

Rydw. 4215/ER-15  
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96/5102/15/RTI  
9/11/15

10-106(A)/2015

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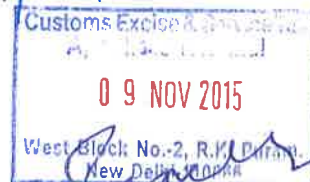
**First Appeal under Section 19 of the Right to Information Act, 2005**

Ref. No. : RTI/P-501/(9526/15)/Appeal/16049

Dated : 06-11-2015

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)	01-10-2015	
3.	Details of the order appealed against	Letter F.No. 10-194/CESTAT/CPIO-ND/SKV/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 1-10-2015 (Annexure-1) 2. Copy of Asstt. Registrar/ CPIO letter dated 29-10-2015 (Annexure-2) 3. Copy of the Asstt. Registrar/CPIO's letter dated 2-11-2015 (Annexure-3)	

### BRIEF FACTS OF THE CASE

(1) That the appellant has filed an application dated 01-10-2015 (Annexure – 1) under Section 6 of the RTI Act, 2005 requesting for the following information:

- (A) *Please provide the list of the cases marked part heard at CESTAT Delhi from 1-1-2014 till date with the name of the parties, date of marking part heard and composition of the bench with Appeal Nos.*
- (B) *Please provide the list of part heard matters pending at CESTAT Delhi as on 1-10-2015 with the name of the parties, date of marking part heard and composition of the bench with Appeal Nos. Please further provide the following information in relation to the each of the above pending part heard cases including for E/768/2011 and E/55867/2014 & Ors. (Kuber Tobacco).*
  - (i). *Copies of all Orders, Order Sheets / Record of Proceedings except Final Orders.*
  - (ii). *Copies of all the notes put up by the registry with orders thereon.*
  - (iii). *Copies of any order/directions for out of turn listing of the matter*
  - (iv). *Details of the date on which the aforesaid mater was mentioned. Please also provide copies of the mention memo and directions thereon.*
  - (v). *Copies of all the After Court Cause Lists including Supplementary Cause Lists, if any.*
  - (vi). *Copies of all notice of hearing issued to parties.*
  - (vii). *Copies of any Court directions/orders received in the aforesaid matter.*
  - (viii). *Copy of compliance report ,if any and current status of the case with next Date of hearing.*
  - (ix). *Copies of all Vakalatnamas and no objections filed in case of change of lawyer. Please also intimate the date of filing of each Vakalatnama.*
- (C) *After providing the above information, please provide inspection of all records, documents, note-sheets and files relating to the information as referred to in point (A) & (B) above. Please provide inspection of complete file(s) even if they contain part of the information. Please note that I will undertake the inspection only if it is necessary in view of incorrect and incomplete information provided by you.*

- (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**) allowed the inspection of the information for 4-11-2015, even though the appellant has first sought copies of the specified information. But before the appellant could even undertake the inspection of the records in question, the CPIO illegally, malafidely and without any authority of law, reviewed his said order by a subsequent order dated 2-11-2015 (**Annexure-3**). 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 Shri S.K. Verma, Asstt. Registrar/ CPIO has by his order dated 29-10-2015 (**Annexure-2**) allowed the inspection of the information for 4-11-2015, even though the appellant has first sought copies of the specified information. But before the appellant could even undertake the inspection of the records in question, the CPIO illegally, malafidely and without any

authority of law, reviewed his said order by a subsequent order dated 2-11-2015 (**Annexure-3**) and denied the information by claiming exemption under Section 8(1)(h) of the RTI Act. The CPIO has no power under the RTI Act, to review his own order / decision. It is an established law that power of review unless conferred by a statute, it cannot be exercised by an Authority. In this regard, the Hon'ble Supreme Court in *Kuntesh Gupta v. Management of Hindu Kanya Maha Vidyalaya* – 1987 (32) ELT 8 (SC) held as under:

11. It is now well established that a quasi-judicial authority cannot review its own order, unless the power of review is expressly conferred on it by the statute under which it derives its jurisdiction.

In view of the above establish, position of law, the order of the CPIO reviewing his own order is incorrect, illegal, malafide and without authority of law, hence, it is liable to be set aside and the CPIO may be directed to provide the information in time bound frame.

- (4) 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.

(5) That Shri S.K. Verma, Asstt. Registrar (SM) and CPIO has deliberately and mala fide 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.

(6) 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.

- (7) 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 is 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."*

- (8) 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 is to 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

- (9) 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"*

- (10) 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..
- (11) 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.
- (12) 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.

- (13) 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.
- (14) 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.
- (15) 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.
- (16) 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.

- (17) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (18) 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.
- (19) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (20) 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

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

Ref. No. : RTI/P-195/9526/15

Dated : 1-10-2015

To-

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

01 OCT 2015

Recd  
11/10/15

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 list of the cases marked part heard at CESTAT Delhi from 1-1-2014 till date with the name of the parties, date of marking part heard and composition of the bench with Appeal Nos.</p> <p>(B) Please provide the list of part heard matters pending at CESTAT Delhi as on 1-10-2015 with the name of the parties, date of marking part heard and composition of the bench with Appeal Nos. Please further provide the following information in relation to the each of the above pending part heard cases including for E/768/2011 and E/55867/2014 &amp; Ors. (Kuber Tobacco).</p> <p>(i) Copies of all Orders, Order Sheets / Record of Proceedings except Final Orders.</p> <p>(ii) Copies of all the notes put up by the registry with orders thereon.</p> <p>(iii) Copies of any order/directions for out of turn listing of the matter</p> <p>(iv) Details of the date on which the aforesaid matter was mentioned. Please also provide copies of the mention memo and directions thereon.</p>

