

(b) Shri Anil Kumar v. CPIO & DGM (Admn.), BSNL – Appeal No. CIC/LS/A/2011/000173/BS/0433 dated 9-7-2012 (Annexure-4)

(c) Shri Mansur Alam v. CPIO & DGM (Admn.), BSNL – Appeal No. CIC/BS/A/2012/000116/ 2054 dated 14-3-2013 (Annexure-5)

In view of the above decisions, particularly, the Full Bench decision of CIC, the demand raised by the CPIO towards Further Fee / Cost, is incorrect, illegal and without any authority of law, therefore, the same may be quashed and the CPIO may be directed to provide the information within time bound frame.

(17) That even otherwise the information sought by the appellant should have been placed on the CESTAT website as per the provisions of Section 4 of the RTI Act and the Office Memoranda issued by DoPT. Thus, the information which is otherwise required to be proactively disclosed under Section 4 of the RTI Act by the Public Authority, no fee / cost is chargeable from the appellant. Therefore, the demand for any fee / cost is liable to be set aside.

(18) That Shri S.K. Verma, Asstt. Registrar (SM) and 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.

(19) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned

CPIO.

- (20) 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.
- (21) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (22) 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 : 06-11-2015

o/c

ANNEXURE-1 (13)

Application under Section 6 of the Right to Information Act, 2005

Ref. No. :RTI/P-195/9562/15

Dated : 15-10-2015

To

Shri S.K. Verma
CPIO & Asst. Registrar
Customs Excise & Service Tax Appellate Tribunal,
West Block 2, R.K. Puram,
New Delhi - 110066

Customs Excise & Service Tax
Appellate Tribunal
15 OCT 2015
West Block No.-2, R.K. Puram,
New Delhi-110066

15/10/15

1.	Name of the Applicant	R.K. Jain
2.	Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003
	(b) Phone Nos.	09810077977, 011-24651101, 011-24690707
	(c) Fax No.	011-24635243
3.	Whether a Citizen of India	Yes
4.	Particulars of Information	
	Details of information required	<p>(A) Please provide the following information in relation to the Appeals and application</p> <p>(i) Appeal No. ST/59755/2013 (Sahara India T.V. Network vs. CCE, Noida), (ii) Appeal No. ST/58068/2013 (CCE & ST, Rohtak vs. Indian Oil Corporation Ltd.), (iii) Appeal No. ST/57583/2013 (KEC International Ltd. vs. CST, Delhi), (iv) Appeal No. ST/55848/2013 (Khem Sale Agencies vs. CCE & ST, Bhopal), (v) Appeal No. ST/59854/2013 (Avinash Builders vs. CCE & ST, Raipur), (vi) Appeal No. ST/828/2010 (Microsoft Corporation (India) Pvt. Ltd. & Ors. vs. CST, Delhi), (vii) Appeal No. ST/55736/2013 (Loesche India Pvt. Ltd. vs. CCE & ST, Noida), (viii) Appeal No. ST/118/2007 (Airport Authority of India vs. CST, New Delhi).</p> <p>(i) Computerized Report from CESTAT Case Information System also containing details of Case History, Application History, Appeal/Application details etc. with Diary No. and Impugned Order details as available on CESTAT Database for each of the above cases.</p> <p>(ii) Copies of all Order Sheets / Record of Proceedings excluding Final Order.</p> <p>(iii) Copies of all the notes put by the registry/Members with orders thereon.</p>

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		<p>(iv) Copies of all Supplementary After Court Cause Lists and copy of relevant daily diary of the Court Master in Form XXXVI and daily diary of AR in Form XXXVII.</p> <p>(v) Copies of all notice of hearing.</p> <p>(vi) Copies of all Vakalatnamas and date of filing and no objection certificate in case of change of Counsel.</p> <p>Note:- Please provide point-wise information/ response for each of above points.</p>
5.	I state that the information sought is covered under RTI Act and does not fall within the exemptions contained in sections 8 or 9 or any other provisions of the Right to Information Act, 2005 and to the best of my knowledge it pertains to your office. Information is being sought in larger public interest.	
6.	A Postal Order No. 32F 042669 for Rs. 10 towards payment of fee is enclosed herewith. You are requested to filling the name in which the Postal Order is payable.	
7.	As per Section 7 of the RTI Act, 2005 information is to be provided within 30 days of the Application.	



Signature of Applicant
Telephone No. : 9810077977
011-24651101, 24690707
Fax No. 011-24635243

Place : New Delhi
Encl. : as above
Hira/---
HR

F.No. 10-210/CESTAT/CPIO-ND/SKV/2015
Customs, Excise & Service Tax Appellate Tribunal
West Block 2, R.K. Puram, New Delhi – 110066

(15)

Date: 04.11.2015
 ID No.10-210/2015

To,

Sh. R. K. Jain
 1512-B, Bhisim Pitamah Marg
 Wazir Nagar, New Delhi-03

Subject : Information sought under RTI Act 2005.

Sir,

With reference to your Application No RTI/P-195/9562/15 dated 15.10.2015 received on 15.10.2015, the following appeals are sub-judice before the Hon'ble Tribunal, Therefore, the information sought by you is exempted under section 8(1)(h) of the RTI Act 2005 and hence it can not be provided :-


Appeal NO. ST/59755/2013
 ST/58068/2013
 ST/57583/2013
 ST/59854/2013
 ST/828/2010.

The undersigned CPIO is also seeking the assistance of Mr. Kripa Shankar, Asst. Registrar(Customs Branch), CESTAT, New Delhi under section 5(4) read with section 5(5) of the RTI Act in the following matters :-

Appeal No. ST/55848/2013
 ST/55736/2013
 ST/118/2007

(A copy of the RTI application is enclosed herewith).

Mr. Kripa Shankar is also requested to calculate the cost of the information to be provided under section 7(3) of the RTI Act, If any, for collection of segregate information to the undersigned immediately.



And file

V-16863

Recd by Hand on 4/11/2015

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If the applicant is aggrieved from the above order, he can file an appeal before Hon'ble Sh. S.K. Mohanty, FAA, under RTI Act, within 30 days after the receipt of this order.



(S.K. Verma)
CPIO, CESTAT, New Delhi

CENTRAL INFORMATION COMMISSION

Appeal No. CIC/AT/A/2009/00295 dated 7-3-2009

Right to Information Act 2005 – Section 19

Appellant: Shri V. K. Sinha,
Respondent: Oriental Insurance Co.

Decision Announced 9.11.'09

FACTS

By an application of 25-8-08 Shri V.K. Sinha, General Manager, Oriental Insurance Co. Ltd. applied to the CPIO, Oriental Insurance Co. Ltd. seeking the following information:

1. Number of Company's accommodation at GK I and II at Delhi for Scale V Officers and above.
2. Waiting list with priority number for the allotment of residential accommodation at GK- I and II, New Delhi as on date.
3. Name, present designation, present Place of posting and flat number of employees who are occupying residential accommodations at GK I and II New Delhi as of now, Date of their application for allotment of residential flats and their seniority in the waiting list for allotment, on the date of allotment of accommodation.
4. Request by employees for allotment of residential houses at GK I and II New Delhi by the employees after 1.9.2006 copy of each such application with the priority number for allotment of the houses.
5. Has any of the present occupant has been allotted accommodation in violation of waiting list, if so on what ground and under which provision/ rule of the Company. Their name, designation and place of posting.
6. What are the fittings and fixture/ facilities are provided in GK I and II, New Delhi flats to scale V Officers?
7. Please provide information on Flat Number E-409 and M-68, GK II, New Delhi to whom they are allotted, date of allotment and the waiting list of eligible officer's as on the date of allotment.
8. Has the Company provided/ reimbursed Cable TV connection in charges/ Set Top Box charges/ DTH instrument charges to any officer occupying GK I and II or NOIDA or any other flats in Delhi Company's owned accommodation? If so what steps company is taking to recover the amount from the sanctioning authorities/ beneficiary as per the reply given under RTI vide letter dated 14.8.2008 and delivered on 18.8.2008 there is no provision for reimbursement for such costs.

- 9. Number company's owned NOIDA flats, number of flats having 3 phase electricity connection at NOIDA, number of flats provided with Godrej Almirah at NOIDA, flat numbers of those beneficiary and their occupants name, designation and place of posting.
- 10. Does the Company have system of maintaining Expenses incurred by the company for the maintenance (other than Govt dues) of GK I and II flats and NOIDA flats. If so then provide flat wise repair and maintenance expenses incurred during last Financial year (2007-08). Or there is no such system of book keeping in the company for the expenses incurred for the repair and maintenance of those flats?
- 11. Is there any system of maintaining service request register/ complaint register for the occupants of Company owned / provided residential accommodation? If so with whom and where it is kept? Or it is on whims and fancy of the Estate/ Establishment Department officials to provide or not to provide service requested for?"

To this Shri V.K. Sinha received a response dated 26-9-08 from CPIO with the following information:

- 1. There are 12 flats in G. K. I and G. K. II for scale V officers and above.
- 2. Enclosed as per Annexure 1.
- 3. The list of occupants of G. K. I and G. K. II flats as on date is enclosed as per Annexure II. Date of occupation is as old as 1993. The remaining information sought by you has to be searched out from the old records and an officer is required to work for three full working days to go through the records. This will cost Rs. 3658/- to the company, which will have to be borne by you.
- 4.& 5. The information sought by you is not readily available in the format desired by you and requires an officer to work for another three full working days to go through the records and extract information from the records for compiling the information. The Company would incur a further cost of RS. 3658/- on the same, which will also have to be borne by you.
- 6,8,9,10&11 We have been informed by the Estate Department that the information sought by you on these points requires the services of 4 officers/staff specially for compiling this information, as under:-

1. Scale-III Officer	1-day (Approx.)	Rs. 1,000/-
2. Scale-I Officer	1 day	Rs. 500/-
3. Stenographer	½ day	Rs. 500/-
4. Record Clerk	½ day	Rs. 300/-
5. Misc. Stationery, Computer etc		Rs. 300/-

TOTAL

Rs. 2,600/-

- 7. Information sought by you is enclosed herewith as Annexure III, IV and V.

Accordingly you are requested to remit us Rs. 7316 by Pay Order or DD in the name of the Oriental Insurance Company Ltd., payable at Delhi so that we may direct the concerned Departments to initiate the exercise of compilation of the data."

Not satisfied, however, Shri Sinha moved an appeal before Shri S.K. Chanana, GM, Oriental Insurance Co. Ltd. pleading that "I have not asked for any particular format but CPIO is mentioning format I desire."

In his order of 4-11-08 appellate authority Shri Chanana GM has directed as follows:

"It appears that the concerned Department has prepared statements as various annexure from the registers/ documents available with them. The basic spirit of the RTI Act in providing information is to supply the 'material information' readily available with the Public Authority, so that the dispute raised by the appellant in the current case, does not come up. Accordingly, it appears that information to the satisfaction of the appellant can only be provided if the appellant is allowed to inspect the related files/ documents/ register available with the concerned Department/s. As such the CPIO/ DGM, HQ, New Delhi is hereby directed to have the documents inspected by the appellant in the concerned Department/s by intimating place, date, time and the name of the contact Officer for the inspection, to the appellant, within 10 days of receipt of this decision."

Consequently, through a letter of 7-11-08 received by Shri Sinha on 11-11-'08 CPIO, Shri P.K. Jha, Dy. GM, Oriental Insurance Co. Ltd. has informed appellant Shri Sinha of the dates when he could inspect the files together with the names of the contact persons. Nevertheless, Shri Sinha has moved his second appeal before us with the following prayer:

"CPIO and the 1st appellate authority are denying information by demanding as cost/ further fee which is in respect of very few Houses owned by the Company (hardly 12-15 houses)."

The appeal was heard on 9-11-2009. The following are present.

Respondents

- Shri V. V. Mohilla, Manager.
- Shri P.K. Jha, DGM/CPIO.
- Shri Amitava Das, Chief Manager.

Although informed of the date of hearing through our letter of 7-10-2009 appellant Shri V. K. Sinha opted not to be present.

Shri P.K. Jha, CPIO submitted that in fact subsequent to the order of Appellate Authority the information sought has been provided to appellant without charging the additional fee. Moreover, in compliance with the earlier order of this Commission the Public Authority has also placed information with regard to such properties owned by them on the website in accordance with Section 4 (1) (b) (i) and (x).

DECISION NOTICE

For the same of clarity with regard to recovery "of further fees" as was proposed in the present case, the following is the final decision of this Commission in **Complaint No.CIC/WB/C/2007/00943** along with **Appeal No. CIC/MA/A/2008/01085 Subodh Jain & Anr. vs. DCP (West Dist) & Anr.** announced on 30.10.'09. In this case the Full Bench of this Commission has decided as follows:

"40. Thus, there is provision for charging of fee only under Section 6(1) which is the application fee; Section 7(1) which is the fee charged for photocopying etc and Section 7(5) which is for getting information in printed or electronic format. But there is no provision for any further fee and if any further fee is being charged by the Public Authorities in addition to what is already prescribed under Sections 6(1), 7(1) and 7(5) of the Act, the same would be in contravention of the Right to Information Act. **The "further fee" mentioned in Section 7(3) only refers to the procedure in availing of the further fee already prescribed under 7(5) of the RTI Act,**¹ which is "further" in terms of the basic fee of Rs 10/-. Section 7(3), therefore, provides for procedure for realizing the fees so prescribed."

While the Oriental Insurance Co. Ltd. may note this for further action, in the present case it is clear that the information sought by appellant Shri Sinha, who is also reported to have inspected the file, has been given and there is no scope for further intervention by this Commission. The appeal is, therefore, dismissed.

¹ Emphasis added

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Announced in the hearing. Notice of this decision be given free of cost to the parties.

(Wajahat Habibullah)
Chief Information Commissioner
9-11-2009

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges prescribed under the Act to the CPIO of this Commission.

(Pankaj K.P. Shreyaskar)
Joint Registrar
9-11-2009

Received
24/08/16

FIRST 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.10-103(A)/CESTAT/FAA- SKM/2015
CPIO ID NO. 10-210/2015

Shri R.K.Jain ...Appellant

Vs.

CPIO, CESTAT ...Respondent

Date of decision: 20.07.2016

ORDER 26/2016

The grievance of the appellant in this appeal is that the information sought for with regard to some case matters has not been provided by the CPIO on the ground that the same are exempted under Section 8(1)(h) of the RTI Act, 2005. In context with submission of information, the appellant brought to the notice of this forum the earlier order No. 85/2016 passed by the self same FAA, in granting permission to provide the case related information.

2. Following the said order dated 21.6.16, I direct the CPIO to collect the information from the concerned section and furnish the same to the appellant within 6 weeks from the date of receipt of this order.