		<p>(v) Copies of all the After Court Cause Lists including Supplementary Cause Lists, if any.</p> <p>(vi) Copies of all notice of hearing issued to parties.</p> <p>(vii) Copies of any Court directions/orders received in the aforesaid matter.</p> <p>(viii) Copy of compliance report, if any and current status of the case with next Date of hearing.</p> <p>(ix) 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>(C) After providing the above information, please provide inspection of all records, documents, note-sheets and files relating to the information as referred to in point (A) &amp; (B) above. Please provide inspection of complete file(s) even if they contain part of the information. Please note that I will undertake the inspection only if it is necessary in view of incorrect and incomplete information provided by you.</p> <p><b>Note:-Please provide pointwise information/response for each of above points.</b></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 041594 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 <b>within 30 days of the Application.</b>	



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

Place : New Delhi  
 Encl. : as above  
 Hina/----

Annexure - 2

(14)

F.No. 10-194/CESTAT/CPIO-ND/SK/2015,  
Customs, Excise and Service Tax, Appellate Tribunal,  
West block No.2, R.K.Puram, New Delhi-110066.

Dated 29/10/15

ID No. 10-194/15


Subject: Information sought under RTI Act 2005.

Sir,

Please refer to RTI application of  
Shri R.K. Jain  
Under RTI Act 2005 vide No. 9526/15 dated  
1/10/15 (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. 9526 dated 1/10/15 CPIO ID No 10-194/15 is  
forwarded herewith to the following officers as deemed CPIO with the  
request to provide correct and para-wise information/inspection on or  
before immediately 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)  
Asstt. Registrar/CPIO

inspection allowed on 4/11/15  
(with request to AR (Ex) to directly provide the inspection  
to the applicant)

1. AR (Ex)

2. \_\_\_\_\_

3. \_\_\_\_\_  
Copy to: AR/TO Computer for uploading on website.

Copy for information to:-

Sh R.K. Jain, 1512-B, Bhushan Pitamah Marg,

16825 (2nd/12th Floor) Nagari Nagar, New Delhi-110003.

<sup>10-</sup>  
F.No. 194 / CESTAT/CPIO-ND/RP/2015  
Customs Excise and Service Tax Appellate Tribunal  
West Block No 2, R.K.Puram, New Delhi-110 066

Dated 02/11/15  
ID No. 10-194/15

To,

Shri R.K. Jain  
15 B- Bhishma Pitamah  
Marg, Wazir Nagar,  
New Delhi - 110003.

Subject: Information under Right to Information Act 2005.

Sir,

Please refer to your RTI application No. 9525/15 Dt. 1/10/15  
and our ID No. 10-194/15. The information received from AR Excise  
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. The Applicant  
is disposed of by claiming exemption under section 8(1)(h) of the  
RTI Act. If aggrieved, the Applicant may prefer an appeal against  
this order to the Appellate Authority, i.e. appellate authority  
under RTI Act within 30 days after  
receipt of this order.

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

Encl:- As above

102/11/15

Copy to:- Computer Section for Website

16

EXCISE BRANCH

I.D.N.10-194/2015

With reference to I.D.No.10-194/2015 dated 29.10.2015, the information sought by you, in the case appeal No. E/768/2011, E/55867/2014, E/ 56023-56025/2014-EX(BR) . In this regard it is submitted that the above matter is sub-judice before the Hon'ble Tribunal. Therefore, information sought by you is exempted under section 8(1)(H) of the RTI Act, therefore the information can not be provided, further, the inspection allowed by the CPIO may be treated as cancelled ~~may be as cancelled.~~

Dated: 02.11.2015

  
Asstt.Registrar

Copy to:-

1.CPIO.

2.O/c.

A.R.

  
2/11/15



17

Matter being Subjective is no ground  
to reject RTI

191

**Central Information Commission**

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

Dated, the 30<sup>th</sup> 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:

(18)

*"We advise that we are not in position to accede to your request for supply of copies under RTI Act, as the matter is sub-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 1<sup>st</sup> 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.

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670-1

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

**.W.P.(C) 14120/2009**

**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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670/2

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.?

*Received on*  
*29/8/16*

**APPELLATE AUTHORITY  
UNDER RIGHT TO INFORMATION ACT, 2005  
CUSTOMS, EXCISE AND SERVICE TAX  
APPELLATE TRIBUNAL,  
WEST BLOCK 2, R.K. PURAM, NEW DELHI – 110 066**

**Date of Hearing/decision: 26.08.2016**

**Appeal No.10-106 (A)/CESTAT/FAA/VP/2015  
CPIO, I.D. No. 10-194/CESTAT/CPIO-VPP/2015**

Sh. R.K.Jain

Appellant

Vs.

Sh. V.P. Pandey, Asst. Registrar/CPIO

Respondent

**ORDER**

*134/2016*

The appellant has reiterated the grounds of appeal. Specifically he submitted that the then CPIO Shri S.K. Verma, vide his order dated 29/10/2015, allowed inspection of the records sought by him. However, on 02/11/2015 a fresh order was issued by CPIO on the same RTI application by which he declined to give the information by claiming exemption under Section 8 (1) (h) of the RTI Act. Appellant's submission is that the CPIO cannot review his own order and hence his order dated 02/11/15 is to be set aside.

2. Once the CPIO passes an order, he becomes functus officio and does not have prerogative to change his own order. He has also not given any reasons for the revised order passed within a period of three days. Accordingly I set aside the order dated 02/11/15 and direct the CPIO to provide inspection of the relevant records, namely inspection of the Court Proceedings and appeal No. E/768/2011 and E/55867 of 2014 within three weeks from the receipt of the order.

3. The appeal is disposed of in above terms.

*V. Padmanabhan*  
(V. Padmanabhan)  
Appellate Authority *26/8/16*



10-107(A)/15

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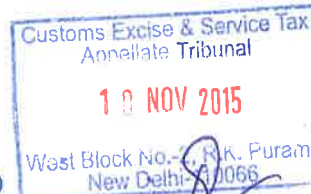
**First Appeal under Section 19 of the Right to Information Act, 2005**

Ref. No. : RTI/P-501/(9540/15)/Appeal/16059

Dated : 10-11-2015

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 Assistant 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)	05-10-2015
3.	Details of the order appealed against	Letter F.No. 10-198/CESTAT/CPIO-ND/RP/2015 dated 2-11-2015
4.	Prayer or relief sought	See Prayer clause at the end
5.	Last date for filing the appeal	2-12-2015
6.	Whether Appeal in Time.	Appeal in time
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 5-10-2015 ( <b>Annexure-1</b> ) 2. Copy of Asstt. Registrar /CPIO letter dated 14-10-2015 ( <b>Annexure-2</b> ) 3. Copy of Appellant letters dated 19-10-2015 ( <b>Annexure-3</b> ) 4. Copy of Asstt. Registrar /CPIO letter dated 27-10-2015 ( <b>Annexure-4</b> ) 5. Copy of Asstt. Registrar /CPIO letter dated 2-11-2015 ( <b>Annexure-5</b> )



**BRIEF FACTS OF THE CASE**

(1) That the appellant has filed an application dated 05-10-2015 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:

- (A) *The applicant by RTI Application No.8469/2014 dated 10-7-2014 (copy enclosed as Annexure "A") (Your ID No.09-133/2014) sought certain information and by your reply dated 26-9-2014 (copy enclosed as Annexure "B") the Deemed CPIO, Ms. Seema Sadana, SPS to Member (J-AW) has stated that the information sought may be available in the respective files kept in the Registry. In this regard, please provide the information sought in RTI Application No.8469/2014 from the Registry or other holders of the information.*
- (i) *Please provide the daily diary maintained by the SPS/PA of Mrs. Archana Wadhwa, Member (Judicial) from 1-1-2014 till 1-12-2014.*
- (ii) *Please provide the file movement register / diary maintained by the SPS/PA of Mrs. Archana Wadhwa, Member (Judicial) from 1-1-2014 till 1-12-2014.*
- (iii) *Please provide the daily dak register maintained by the SPS/PA of Mrs. Archana Wadhwa, Member (Judicial) from 1-1-2014 till 1-12-2014.*
- (iv) *Please provide order reserve register / diary maintained by the SPS/PA of Mrs. Archana Wadhwa, Member (Judicial) from 1-1-2014 till 1-12-2014.*
- (v) *Please provide the list of the orders for which operative part is announced to open court and reasoned order are pronounced subsequently by Mrs. Archana Wadhwa from 1-1-2014 till 1-12-2014. Please also provide copy of the register / diary / records maintained by SPS / PA to Mrs. Archana Wadhwa, Member (Judicial).*
- (B) *Please provide the daily diary maintained by the SPS/PA of Mrs. Archana Wadhwa, Member (Judicial) from 1-1-2014 till 1-12-2014.*

- (C) Please provide the file movement register / diary maintained by the SPS/PA of Mrs. Archana Wadhwa, Member (Judicial) from 1-1-2014 till 1-12-2014.
- (D) Please provide the daily dak register maintained by the SPS/PA of Mrs. Archana Wadhwa, Member (Judicial) from 1-1-2014 till 1-12-2014.
- (E) Please provide order reserve register / diary maintained by the SPS/PA of Mrs. Archana Wadhwa, Member (Judicial) from 1-1-2014 till 1-12-2014.
- (F) Please provide the list of the orders for which operative part is announced to open court and reasoned order are pronounced subsequently by Mrs. Archana Wadhwa from 1-1-2014 till 1-12-2014. Please also provide copy of the register / diary / records maintained by SPS / PA to Mrs. Archana Wadhwa, Member (Judicial).

**NOTE: Information sought in Point (B) to (F) may be provided in whatever form they are available. If they are available in digital form, then digital copies 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, Assistant Registrar/ CPIO & Deemed CPIO have deliberately and malafidely not provided the information on the pretext that no such information is maintained. The appellant being aggrieved by the said order of the CPIO is filing the present appeal.

#### **GROUNDS OF APPEAL**

- (1) That the order in question of the CPIO is incorrect and illegal and contrary to the provisions and spirit of the RTI Act, 2005 hence liable to be set aside.
- (2) That the information sought by the appellant is not exempted under

Section 8 or 9 or any other provisions of the RTI Act, 2005, therefore, there was no valid cause or reason or ground for not providing the information.