(S.K. MOHANTY)
APPELLATE AUTHORITY

Copy to:-

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

10-104(A)15

Dyno. 4242/CA-15
10/11/15
10/SKM/RTI/15
16/11/15

①

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

Ref. No. :RTI/P-537/(9551/15)/Appeal/16030
Dated : 9-11-2015

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

Customs Excise & Service Tax
Appellate Tribunal
10 NOV 2015
West Block No.-2, R.K.Puram,
New Delhi-110066

10/11/15

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 S.K. Verma 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)	12-10-2015	
3.	Details of the order appealed against	F.No.10-207/CESTAT/CPIO-ND/SKV/2015 dated 20-10-2015 & 26-10-2015	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	26-11-2015	
6.	Whether Appeal in Time.	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 12-10-2015 (Annexure-1) 2. Copy of CPIO's letter dated 14-10-2015.(Annexure-2) 3. Copy of Appellant's reminder letter dated 19-10-2015.(Annexure-3)	

		4. Copy of CPIO's letter dated 20-10-2015.(Annexure-4) 5. Copy of Asstt. Registrar /CPIO letter dated 26-10-2015 (Annexure-5)
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BRIEF FACTS OF THE CASE

(1) That the appellant has filed an application dated 12-10-2015 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:

(A) *Please provide list of all pending appeals and applications as on 12-10-2015 or any other date of October, 2015 of all the Benches at Delhi. Soft copy of the list (in digital form) may be provided on CD. Please also provide soft copy of the Report generated from CESTAT "Case Information System" containing details of Case History of Appeals/Applications, Appeal/Application details etc. with Diary No. and Impugned Order details as available on CESTAT Database for each of the pending appeals/applications on CD. If digital data is not available, then hard copy may be provided.*

(B) *Please provide list of all appeals and applications decided from 1-1-2013 till the date of providing the information of all the Benches at Delhi. Soft copy of the list (in digital form) may be provided on CD. Please also provide soft copy of the Report generated from CESTAT "Case Information System" containing details of Case History, Application History, Appeal/Application details etc. with Diary No. and Impugned Order details as available on CESTAT Database for each of the decided appeals/applications on CD. If digital data is not available, then hard copy may be provided.*

(C) *Please provide list of all appeals and applications transferred to Allahabad Bench of CESTAT. Soft copy of the list (in digital form) may be provided on CD. Please also provide soft copy of the Report generated from CESTAT "Case Information System" containing*

details of Case History of Appeals/Applications, Appeal/Application details etc. with Diary No. and Impugned Order details as available on CESTAT Database for each of the transferred appeals/applications on CD. If digital data is not available, then hard copy may be provided.

- (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 S.K. Verma, CPIO & Assistant Registrar and the Deemed CPIO's 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 S.K. Verma, Asstt. Registrar (SM) and CPIO and Deemed CPIO's have not provided the complete and correct information as sought by the appellant, inasmuch as the soft copy / hard copy of the report generated from CESTAT Case Information System containing details of the case history etc. have not been provided. Therefore, the order of the CPIO / Deemed CPIO's is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame.
- (4) That Shri S.K. Verma, Asstt. Registrar (SM) and CPIO has deliberately and malafidely not provided the information as sought by the appellant, despite order dated 16-10-2015 of Shri Sunil Kumar, Technical Officer,

intimating that CR Section is not in possession of the information as sought by the applicant, hence the information may be retrieved from the relevant Section / Department. Shri S.K. Verma, Asstt. Registrar (SM) and CPIO, has not forwarded the RTI Application to the concerned Department / Section or holder of the information nor he has collected the information from the Deemed CPIO and provided the same to the appellant. 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 In-charge of the Computer Section and the Deemed CPIO has erred in stating that it is not viable to provide soft copy in digital form or hard copy from CESTAT Case Information System containing details of the cases, history of appeals / applications etc in relation to pending appeals. 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 CPIO and Deemed CPIO's have 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 / Deemed CPIO's are 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 : 9-11-2015

o/c

Annexure-1

6

Application under Section 6 of the Right to Information Act, 2005

Ref. No. :RTI/P-195/9551/15

Dated : 12-10-2015




To

Shri S.K. Verma
CPIO & Assistant Registrar
Customs Excise & Service Tax Appellate Tribunal,
West Block 2, R.K. Puram,
New Delhi - 110066

13/10/2015

1.	Name of the Applicant	R.K. Jain
2.	Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003
	(b) Phone Nos.	09810077977, 011-24651101, 011-24690707
	(c) Fax No.	011-24635243
3.	Whether a Citizen of India	Yes
4.	Particulars of Information	
	Details of information required	(A) Please provide list of all pending appeals and applications as on 12-10-2015 or any other date of October, 2015 of all the Benches at Delhi. Soft copy of the list (in digital form) may be provided on CD. Please also provide soft copy of the Report generated from CESTAT "Case Information System" containing details of Case History of Appeals/Applications, Appeal/Application details etc. with Diary No. and Impugned Order details as available on CESTAT Database for each of the pending appeals/applications on CD. If digital data is not available, then hard copy may be provided. (B) Please provide list of all appeals and applications decided from 1-1-2013 till the date of providing the information of all the Benches at Delhi. Soft copy of the list (in digital form) may be provided on CD. Please also provide soft copy of the Report generated from CESTAT "Case Information System" containing details of Case History, Application History, Appeal/Application details etc. with Diary No. and Impugned Order details as available on CESTAT Database for each of the decided appeals/applications on CD. If digital data is not available, then hard copy may be provided.

	<p>(C) Please provide list of all appeals and applications transferred to Allahabad Bench of CESTAT. Soft copy of the list (in digital form) may be provided on CD. Please also provide soft copy of the Report generated from CESTAT "Case Information System" containing details of Case History of Appeals/Applications, Appeal/Application details etc. with Diary No. and Impugned Order details as available on CESTAT Database for each of the transferred appeals/applications on CD. If digital data is not available, then hard copy may be provided.</p> <p>Note:- Please provide point-wise information/response for each of above points.</p>
5.	I state that the information sought is covered under RTI Act and does not fall within the exemptions contained in sections 8 or 9 or any other provisions of the Right to Information Act, 2005 and to the best of my knowledge it pertains to your office. Information is being sought in larger public interest.
6.	A Postal Order No. 32F 042654 for Rs. 10 towards payment of fee is enclosed herewith. You are requested to filling the name in which the Postal Order is payable.
7.	As per Section 7 of the RTI Act, 2005 information is to be provided within 30 days of the Application.


Signature of Applicant
Telephone No. : 9810077977
011-24651101, 24690707
Fax No. 011-24635243

Place : New Delhi

Encl. : as above

Him/....
HR

Annexure-2

F.No. ^{SKV} 10-207...../CESTAT/CPIO-ND/15, 2015,
Customs, Excise and Service Tax, Appellate Tribunal,
West block No.2, R.K.Puram, New Delhi-110066.

Dated 14/10/15

ID No. 10-207/15

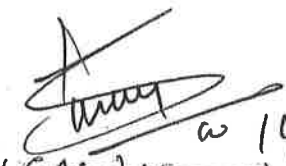
Subject: Information sought under RTI Act 2005.

Sir,

Please refer to RTI application of
Shri R.K. Jain
Under RTI Act 2005 vide No. 9551/15 dated
12/10/15 (copy enclosed) wherein certain information are sought
as mentioned therein is related to your section.