- (3) That Shri S.K. Verma, Assistant Registrar/ CPIO & Deemed CPIO have deliberately and malafidely not provided the information on the pretext that no such information is maintained whereas as per the CESTA Judicial Manual and various circulars and office orders issued by CESTAT from time to time and Cabinet Secretariat's manual of Office Procedure, the information in question is required to be maintained by the Concerned officials/Departments. Therefore the CPIO and Deemed CPIO have wrongly denied the information. Moreover, Under the RTI Act, the maintenance of information is not the pre-requisite for providing the information. Since the information sought is held by the public authority, it is to be provided. Recently the First Appellate Authority of the CIC in the case of S.C. Agarwal V/s. CIC – First appeal No. CIC/AA/A/2013/269 decided on 3-10-2013 basing its decision on Supreme Court judgment held as under: -

*"...Under Section 2(j), the Right to Information conferred on the citizen means Right to Information "**accessible**" under the Act, which is "**held by**" or is "**under the control of**" any Public Authority. The attention of the CPIO is also drawn to judgment of Hon'ble Supreme Court in the case of Secretary General, Supreme Court of India Vs. the petitioner in LPA No. 501/2009, wherein the court has defined the words "**held by**" and "**under the control of**" as under:-*

*"The words 'held by' or 'under the control of' under Section 2(j) will include not only information under the legal control of the public authority but also all such information which is otherwise **received** or **used** or **consciously retained** by the public authority in the course of its functions and its official capacity." (emphasis supplied)*

*The information sought for by the appellant squarely falls within the ambit of the information of as defined under the RTI Act, there is no denying that it is within the mischief of section 2 (j) of the RTI Act. In view of this, and the reliance placed on the judgment of the Commission dated 23.05.2013 in the case of R.K. Jain Vs. CIC, the replies given in response to the four queries namely 4, 5, 7 and 8 by the nodal CPIO is set-aside and he is directed to obtain the information from the concerned registries or provide access to the information seeker to peruse the records and get the required information. The CPIO is free to proceed in terms of the provisions of the RTI Act while replying again to these queries."*

In view of the above decision of the First Appellate Authority of the CIC , CPIO and Deemed CPIOs are required to provide the information as sought in the RTI application. Therefore, the impugned order is incorrect and illegal and liable to be set aside and the CPIO be directed to provide the information in time bound frame.

- (4) That recently a Division Bench of the Bombay High Court in the case of Sayyed Education Society v. State of Maharashtra-W.P. 1305/2011 decided on 12-2-2014 has held that public authorities are under a statutory obligation to maintain records and disseminate as per the provisions of section 4 of the RTI Act. The High Court, in this respect, specifically held as under:-

*"20. Needless to state and as observed by the Hon'ble Apex Court in paragraph No. 14 in the case of C.B.S.E. and another (supra), Public Authorities are under an obligation to maintain records and disseminate the information in the manner provided under Section 4 of the RTI Act. The submission of the petitioner that it is an onerous task to supply documents, therefore, is required to be rejected. When the Law mandates preserving of documents, supplying copies thereof to an applicant, in our view, cannot be said to be an onerous task."*

In view of this decision of Bombay High Court, the information cannot be denied on the ground of its non-maintenance, rather non-maintenance of records is an act of obstruction to the information with malafide intent and purpose and liable for penal action under section 20 of the RTI Act.

- (5) That as per the Cabinet Secretariat's manual of Office Procedure and provisions of Section 4 of the RTI Act, every public authority is required to maintain proper records and non-maintenance of proper records cannot be a ground for denying information. In this regard, Hon'ble Delhi High Court in ***The Registrar, Supreme Court of India v. Commodore Lokesh K. Batra and Ors.; W.P.(C) 6634/2011 & CM No.13398/2011*** has held as under:

*"12. However, the above principle (para 35 Aditya Bandhopadhyay) cannot be used to deny information that is available with a public authority, but not in the form as is sought. In the present case, it is the petitioner's stand that it does not maintain the data "in the manner sought for" and thus, has no obligation to provide the same to the respondent no.1. This stand is, clearly, unsustainable....."*

*"15. The obvious intention of the Parliament is to ensure that information is available to the public in a form that is convenient to them. In this view, the petitioner's contention that it has no obligation to provide the information, if it is not maintained in the form in which the respondent no.1 seeks it, cannot be accepted."*

In view of the above decision and statutory provisions, the information cannot be denied on the ground of non-maintenance when such information is required to be maintained in normal course or is otherwise available in any form with the public authority. Even such information is not deniable invoking Section 7(9) of the RTI Act. Therefore, the impugned order 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

Date 10-11-2015

o/c

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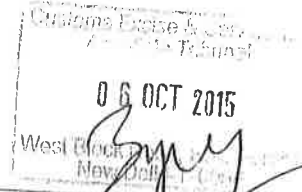
Application under Section 6 of the Right to Information Act, 2005

Ref. No. :RTI/P-195/9540/15

Dated : 05-10-2015

To


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



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) The applicant by RTI Application No.8469/2014 dated 10-7-2014 (copy enclosed as Annexure "A") (Your ID No.09-133/2014) sought certain information and by your reply dated 26-9-2014 (copy enclosed as Annexure "B") the Deemed CPIO, Ms. Seema Sadana, SPS to Member (J-AW) has stated that the information sought may be available in the respective files kept in the Registry. In this regard, please provide the information sought in RTI Application No.8469/2014 from the Registry or other holders of the information.</p> <p>(i) Please provide the daily diary maintained by the SPS/PA of Mrs. Archana Wadhwa, Member (Judicial) from 1-1-2014 till 1-12-2014.</p> <p>(ii) Please provide the file movement register / diary maintained by the SPS/PA of Mrs. Archana Wadhwa, Member (Judicial) from 1-1-2014 till 1-12-2014.</p> <p>(iii) Please provide the daily dak register maintained by the SPS/PA of Mrs. Archana Wadhwa, Member (Judicial) from 1-1-2014 till 1-12-2014.</p> <p>(iv) Please provide order reserve register / diary maintained by the SPS/PA of Mrs. Archana Wadhwa, Member</p>

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		<p>(Judicial) from 1-1-2014 till 1-12-2014.</p> <p>(v) Please provide the list of the orders for which operative part is announced to open court and reasoned order are pronounced subsequently by Mrs. Archase Wadhwa from 1-1-2014 till 1-12-2014. Please also provide copy of the register / diary / records maintained by SPS / PA to Mrs. Archana Wadhwa, Member (Judicial).</p> <p><b>NOTE: (1) Information sought in Point (B) to (F) may be provided in whatever form they are available. If they are available in digital form, then digital copies may be provided.</b></p> <p><b>(2) Please provide pointwise information/response for each of above points.</b></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.	Postal Order No. 32F 042641 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 <b>within 30 days of the Application.</b>	



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

Place : New Delhi  
Encl. : as above  
Hita/.....95/10



ANNEAURE-A

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

Ref. No. : RTI/P-195/8469/14

Dated : 10-7-2014

Customs Excise & Service  
Appellate Tribunal

15 JUL 2014

West Block No. 1  
New Delhi


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 all orders, notes put up by the Hon'ble Members and by the CESTAT Registry for seeking pronouncement of orders beyond the period of 4 months and beyond the period of six months from the date of final hearing from 01.04.2013 till the date of providing the information. The information in this respect may also be provided in relation to the Appeals shown in the enclosed list. (B) Please provide list of cases in which the permission sought in relation to the cases covered under point (A) above has been granted by the President and name of the members who made such request. (C) Please provide list of cases in which the permission sought in relation to the cases covered under point (A) above has been rejected by the President and name of the members who made such request. (D) Please provide details of the actual date when the order was ultimately pronounced in relation to the cases referred to in point (A) above. (E) Please provide list of files from which the information as sought above is provided by you. (F) Please provide copies of all note sheets and correspondence pages of the RTI file in which this application has been dealt with, till the date of providing the information. In case of correspondence emanating from me, only copy of first page of each document may be provided. <b>Note:-Please provide point-wise information/ response for each of above points.</b>

- |    |  |
|----|--|
| 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. 23F 426187 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 <b>within 30 days of the Application.</b>  |

Place : New Delhi  
Encl. : as above  
nn8469

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

**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. 10-107(A)/2015**  
**CPIO ID No. 10-198 (A)/2015**

Shri R.K.Jain  
Vs.

...Appellant

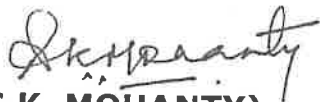
CPIO, CESTAT

...Respondent

Date of Hearing/Decision: 03.05.2016

**ORDER** 76/2016

During the course of hearing, the appellant submits that the information sought for have been provided by CPIO during pendency of the appeal. Considering the said fact, 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,
2. CPIO, CESTAT, New Delhi.
3. Office Copy

o/c

ISSUED ON  
5/5/16  
SIGN. (DESPATCH SECTION)  
CUSTOMS, EXCISE & SERVICE TAX  
APPELLATE TRIBUNAL  
NEW DELHI-110006

10-108(A)/15

①

Dyno. 4235/EX-15  
10/11/15

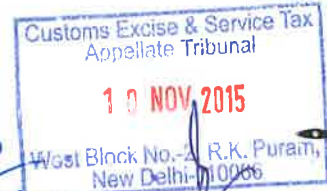
**First Appeal under Section 19 of the Right to Information Act, 2005**

Ref. No. : RTI/P-501/(8620/14)/Appeal/16063

Dated : 10-11-2015

To

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 (1) Shri S.K. Verma, Asstt. Registrar/CPIO (2) Shri Kripa Shanker, Asstt. Registrar (Customs/ST/AD) and Deemed CPIO (3) Shri V.P. Pandey, AR(Excise) & Deemed CPIO (b) Address Customs Excise & Service Tax Appellate Tribunal, West Block 2, R.K. Puram, New Delhi - 110066
2.	Date of submission of application (Copy of application attached)	02-09-2014
3.	Details of the order appealed against	Letter F.No. 09-149/CESTAT/CPIO-ND/RP/2014 dated 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 2-9-2014 (Annexure-1)

10/11/15  
15/11/15

	<p>2. Copy of First Appeal dated 1-10-2014 (Annexure-2)</p> <p>3. Copy of Accounts Officer/CPIO letter dated 26-9-2014 (Annexure-3)</p> <p>4. Copy of CESTAT Order dated 16-01-2015 (Annexure-4)</p> <p>5. Copy of Appellant letter dated 9-2-2015 (Annexure-5)</p> <p>6. Copy of Accounts Officer/CPIO letter dated 17-2-2015 (Annexure-6)</p> <p>7. Copy of Accounts Officer/CPIO letter dated 13-3-2015 (Annexure-7)</p> <p>8. Copy of Accounts Officer/CPIO letter dated 22-5-2015 (Annexure-8)</p> <p>9. Copy of Accounts Officer/CPIO letter dated 15-6-2015 (Annexure-9)</p> <p>10. Copy of Asstt. Registrar/CPIO letter dated 26-10-2015 (Annexure-10)</p>
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#### BRIEF FACTS OF THE CASE

(1) That the appellant has filed an application dated 02-09-2014 (Annexure - 1) under Section 6 of the RTI Act, 2005 requesting for the following information:

(A) *The Gujarat High Court in the case of Commissioner v. Small Industries Development Bank of India - Tax Appeal No.341 of 2014, decided on 09.07.2014 and Commissioner v. Subhash Metal Industries - Tax Appeal No. 567 of 2014, decided on 09.07.2014 (copy enclosed), has directed the Registrar of CESTAT to maintain two separate registers with respect to the Appeal in which stay has been granted fully or partly and the appeal in which no stay has been granted. In this respect, please provide the following information for all the Benches of CESTAT including Zonal Benches:*