Therefore, in terms of the provisions of Section 6(3) and Section
5(4) read with Section 5(5) of RTI Act, 2005, the RTI application
No. 9551/15 dated 12/10/15 CPIO ID No 10-207/2015 is
forwarded herewith to the following officers as deemed CPIO with the
request to provide correct and para-wise information/inspection on or
before 23/10/15 directly to the applicant and intimate the
undersigned within the stipulated time, failing which you are
personally responsible for delay and penalty if any, under section 20 of
RTI Act. You are, further requested to follow OM No.12/31/2013-IR
dated 12-02-2013 circulated on 23-05-2013

Encl: as above


(S.K. Verma) 14/10
Asstt. Registrar/CPIO

To

1 TO Computer / CR Section.

2 _____

3 _____

4. AC/IT, Computer D/o for uploading on website

Copy for information to:-

✓ Sh. R.K. Jain,
1512-B BHISHAM PITAMAH MARG,
WAZIR NAGAR
NEW DELHI - 110002

1-16641
Ground file

9

Annexure-3

Customs Excise & Service Tax
Appellate Tribunal
19 OCT 2015
West Block
New Delhi

1512-B, Bhishm Pitamah Marg,
Wazir Nagar,
NEW DELHI - 110 003.
PHONE : 24693001-3004
MOBILE : 9810077977
Fax No. 011-24635243

RTI/P-195/9551/15/R16998
19-10-2015

R.K. JAIN M.Com., LL.B.
President, Excise and Customs Bar Association
Editor of
EXCISE LAW TIMES & SERVICE TAX REVIEW
and author of

Central Excise Law Guide; Central Excise Tariff of India;
Central Excise Law Manual; Customs Tariff of India;
Customs Law Manual; Excise & Customs Circulars
& Clarifications; Excise & Customs Case Referencer;
Service Tax Law Guide; Service Tax Handbook;
Handbook of Duty Drawback on Goods &
Services; Valuation under Central Excise; Hand-
book of Foreign Trade Policy & Procedures

T.O., Computer/ CR Section
Customs Excise & Service Tax Appellate Tribunal,
West Block 2, R.K.Puram,
New Delhi- 110066

Sub: My RTI Application No. RTI/9551/15, dated 12/10/2015

Dear Sir,

This refers to the letter F.No. 10-207/CESTAT/CPIO-ND/SKV/2015 dated 14-10-2015 of Mr. S.K. Verma, Asstt. Registrar/CPIO, transferring my aforesaid RTI application to you under section 6(3) and section 5(4) read with section 5(5) of the RTI Act, 2005, for providing the information to me. You are requested to kindly provide the information at the earliest as under section 7(1) of the RTI Act, information is to be provided within 30 days of the RTI Application.

Thanking you,

Yours faithfully,



[R.K. Jain]

LB

sp

Annexure-4

10

F.No. 10-207/CESTAT/CPIO-ND/^{SKV}/2015
Customs Excise and Service Tax Appellate Tribunal
West Block No 2, R.K.Puram, New Delhi-110 066

Dated- 20/10/15

ID No. 10-207/2015

To,

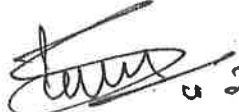
~~Sri~~ R.K. Jain,
1512-B, Bhishm Pitamahi Marg,
WAZIR NAGAR,
New Delhi - 110003

Subject: Information under Right to Information Act 2005.

Sir,

Please refer to your RTI application No. 955/15 Dt. 12/10/15
and our ID No. 10-207/15 the information received from TO ✓
containing 1 pages is enclosed herewith for your reference
please.

You are, Therefore, requested to please acknowledge the
receipt and deposit Rs. ----- (@2/- per page) to this Tribunal by
cash or DD in favour of Accounts Officer, CESTAT, New Delhi.


(S.K. VERMA)
Asstt. Registrar/CPIO

Encl:- As above

Copy to:- Computer Section for website

16727
Cenir d file.

F.No. 10-207 / CESTAT/CPIO-ND/RP/2015
 Customs Excise and Service Tax Appellate Tribunal
 West Block No 2, R.K.Puram, New Delhi-110 066

Dated 24/10/15

ID No. 10-207/15

To,

Shri R.K. Jain,
 1512-B, Bhishm Pitamah Marg,
 WAZIR NAGAR,
 New Delhi - 110003

Subject: Information under Right to Information Act 2005.

Sir,

Please refer to your RTI application No. 955/15 Dt. 12/10/15
 and our ID No. 10-207/15 the information received from TO Computer
 containing 1 CD pages is enclosed herewith for your reference
 please.

You are, Therefore, requested to please acknowledge the
 receipt and deposit Rs. 50 (@2/- per page) to this Tribunal by
 cash or DD in favour of Accounts Officer, CESTAT, New Delhi.

The application is disposed of. If
 aggrieved the applicant may give the
 appeal before Honble Sat Appellate
 Authority Mr. S.K. Mohanty with
 in today's after receipt of the information.
 Encl. - As above

(S. K. Mohanty) 27/10
 Asstt. Registrar/CPIO

Copy to: - Computer Section for Website

(12)

F.No 7(3)/CESTAT/RTI/CompSec/2015
CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
WEST BLOCK NO.2, R.K. PURAM, NEW DELHI.

Dated: 21.10.2015

Note

**Sub : Information sought by Shri R.K.Jain
under RTI Act' 2005- reply-reg.**

Ref : 10-207/CESTAT/CPIO-ND/SK/2015

Dated 14/10/2015

Please refer to note dated 14/10/2015 of CPIO issued vide F.No. 10-207/CESTAT/CPIO-ND/SK/2015 on the captioned subject. The point wise information related to this section is as under.

- (A) The list of all pending appeals and applications as copied from the systems as on 01/10/2015 is being provided in CD.
- (B) The list of all decided appeals from 01/01/2013 to 01/10/2015 as available in data base is being copied and provided in CD.
- (C) The list of all appeals and applications transferred to Allahabad Bench is being provided in CD.

Further, it may be informed to the applicant that it is not viable to provide soft copy in digital form or hard copy from the CESTAT Case Information System containing details of case history of appeals/applications, appeal/applications details etc. with diary number and impugned order details as available on CESTAT database for each of pending appeal/applications.

Encl: 01 CD


In./Computer Section

To

The CPIO, CESTAT Delhi.

✓ 10-104(A)/15

Received on
05/07/16

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.10-104(A)/CESTAT/FAA- SKM/2015
CPIO ID NO. 10-207/2015

Shri R.K.Jain ...Appellant

Vs.

CPIO, CESTAT ...Respondent

Date of decision: 29.6.2016

ORDER 9/2016

The appellant submits that in view of submissions made by CPIO that available information has already been furnished, he is not pressing for the appeal, and that ^{he} wants to file fresh RTI application.

2. In view of above, the appeal is dismissed as not pressed.


(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

①

10-105(A)/15

Rynew-4216/ER-15
9/11/15
To
95/sterm/15/RTI
9/14/15

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

Ref. No. :RTI/P-537/(9517/15)/Appeal/16051
Dated : 06-11-2015

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

Customs Excise & Service Tax
Appellate Tribunal
09 NOV 2015
West Block No.-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 S.K. Verma, Asstt. Registrar/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)	28-09-2015	
3.	Details of the order appealed against	Letter F.No. 10-189/CESTAT/CPIO-ND/RP/2015 dated 29-10-2015	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	29-11-2015	
6.	Whether Appeal in Time.	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 28-9-2015 (Annexure-1) 2. Copy of Accounts Officer/CPIO letter dated 30-9-2015 (Annexure-2) 3. Copy of Appellant letters dated 12-10-2015 (Annexure3) 4. Copy of Accounts Officer/CPIO letter dated 29-10-2015 (Annexure-4)	

BRIEF FACTS OF THE CASE

(1) That the appellant has filed an application dated 28-09-2015 (Annexure – 1) under Section 6 of the RTI Act, 2005 requesting for the following information:

- (A) Please provide name of organizations / companies / persons from whom Air Tickets (Domestic + International) has been purchased by or on behalf of CESTAT or CESTAT Staff at Delhi, Mumbai, Kolkata, Chennai, Bengaluru and Ahmedabad in cash/credit from 1-4-2014 till the date of providing the information. Please provide month wise details of amount paid to each of them from 1-4-2014 till date of providing of information.
- (B) Please provide copies of bills received from Air India or any other agency or company for purchased for the air travel by the CESTAT or CESTAT staff including the Members and President from 1-4-2014 till the date of providing the information.
- (C) Please provide datewise details of amount reimbursed to any officer of CESTAT including Members/President, for purchase of Air tickets or on account of tours and travels from 1-4-2014 till date of providing the information. Please also indicate date of travel destination, Airlines and copy of relevant payment voucher and bills.
- (D) Please provide date-wise details of the cancellation of Air Tickets from 1-4-2014 till date alongwith copy of the relevant records and date on which cancellation requests sent with a copy of the same and amount originally paid and amount refunded.
- (E) Please provide date-wise details for the No Show at Airport for the Air Tickets procured by or for the CESTAT personnel from 1-4-2014 till the date of providing the information. Please give the Ticket No., Flight No., Date of failure to travel and Name of the Passenger & destination and amount of loss suffered on this account.
- (F) Please provide datewise details of the refund requested by CESTAT from Air India or others due to cancellation or non-performing of journey from 1-11-2014 till the date of providing the information and provide copies of such requests.
- (G) Please provide datewise details of the Air travel undertaken by CESTAT personal including Members and President for 1-4-2014 for when tickets were not purchased by CESTAT. Please provide separate details for such travel for which no amount has been claimed by concerned staff member till date of providing information.