(i) *Please provide number of cases in which the stay orders have been granted by the CESTAT as on 01.09.2014 or any other date of September, 2014*

- (3)
- (ii) Please provide number of cases in which no stay order has been granted by the CESTAT as on 01.09.2014 or any other date of September, 2014
  - (iii) Please provide copies of the two registers as referred in the above orders of the Gujarat High Court. In case manual registers are not available then digital data may be provided.
  - (iv) Please provide the names of the officials who are responsible for maintenance of the above registers in respect of each Bench of CESTAT.
  - (B) Please provide list of files from which the information as sought above is provided by you
  - (C) Please provide copies of all note sheets and correspondence pages of the RTI file in which this application has been dealt with, till the date of providing the information. In case of correspondence emanating from me, only copy of first page of each document may be provided.

NOTE: The above information is also held by Shri A. Mohan Kumar, Registrar, therefore, this application may also be forwarded to him under Section 5(4) & 5(5) of the RTI Act.

- (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 & Deemed CPIO has deliberately and malafidely not provided complete and correct information as sought by the appellant despite the order of the First Appellate Authority. The appellant being aggrieved by the said order of the CPIO is filing the present appeal.

### 4 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 Shri Kripa Shanker, Asstt. Registrar (Customs/ST/AD) and Deemed CPIO has deliberately and malafidely not provided the information as sought in point A(i) to (iv) of the RTI application despite the RTI application having been forwarded to him by the CPIO despite the order of the First Appellate Authority. Therefore, the order of the CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame.
- (4) That the Asst Registrar and Deemed CPIO of the Excise has provided copies of one register though the appellant in point A(iii) of the RTI application has sought copies of both the registers as directed to be maintained by Gujarat High Court. 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 Deemed CPIOs are not providing complete and correct information as sought by the appellant in A(i) to (iv) of the RTI application. 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 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 : 10-11-2015



OTC

ANNEXURE - 1

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

Ref. No. :RTI/P-195/8620/14

Dated : 2-9-2014

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) The Gujarat High Court in the case of Commissioner v. Small Industries Development Bank of India - Tax Appeal No. 341 of 2014, decided on 09.07.2014 and Commissioner v. Subhash Metal Industries - Tax Appeal No. 567 of 2014, decided on 09.07.2014 (<b>copy enclosed</b>), has directed the Registrar of CESTAT to maintain two separate registers with respect to the Appeal in which stay has been granted fully or partly and the appeal in which no stay has been granted. In this respect, please provide the following information for all the Benches of CESTAT including Zonal Benches:</p> <p>(i) Please provide number of cases in which the stay orders have been granted by the CESTAT as on 01.09.2014 or any other date of September, 2014.</p> <p>(ii) Please provide number of cases in which no stay order has been granted by the CESTAT as on 01.09.2014 or any other date of September, 2014.</p> <p>(iii) Please provide copies of the two registers as referred in the above orders of the Gujarat High Court. In case manual registers are not available then digital data may be provided.</p>

		<p>(iv) Please provide the names of the officials who are responsible for maintenance of the above registers in respect of each Bench of CESTAT.</p> <p>(B) Please provide list of files from which the information as sought above is provided by you.</p> <p>(C) Please provide copies of all note sheets and correspondence pages of the RTI file in which this application has been dealt with, till the date of providing the information. In case of correspondence emanating from me, only copy of first page of each document may be provided.</p> <p><b>NOTE: The above information is also held by Shri A. Mohan Kumar, Registrar, therefore, this application may also be forwarded to him under Section 5(4) &amp; 5(5) of the RTI Act.</b></p> <p><b>Note:-Please provide pointwise information/ response for each of above points.</b></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. 27F 664333 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 <b>within 30 days of the Application.</b>	

Place : New Delhi

Encl. : as above

Hina/....  
in

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

## IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

TAX APPEAL NO. 567 of 2014

## FOR APPROVAL AND SIGNATURE:

HONOURABLE MR.JUSTICE M.R. SHAH

Sd/-

and

HONOURABLE MR.JUSTICE K.J.THAKER

Sd/-

- 1 Whether Reporters of Local Papers may be allowed to see the judgment ?
- 2 To be referred to the Reporter or not ?
- 3 Whether their Lordships wish to see the fair copy of the judgment ?
- 4 Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 or any order made thereunder ?
- 5 Whether it is to be circulated to the civil judge ?

COMMISSIONER OF CENTRAL EXCISE....Appellant(s)

Versus

SUBHASH METAL INDUSTRIES....Opponent(s)

Appearance:

MR AY KOGJE, ADVOCATE for the Appellant(s) No. 1

NOTICE SERVED BY DS for the Opponent(s) No. 1

CORAM: **HONOURABLE MR.JUSTICE M.R. SHAH**  
and  
**HONOURABLE MR.JUSTICE K.J.THAKER**

Date : 09/07/2014

ORAL JUDGMENT

(PER : HONOURABLE MR.JUSTICE M.R. SHAH)

1.00. Feeling aggrieved and dissatisfied with the impugned order passed by the learned Customs, Excise and Service Tax Appellate Tribunal, Ahmedabad dated 6/12/2013 being Order No.M-15949-15961/2013 by which the learned Appellate Tribunal has extended the stay granted earlier beyond the total period of 365 days from the date of grant of initial stay, the appellant has preferred the present Tax Appeal with the following proposed substantial questions of law :

- "(1) Whether in the facts and circumstances of the case the Hon'ble Customs, Excise and Service Tax Appellate Tribunal (CESTAT), West Zonal Bench, Ahmedabad while passing Misc. Order No.M/15949-15961/2013 dated 6/12/2013 passed in Appeal No.E/967/2011, committed an error of fact and law in extending stay beyond the period of 365 days, in violation of statutory provisions contained in Section 35C(2A) of Central Excise Act, 1944?
- (2) Whether in the facts and circumstances of the case the Hon'ble CESTAT has jurisdiction to extend a stay beyond the period statutorily fixed under provisions of S.35C(2A) of the C.E. Act, 1944?
- (3) Whether in the facts and circumstances of the case is it obligatory upon the Hon'ble CESTAT to assign reasons while passing the impugned order?
- (4) Whether in the facts and circumstances of the case is it obligatory upon the Hon'ble CESTAT to narrate the facts of the case while applying the principles laid down by Hon'ble Court

in any Judgement cited as precedent?"

2.00. By our earlier order dated 3/7/2014, Notice for final disposal has been issued. Though served, nobody appears on behalf of the respondent.

3.00. The issue involved in the present appeal and the substantial questions of law raised in the present appeal are as such not res-integra in view of the decision of this Court dated 9/7/2014 rendered in Tax Appeal No.341 of 2014 and other allied Tax Appeals.

4.00. While answering the same questions which are involved in the present appeals, by judgement and order in Tax Appeal No.341 of 2014 and other allied Tax Appeals, this Court has observed and held as under :

**"6.00. In view of the above and for the reasons stated above, question No.1 is answered against the revenue and in favour of the assessee and it is held that in case and having satisfied that delay in not disposing of the appeal within 365 days (total) from the date of grant of initial stay is not attributable to the appellant / assessee in whose favour stay has been granted and that the Appellate Tribunal is satisfied that such appellant / assessee has fully cooperated in early disposal of the appeal and/or has not indulged into any delay tactics and/or has not taken any undue advantage, the learned Appellate Tribunal may, by passing a speaking order as observed hereinabove, extend stay even beyond the total period of 365 days from the date of grant of initial stay. However, as observed by**

the Hon'ble Supreme Court in the case of Kumar Cotton Mills Pvt. Ltd (supra), it should not be construed that any latitude is given to the Appellate Tribunal to extend the period of stay except on good cause and if the Appellate Tribunal is satisfied that the matter could not be heard and disposed of by reason of the fault of the Appellate Tribunal for the reasons not attributable to the assessee. It also may not be construed that the Appellate Tribunal can extend stay indefinitely. On expiry of every 180 days the concerned assessee / appellant is required to submit an appropriate application before the learned Appellate Tribunal to extend the stay granted earlier and the Appellate Tribunal may extend the stay for a further period but not beyond 180 days at a stretch and on arriving at the subjective satisfaction, as stated hereinabove, the Appellate Tribunal may extend the stay even beyond 365 days from the date of grant of initial stay and even thereafter. Meaning thereby after 180 days, the Appellate Tribunal is required to review the situation and consider the application for extension of stay appropriately. Thus, on expiry of maximum period of 180 days the assessee / appellant is required to submit application for extension of stay each time and the Appellate Tribunal is required to consider the individual case and pass a speaking order, as stated hereinabove. By the aforesaid it may also not be understood that the Appellate Tribunal may go on extending the stay indefinitely and may not dispose of the appeals within stipulated time i.e. within 365 days from the date of grant of initial stay and/or at the earliest. All efforts shall be made by the learned Appellate Tribunal to

dispose of the appeals at the earliest more particularly in a case where stay is operative against the revenue.. The learned Appellate Tribunal and/or registrar of the Appellate Tribunal is required to maintain separate register with respect to the appeals in which stay has been granted fully and/or partially and appeals in which no stay has been granted and the Appellate Tribunal must and shall give priority to the appeals in which stay has been granted, continued and/or extended.

7.00. So far as the Question No.2 is concerned, i.e. Whether the learned Appellate Tribunal is required to pass a speaking order while extending stay or not, for the reasons stated above, the said question is answered in favour of the revenue - department and against the assessee. Consequently, all the matters are remanded to the learned Appellate Tribunal to pass appropriate order afresh and pass speaking and reasoned order in light of the observations made hereinabove. Such exercise shall be completed within a period of two months from today. So as to see, that the applications of the respective appellants / assesses for extension of stay do not become infructuous, it is directed that the stay order which is extended by the Appellate Tribunal shall be continued for a further period of two months. It goes without saying that even during the aforesaid period of two months, the Appellate Tribunal may dispose of the appeals finally.

7.00. All these appeals are partly allowed to the aforesaid extent and the matters are remitted

**back to the file of the learned Appellate Tribunal for passing orders afresh, as stated above."**

5.00. In view of the above and for the reasons stated in Tax Appeal No.341 of 2014 and other allied Tax Appeals, Question Nos.1 and 2 are held against the revenue and in favour of the assessee and Question Nos.3 and 4 are answered in favour of the revenue and against the assessee. The matter is remanded to the learned Appellate Tribunal to pass a fresh speaking order on the application submitted by the assessee to extend the stay granted earlier in light of our observations made in the judgement and order passed in Tax Appeal No.341 of 2014 and other allied Tax Appeals, within a period of two months from today. So as to see that the application of the assessee for extension of stay does not become infructuous, it is directed that the stay order which is extended by the learned Appellate Tribunal shall be continued for a further period of two months. It goes without saying that during the aforesaid period of two months, the learned Appellate Tribunal may dispose of the appeal finally.