- (H) Please provide the details of the customer ID/code allotted by Air India and others to CESTAT.
- (I) Please provide copies of the Bills received from Air India and others from 1-1-2014 till date of providing the information for air travel.

- (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 S.K. Verma, Asstt. Registrar/CPIO has deliberately and malafidely and illegally raised a demand for Rs.3,040/- being further fee / cost under Section 7(3) of the RTI Act. 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 S.K. Verma, Asstt. Registrar (SM) and CPIO by his order dated 29-10-2015 (**Annexure-4**) has illegally and without any authority of law demanded the further fee of cost of Rs.3,040/- under Section 7(3) of the RTI Act, whereas the Full Bench of CIC in the case of *Subodh Jain v. DCP, Delhi Police*, in Case No.CIC/WB/C/2007/00943, decided on 30.10.2009 has already held that no fee is chargeable under Section 7(3) of the RTI Act by the CPIO. In this regard, the Full Bench of CIC has held as under:

"40. Thus, there is provision for charging of fee only under Section 6(1) which is the application fee; Section 7(1) which is the fee charged for photocopying etc and Section 7(5) which is for getting information in printed or electronic format. But there is no provision for any further fee and if any further fee is being charged by the Public Authorities in addition

to what is already prescribed under Sections 6(1), 7(1) and 7(5) of the Act, the same would be in contravention of the Right to Information Act. The "further fee" mentioned in Section 7(3) only refers to the procedure in availing of the further fee already prescribed under 7(5) of the RTI Act, which is "further" in terms of the basic fee of Rs 10/-. Section 7(3), therefore, provides for procedure for realizing the fees so prescribed."

Emphasis supplied.

(3) Further, the CIC in the following decisions has set aside the demand for "further fee" as raised under Section 7(3) of the RTI Act by the CPIO

- (1) Shri V.K. Sinha v. Oriental Insurance Company – Appeal No. CIC/AT/A/2009/00295 dated 7-3-2009 (copy enclosed)
- (2) Shri Anil Kumar v. CPIO & DGM (Admn.), BSNL – Appeal No. CIC/LS/A/2011/000173/BS/0433 dated 9-7-2012 (copy enclosed)
- (3) Shri Mansur Alam v. CPIO & DGM (Admn.), BSNL – Appeal No. CIC/BS/A/2012/000116/ 2054 dated 14-3-2013 (copy enclosed)

In view of the above decisions, particularly, the Full Bench decision of CIC, the demand raised by the CPIO towards Further Fee / Cost, is incorrect, illegal and without any authority of law, therefore, the same may be quashed and the CPIO may be directed to provide the information within time bound frame.

- (4) That even otherwise the information sought by the appellant should have been placed on the CESTAT website as per the provisions of Section 4 of the RTI Act and the Office Memoranda issued by DoPT. Thus, the information which is otherwise required to be proactively disclosed under Section 4 of the RTI Act by the Public Authority, no fee / cost is chargeable from the appellant. Therefore, the demand for any fee / cost is liable to be set aside.
- (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 demand further fee / cost may be set aside.
- (c) That any other relief as the Appellate Authority deem fit and proper may also be ordered in favour of the appellant.
- (d) 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 : 06-11-2015

de

ANNEXURE-1

6

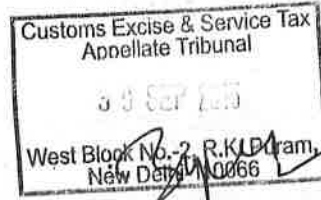
Application under Section 6 of the Right to Information Act, 2005

Ref. No. :RTI/P-195/9517/15

Dated : 28-9-2015

To

Shri Rajender Prasad
CPIO & Accounts Officer
Customs Excise & Service Tax Appellate Tribunal,
West Block 2, R.K. Puram,
New Delhi - 110066



1.	Name of the Applicant	R.K. Jain
2.	Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003
	(b) Phone Nos.	09810077977, 011-24651101, 011-24690707
	(c) Fax No.	011-24635243
3.	Whether a Citizen of India	Yes
4.	Particulars of Information	
	Details of information required	<p>(A) Please provide name of organizations / companies / persons from whom Air Tickets (Domestic + International) has been purchased by or on behalf of CESTAT or CESTAT Staff at Delhi, Mumbai, Kolkata, Chennai, Bengaluru and Ahmedabad in cash/credit from 1-4-2014 till the date of providing the information. Please provide month wise details of amount paid to each of them from 1-4-2014 till date of providing of information.</p> <p>(B) Please provide copies of bills received from Air India or any other agency or company for purchased for the air travel by the CESTAT or CESTAT staff including the Members and President from 1-4-2014 till the date of providing the information.</p> <p>(C) Please provide datewise details of amount reimbursed to any officer of CESTAT including Members/President, for purchase of Air tickets or on account of tours and travels from 1-4-2014 till date of providing the information. Please also indicate date of travel destination, Airlines and copy of relevant payment voucher and bills.</p> <p>(D) Please provide date-wise details of the cancellation of Air Tickets from 1-4-2014 till date alongwith copy of the relevant records and date on which cancellation requests sent with a copy of the same and amount originally paid and amount refunded.</p>

Accounts off.

A.D.

A.D.

		<p>(E) Please provide date-wise details for the No Show at Airport for the Air Tickets procured by or for the CESTAT personnel from 1-4-2014 till the date of providing the information. Please give the Ticket No., Flight No., Date of failure to travel and Name of the Passenger & destination and amount of loss suffered on this account.</p> <p>(F) Please provide datewise details of the refund requested by CESTAT from Air India or others due to cancellation or non-performing of journey from 1-11-2014 till the date of providing the information and provide copies of such requests.</p> <p>(G) Please provide datewise details of the Air travel undertaken by CESTAT personal including Members and President for 1-4-2014 for when tickets were not purchased by CESTAT. Please provide separate details for such travel for which no amount has been claimed by concerned staff member till date of providing information.</p> <p>(H) Please provide the details of the customer ID/code allotted by Air India and others to CESTAT.</p> <p>(I) Please provide copies of the Bills received from Air India and others from 1-1-2014 till date of providing the information for air travel.</p> <p>Note:- Please provide point-wise information/ response for each of above points.</p>
5.		I state that the information sought is covered under RTI Act and does not fall within the exemptions contained in sections 8 or 9 or any other provisions of the Right to Information Act, 2005 and to the best of my knowledge it pertains to your office. Information is being sought in larger public interest.
6.		A Postal Order No. 32F 041591 for Rs. 10 towards payment of fee is enclosed herewith. You are requested to filling the name in which the Postal Order is payable.
7.		As per Section 7 of the RTI Act, 2005 information is to be provided within 30 days of the Application.

Signature of Applicant
 Telephone No. : 9810077977
 011-24651101, 24690707
 Fax No: 011-24635243

Place : New Delhi
 Encl. : as above
 11/11/14
 1111

F.No. 10789...../CESTAT/CPIO-ND/RP/2015,
 Customs, Excise and Service Tax, Appellate Tribunal,
 West block No.2, R.K.Puram, New Delhi-110066.

Dated 30/9/15

ID No. 10789/10

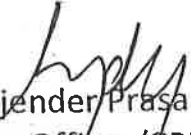
Subject: Information sought under RTI Act 2005.

Sir,

Please refer to RTI application of
 Shri R.K. Jain
 Under RTI Act 2005 vide No. 9517/15 dated
28/9/15 (copy enclosed) wherein certain information are sought
 as mentioned therein is related to your section.

Therefore, in terms of the provisions of Section 6(3) and Section
 5(4) read with Section 5(5) of RTI Act, 2005, the RTI application
 No. 9517/15 dated 28/9/15 CPIO ID No 10789/10 is
 forwarded herewith to the following officers as deemed CPIO with the
 request to provide correct and para-wise information/inspection on or
 before 16/10/15 directly to the applicant and intimate the
 undersigned within the stipulated time, failing which you are
 personally responsible for delay and penalty if any, under section 20 of
 RTI Act. You are, further requested to follow OM No.12/31/2013-IR
 dated 12-02-2013 circulated on 23-05-2013

Encl: as above


 (Rajender Prasad)
 Accounts Officer/CPIO

To

1. AO, CT/Gen. Admin. / CESTAT, New Delhi
2. AO, CESTAT, New Delhi
3. _____
4. AO/PO, Computer R/o for uploading on website

Copy for information to:-

Sh R.K. Jain,
 1512-B BHISHAM PITAMAH MARG,
 WAZIR NAGAR

Ground file
 16549

RECEIVED

3

(9)

alc

R.K. JAIN M.Com., LL.B.
 President, Excise and Customs Bar Association
 Editor of
EXCISE LAW TIMES & SERVICE TAX REVIEW
 and author of

Customs Excise & Service Tax
 Appellate Tribunal
13 OCT 2015
 West Block No. 2, R.K. Puram,
 New Delhi - 110086

13/10/2015

1512-B, Bhishm Pitamah Marg,
Wazir Nagar,
NEW DELHI - 110 003.
PHONE : 24693001-3004
MOBILE : 9810077977
Fax No. 011-24635243

Central Excise Law Guide; Central Excise Tariff of India;
 Central Excise Law Manual; Customs Tariff of India;
 Customs Law Manual; Excise & Customs Circulars
 & Clarifications; Excise & Customs Case Referencer;
 Service Tax Law Guide; Service Tax Handbook;
 Handbook of Duty Drawback on Goods &
 Services; Valuation under Central Excise; Hand-
 book of Foreign Trade Policy & Procedures

RTI/P-195/9517/15/R16921
 12-10-2015

Assistant Registrar,
 CT/Gen. Admin.
 Customs Excise & Service Tax Appellate Tribunal,
 West Block 2, R.K.Puram,
 New Delhi - 110066


Sub: My RTI Application No. RTI/9517/15, dated 28/9/2015

Dear Sir,

This refers to the letter F. No. 10-189/CESTAT/CPIO-ND/RP/2015 dated 30-9-2015 of Shri Rajender Prasad, Accounts Officer/CPIO, CESTAT, New Delhi, transferring my aforesaid RTI application to you under section 6(3) and Section 5(4) read with Section 5(5) of the RTI Act, 2005, for providing the information to me. You are requested to kindly provide the information at the earliest as under section 7(1) of the RTI Act, information is to be provided within 30 days of the RTI Application.

Thanking you,

Yours faithfully,



[R.K. Jain]

ofc

10

R.K. JAIN M.Com., LL.B.
 President, Excise and Customs Bar Association
 Editor of
EXCISE LAW TIMES & SERVICE TAX REVIEW
 and author of

Central Excise Law Guide; Central Excise Tariff of India;
 Central Excise Law Manual; Customs Tariff of India;
 Customs Law Manual; Excise & Customs Circulars
 & Clarifications; Excise & Customs Case Referencer;
 Service Tax Law Guide; Service Tax Handbook;
 Handbook of Duty Drawback on Goods &
 Services; Valuation under Central Excise; Hand-
 book of Foreign Trade Policy & Procedures

Customs Excise & Service Tax
 Appellate Tribunal
13 OCT 2015
 West Block No. 2, R.K. Puram,
 New Delhi - 110066

[Handwritten signature]
 13/10/2015

1512-B, Bhishm Pitamah Marg,
Wazir Nagar,
NEW DELHI - 110 003.
PHONE : 24693001-3004
MOBILE : 9810077977
Fax No. 011-24635243

RTI/P-195/9517/15/R16922
 12-10-2015

A.O.
 Customs Excise & Service Tax Appellate Tribunal,
 West Block 2, R.K. Puram,
 New Delhi - 110066

Sub: My RTI Application No. RTI/9517/15, dated 28/9/2015

Dear Sir,

This refers to the letter F. No. 10-189/CESTAT/CPIO-ND/RP/2015 dated 30-9-2015 of Shri Rajender Prasad, Accounts Officer/CPIO, CESTAT, New Delhi, transferring my aforesaid RTI application to you under section 6(3) and Section 5(4) read with Section 5(5) of the RTI Act, 2005, for providing the information to me. You are requested to kindly provide the information at the earliest as under section 7(1) of the RTI Act, information is to be provided within 30 days of the RTI Application.

Thanking you,

Yours faithfully,

[Handwritten signature]

[R.K. Jain]

F.No. 10-189 / CESTAT/CPIO-ND/RP/2015
Customs Excise and Service Tax Appellate Tribunal
West Block No 2, R.K.Puram, New Delhi-110 066

Dated: 29/10/15

ID No. 10-189/2015

To,
Shri R.K. Jain
1512-B- Bhisma Pitamaha
Marg, Wazir Neger,
New Delhi - 110003.

Subject: Information under Right to Information Act 2005.

Sir,

Please refer to your RTI application No. 9517/15 Dt. 29/9/15
and our ID No. 10-189/15. The information received from AR Gen
containing 10 pages is enclosed herewith for your reference
please.

You are, Therefore, requested to please acknowledge the
receipt and deposit Rs. 2000/- (@2/- per page) to this Tribunal by
cash or DD in favour of Accounts Officer, CESTAT, New Delhi.

The compilation made by the C.T.

VIR SINGH, which took 2 days.

His Gross Salary is Rs. 47129 per month.

So you are requested to deposit (S.K. Verma)
Rs. 3040/- as cost under section 7(2) of the Act. If you
Asstt. Registrar/CPIO

Encl:- As above
are appended herewith above you may file an
Appeal under section 19 of the Act before
Computer Section for website.

Honble S. K. Mohanty, member (J), and Jt

Appellate Authority, under R.F.

(12)

F.No.151(21)/RTI/CESTAT/11/CT
CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL, WEST BLOCK
NO.2, R.K.PURAM, NEW DELHI-66

Dated: 29 October 2015

Sub: Information Sought under RTI Act 2005 – Reg

Kindly refer to Shri R.K. Jain RTI application No.RTI/P-195/9517/15/ dated 28-09-2015 and CPIO letter No. 10-189/CESTAT/CPIO-ND/2015 dated 30-09-2015.

The information required above RTI is supplied as under:-

- Item No. (A) - This Tribunal has purchased the Air tickets to officer at Delhi Bench, Ahemdabad Bench & Banglore Bench only from Air India Office on credit basis. Month wise details of amount paid to Air India wef 01-04-2014 to till date is enclosed at Appx 'A'. (4 pages)
- Item No. (B) Air tickets bills wef 01-04-2014 to till date has already forwarded to the applicant against their RTI application No.9492/15 dated 21-09-15, reply vide this office letter dated 27 Oct 2015 & CPIO ID No.10-172.
- Item No. (C) Does not pertains to this Section.
- Item No. (D) Date wise details of the cancellation of Air tickets wef 01-04-2014 to till dated is enclosed at Appx 'B'. (1 Page)
- Item No. (E) No information is available in this point.
- Item No. (F) In case of cancellation, Air India automatically refunded the amount in our account head through credit Note. In this regard the photo copy of Credit Note wef 01-11-2014 to till date enclosed. (5 pages)
- Item No. (G) The said information is not available in this Section the same may kindly be obtained from Accounts Branch.

Item No. (H) The customer ID code allotted by Air India is 3321410 for purchase of Air tickets at Delhi Bench to the officer for credit basis.

Item No. (I) See at point B.

b → *m*
29/12/15
(Mukesh Gupta)
Asstt. Registrar
General Admn.

Encls: As above

To

The CPIO/Assistant Registrar SM Branch
CESTAT, New Delhi .

CENTRAL INFORMATION COMMISSION

Appeal No. CIC/AT/A/2009/00295 dated 7-3-2009

Right to Information Act 2005 – Section 19

Appellant: Shri V. K. Sinha,
Respondent: Oriental Insurance Co.

Decision Announced 9.11.'09

FACTS

By an application of 25-8-08 Shri V.K. Sinha, General Manager, Oriental Insurance Co. Ltd. applied to the CPIO, Oriental Insurance Co. Ltd. seeking the following information:

- “1. Number of Company's accommodation at GK I and II at Delhi for Scale V Officers and above.
2. Waiting list with priority number for the allotment of residential accommodation at GK- I and II, New Delhi as on date.
3. Name, present designation, present Place of posting and flat number of employees who are occupying residential accommodations at GK I and II New Delhi as of now, Date of their application for allotment of residential flats and their seniority in the waiting list for allotment, on the date of allotment of accommodation.
4. Request by employees for allotment of residential houses at GK I and II New Delhi by the employees after 1.9.2006 copy of each such application with the priority number for allotment of the houses.
5. Has any of the present occupant has been allotted accommodation in violation of waiting list, if so on what ground and under which provision/ rule of the Company. Their name, designation and place of posting.
6. What are the fittings and fixture/ facilities are provided in GK I and II, New Delhi flats to scale V Officers?
7. Please provide information on Flat Number E-409 and M-68, GK II, New Delhi to whom they are allotted, date of allotment and the waiting list of eligible officer's as on the date of allotment.
8. Has the Company provided/ reimbursed Cable TV connection in charges/ Set Top Box charges/ DTH instrument charges to any officer occupying GK I and II or NOIDA or any other flats in Delhi Company's owned accommodation? If so what steps company is taking to recover the amount from the sanctioning authorities/ beneficiary as per the reply given under RTI vide letter dated 14.8.2008 and delivered on 18.8.2008 there is no provision for reimbursement for such costs.

- 9. Number company's owned NOIDA flats, number of flats having 3 phase electricity connection at NOIDA, number of flats provided with Godrej Almirah at NOIDA, flat numbers of those beneficiary and their occupants name, designation and place of posting.
- 10. Does the Company have system of maintaining Expenses incurred by the company for the maintenance (other than Govt dues) of GK I and II flats and NOIDA flats. If so then provide flat wise repair and maintenance expenses incurred during last Financial year (2007-08). Or there is no such system of book keeping in the company for the expenses incurred for the repair and maintenance of those flats?
- 11. Is there any system of maintaining service request register/ complaint register for the occupants of Company owned / provided residential accommodation? If so with whom and where it is kept? Or it is on whims and fancy of the Estate/ Establishment Department officials to provide or not to provide service requested for?"

To this Shri V.K. Sinha received a response dated 26-9-08 from CPIO with the following information:

- 1. There are 12 flats in G. K. I and G. K. II for scale V officers and above.
- 2. Enclosed as per Annexure 1.
- 3. The list of occupants of G. K. I and G. K. II flats as on date is enclosed as per Annexure II. Date of occupation is as old as 1993. The remaining information sought by you has to be searched out from the old records and an officer is required to work for three full working days to go through the records. This will cost Rs. 3658/- to the company, which will have to be borne by you.
- 4.& 5. The information sought by you is not readily available in the format desired by you and requires an officer to work for another three full working days to go through the records and extract information from the records for compiling the information. The Company would incur a further cost of RS. 3658/- on the same, which will also have to be borne by you.
- 6,8,9,10&11 We have been informed by the Estate Department that the information sought by you on these points requires the services of 4 officers/staff specially for compiling this information, as under:-

1. Scale-III Officer	1-day (Approx.)	Rs. 1,000/-
2. Scale-I Officer	1 day	Rs. 500/-
3. Stenographer	½ day	Rs. 500/-
4. Record Clerk	½ day	Rs. 300/-
5. Misc. Stationery, Computer etc		Rs. 300/-

TOTAL

Rs. 2,600/-

7. Information sought by you is enclosed herewith as Annexure III, IV and V.

Accordingly you are requested to remit us Rs. 7316 by Pay Order or DD in the name of the Oriental Insurance Company Ltd., payable at Delhi so that we may direct the concerned Departments to initiate the exercise of compilation of the data."

Not satisfied, however, Shri Sinha moved an appeal before Shri S.K. Chanana, GM, Oriental Insurance Co. Ltd. pleading that "I have not asked for any particular format but CPIO is mentioning format I desire."

In his order of 4-11-08 appellate authority Shri Chanana GM has directed as follows:

"It appears that the concerned Department has prepared statements as various annexure from the registers/ documents available with them. The basic spirit of the RTI Act in providing information is to supply the 'material information' readily available with the Public Authority, so that the dispute raised by the appellant in the current case, does not come up. Accordingly, it appears that information to the satisfaction of the appellant can only be provided if the appellant is allowed to inspect the related files/ documents/ register available with the concerned Department/s. As such the CPIO/ DGM, HQ, New Delhi is hereby directed to have the documents inspected by the appellant in the concerned Department/s by intimating place, date, time and the name of the contact Officer for the inspection, to the appellant, within 10 days of receipt of this decision."

Consequently, through a letter of 7-11-08 received by Shri Sinha on 11-11-'08 CPIO, Shri P.K. Jha, Dy. GM, Oriental Insurance Co. Ltd. has informed appellant Shri Sinha of the dates when he could inspect the files together with the names of the contact persons. Nevertheless, Shri Sinha has moved his second appeal before us with the following prayer:

"CPIO and the 1st appellate authority are denying information by demanding as cost/ further fee which is in respect of very few Houses owned by the Company (hardly 12-15 houses)."

The appeal was heard on 9-11-2009. The following are present.

Respondents

Shri V. V. Mohlla, Manager.

Shri P.K. Jha, DGM/CPIO.

Shri Amitava Das, Chief Manager.

Although informed of the date of hearing through our letter of 7-10-2009 appellant Shri V. K. Sinha opted not to be present.

Shri P.K. Jha, CPIO submitted that in fact subsequent to the order of Appellate Authority the information sought has been provided to appellant without charging the additional fee. Moreover, in compliance with the earlier order of this Commission the Public Authority has also placed information with regard to such properties owned by them on the website in accordance with Section 4 (1)(b) (i) and (x).

DECISION NOTICE

For the same of clarity with regard to recovery "of further fees" as was proposed in the present case, the following is the final decision of this Commission in **Complaint No.CIC/WB/C/2007/00943** along with **Appeal No. CIC/MA/A/2008/01085 Subodh Jain & Anr. vs. DCP (West Dist) & Anr.** announced on 30.10.'09. In this case the Full Bench of this Commission has decided as follows:

"40. Thus, there is provision for charging of fee only under Section 6(1) which is the application fee; Section 7(1) which is the fee charged for photocopying etc and Section 7(5) which is for getting information in printed or electronic format. But there is no provision for any further fee and if any further fee is being charged by the Public Authorities in addition to what is already prescribed under Sections 6(1), 7(1) and 7(5) of the Act, the same would be in contravention of the Right to Information Act. **The "further fee" mentioned in Section 7(3) only refers to the procedure in availing of the further fee already prescribed under 7(5) of the RTI Act,¹** which is "further" in terms of the basic fee of Rs 10/-. Section 7(3), therefore, provides for procedure for realizing the fees so prescribed."

While the Oriental Insurance Co. Ltd. may note this for further action, in the present case it is clear that the information sought by appellant Shri Sinha, who is also reported to have inspected the file, has been given and there is no scope for further intervention by this Commission. The appeal is, therefore, dismissed.

¹ Emphasis added

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Announced in the hearing. Notice of this decision be given free of cost to the parties.

(Wajahat Habibullah)
Chief Information Commissioner
9-11-2009

Authenticated true copy. Additional copies of orders shall be supplied against application and payment of the charges prescribed under the Act to the CPIO of this Commission.

(Pankaj K.P. Shreyaskar)
Joint Registrar
9-11-2009

**CENTRAL INFORMATION COMMISSION
Club Building (Near Post Office)
Old JNU Campus, New Delhi - 110067
Tel: +91-11-26101592**

File No.CIC/LS/A/2011/000173/BS/0433

Relevant Facts emerging from the Appeal

Appellant : Mr. Anil Kumar
S/o Mr. Bhanwar Singh
345 Indira Colony,
Nagaur, Rajasthan

Respondent : CPIO & Dy. General Manager (Admin.)
BSNL
O/o GMTD,
Nagaur – 341001, Rajasthan

RTI application filed on : 19/02/2010
PIO replied : 24/02/2010 & 15/04/2010
First appeal filed on : Not enclosed.
First Appellate Authority order : Not enclosed.
Second Appeal received on : 27/09/2010

Information Sought:

Appellant has sought information in nine points regarding the recruitment of data feeders.

Reply of the CPIO:

The PIO vide letter dated 24/02/2010 informed the appellant to deposit the IPO in the name of Account Officer. After receiving the same the appellant was requested to deposit an amount of Rs 4554/- for obtaining the information sought by him.

Grounds for the First Appeal:

Not enclosed.

Order of the FAA:

Not enclosed.

Grounds for the Second Appeal:

Unreasonable charges/fee was demanded from the appellant to obtain the information.

Relevant Facts emerging during Hearing:

The following were present

Appellant: Absent

Respondent: Mr. O P Khatri, PIO through videoconferencing.

Appellant was given an opportunity to participate in the hearing, however, he is absent. The PIO stated that they had requested fee of RS. 4554/- to supply the information relying on the Commission's order in appeal no. CIC/AT/C/2007/00282,

dated 15/10/2007. It is noted that the issue of levy of "further fees" has been settled by this Commission's full bench order in appeal no.CIC/MA/A/2008/01085, dated 30/10/2009 in terms of which the fees as prescribed under section 7(1) & 7(5) of RTI Act can only be charged and there is no provision for levy of any further fees.

Decision Notice:

As the PIO has failed to provide the information within time limit prescribed for furnishing of information the Commission directs that complete and correct information as requested by the appellant in his RTI application dated 19/02/2010 should be furnished to him free of cost in terms of section 7(6) of the RTI Act.

A compliance report in this regard should be furnished to the Commission by 10/08/2012.

Appeal stands disposed of accordingly.

This decision is announced in open chamber.
Notice of this decision be given free of cost to the parties.

BASANT SETH
Information Commissioner
July 09, 2012

(In any correspondence on this decision, mention the complete decision number.) (AS)

**CENTRAL INFORMATION COMMISSION
Club Building (Near Post Office)
Old JNU Campus, New Delhi - 110067
Tel: +91-11-26101592**

**File No.CIC/BS/A/2012/000116/2054
14 March 2013**

Relevant Facts emerging from the Appeal

Appellant : Mr. Mansur Alam
H.No.1723,
Sector-8, Faridabad
Haryana

Respondent : CPIO & DGM (Admn)
BSNL
O/o the General Manager Telecom District
Sector 15A, Faridabad,
Haryana

RTI application filed on : 20/10/2011
PIO replied on : 21/11/2011
First appeal filed on : 28/12/2011
First Appellate Authority order : 31/01/2012
Second Appeal received on : 21/02/2012

Information sought:

- 1- In every month 2000 kms of each hired vehicle are sanctioned. It may be made known that from May 2011 to Sep 2011 extra mileage sanction was given to which vehicle/vehicles in the Faridabad SSA.
- 2- Earlier when the Tender/Tenders for the earthing in all RSU's and RLU's telephone Exchange was/were floated and when the works completed. At that time the earth value was valid for how many years. In the year of 2011 the details of tender/tenderers for the earthing in all telephone exchanges has/have floated may kindly be provided.

Grounds for the Second Appeal:

The PIO has not given the desired information.

Relevant Facts emerging during Hearing:

The following were present

Appellant: Mr. Mansur Alam

Respondent: Mr. Vishan Chandra Sharma CPIO's representative & other

The appellant stated that he has not been provided the information requested in his RTI application dated 20/10/2011 on the ground that it requires huge efforts for compiling and a fee of Rs.2300/- was demanded without providing its computation as laid down in Section 7(3) of the RTI Act. To a query from the Commission the CPIO's representative explained that 275 pages of documents are involved for which photocopying charges aggregate to Rs.550/- @ Rs.2/- per page

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and the balance is for labour charges. The appellant pleaded that the information should be supplied free of cost as laid down in Section 7(6) of the RTI Act.

Decision notice:

The issue of levy of 'further fees' has been settled by the Commission vide full bench order in appeal No. CIC/MA/A/2008/01085, dated 30/10/2009 in terms of which the fees as prescribed under Section 7(1) and 7(5) of the RTI Act can only be charged and there is no provision for levy of any further fee.

The Commission directs the CPIO to provide the information, free of cost, within 7 days from the date of receipt of this order.

The appeal is disposed of accordingly.

This decision is announced in open chamber.
Notice of this decision be given free of cost to the parties.

BASANT SETH
Information Commissioner

(In any correspondence on this decision, mention the complete decision number.) (RM)

Received on
03/07/16

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.10-105(A)/CESTAT/FAA- SKM/2015
CPIO ID NO. 10-189/2015

Shri R.K.Jain

...Appellant

Vs.

CPIO, CESTAT

...Respondent

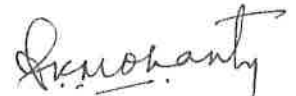
Date of decision: 29.6.2016

ORDER 30/2016

The appeal in this case pertains to the information sought for vide point No. C, E & G contained in the RTI Application dated 28.9.2015. Pursuant to the appeal filed by the appellant, the CPIO submits that the information sought are not specific and involves proper analysis and research.

2. Considering the fact that the information sought for are not exempted under Section 8 of the RTI Act, 2005 and also the fact that the CPIO requires proper scrutiny of the relevant documents, I direct the CPIO to scrutinise the documents and to furnish the same to the appellant within a period of four weeks from the date of receipt of this order.

3. 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

Accounts off.