6.00. With this present present appeal is partly allowed to the aforesaid extent and the matter is remitted to the file of the learned Appellate Tribunal for passing fresh order, as stated above. No costs.

Sd/-  
(M.R.SHAH, J.)

Sd/-  
(K.J.THAKER, J)



**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. 10-108(A)/2015**  
**CPIO ID No. 10-149 (A)/2015**

Shri R.K.Jain

...Appellant

Vs.

CPIO, CESTAT

...Respondent

Date of Hearing/Decision: 03.05.2016

**ORDER**    77/2016

Since the appellant is not interested in pursuing the appeal filed by him in view of the fact that the information has already been obtained, 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.
2. CPIO, CESTAT, New Delhi.
3. Office Copy

ISSUED ON  
5/5/16  
SIGN. (DESPATCH SECTION)  
CUSTOMS, EXCISE & SERVICE TAX  
APPELLATE TRIBUNAL  
NEW DELHI-110006

G/C

By no. 4236/EX-15  
10/11/15

10-109(A)/15

①

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

Ref. No. : RTI/P-537/(9539/15)/Appeal/16064

Dated : 10-11-2015

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



**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)	03-10-2015	
3.	Details of the order appealed against	Letter F.No. 10-196/CESTAT/CIO-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 5-10-2015 ( <b>Annexure-1</b> ) 2. Copy of Asstt. Registrar/CPIO letter dated 14-10-2015 ( <b>Annexure-2</b> ) 3. Copy of Appellant letter dated 19-10-2015 ( <b>Annexure-3</b> ) 4. Copy of Asstt. Registrar/ CPIO letter dated 4-11-2015 ( <b>Annexure-4</b> ) 5. Copy of Appellate Order No.24/2015 dated 10-4-2015. ( <b>Annexure-5</b> )	

**BRIEF FACTS OF THE CASE**

- (1) That the appellant has filed an application dated 03-10-2015 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:
- (A) *Please provide the file No. in which the appellate order No. 24/2015 dated 10-4-2015 of the First Appellate Authority has been dealt with.*
  - (B) *Please provide copies of the all note sheets and correspondence pages of the said file from 10-4-2015 till the date of providing the information.*
  - (C) *Please provide date-wise details of the action taken on the directions given in the aforesaid appellate order*
  - (D) *Please provide copies of all the notes put up by the Registrar and the orders or directions given by the President, CESTAT or any other member to whom the matter is assigned.*
  - (E) *Please provide information as to whether any official has been appointed to inquire into the missing records in view of FAA Order, If yes, please provide the Name of Officer, Date of appointment and copy of the order / direction under which appointed. Please also provide the current status of the said inquiry.*
  - (F) *Please provide details as to whether any person has been examined by the Inquiry Officer and if yes, name of such person.*
  - (G) *Please provide the date and diary No. under which applicant's letter No. R16275 dated 31-8-2015 has been received in the CESTAT and a copy of the same with all markings, notations and endorsements thereon. Please also intimate the file No. in which it is dealt with.*
  - (H) *Please provide copies of all note sheets and all correspondence pages of File NO. 88/CESTAT/Cash/Inquiry/S.K.V./2015*
- (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 not provided complete and correct information as sought by the appellant and not sought the assistance of the concerned officer as required under Section 5(4) & (5) of the RTI Act. The appellant being aggrieved by the said order of the CPIO is filing the present appeal.
- (4) The Shri S.K. Verma, Asstt. Registrar (SM) and CPIO is deliberately and malafidely obstructing 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 Shri S.K. Verma, Asstt. Registrar and CPIO has deliberately and malafidely not sought the assistance of the concerned official as is apparent from his letter dated 14-10-2015. (**Annexure-2**). The claim made by him in his order dated 4-11-2015 (**Annexure-4**) that the information has also sought under Section 5(4) & (5) of the RTI Act from the Registrar CESTAT and Accounts Office CESTAT for point (D) (E) and (F) of the RTI application is in contradiction to his earlier letter dated 14-10-2015. The CPIO has not forwarded any other letter to the appellant despite letter dated 19-10-2015 of appellant (**Annexure 3**). 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 and CPIO in his order dated 4-11-2015 (**Annexure-4**), in response to point (B) of the RTI application, claimed to have enclosed 11 pages of information but only two pages of information has been received by the appellant. Therefore, the CPIO may be directed to provide balance information to the appellant within time bound frame.
- (5) That Shri S.K. Verma, Asstt. Registrar and CPIO has not provided complete and correct information as sought in point (C) of the RTI application. He has merely referred to forwarding of certain earlier communications in March and July, 2015 whereas the RTI application made on 5-10-2015 sought upto date information. Therefore, the order of the CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame.
- (6) That Shri S.K. Verma, Asstt. Registrar and CPIO has deliberately and malafidely not provided the information in relation to point (D) (E) and (F) of the RTI application within the prescribe period of 30days nor he has provided the letter/order under which the information was sought from the holder of information. Therefore, the order of the CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame.
- (7) That Shri S.K. Verma, Asstt. Registrar and CPIO is deliberately and malafidely asking the name of the official to whom the letter No. R16275 dated 31-8-2015 was addressed. Since the appellant has specified the letter No. and date of letter in RTI application, the delay and denial of information on ground of seeking name of official is malafide action on the part of the CPIO as entire dak of the CESTAT is received in the CR section of CESTAT, therefore, the date and diary No. could have been ascertain by him without the name of official to whom such letter was addressed. Therefore, the order of the CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame and he is liable for penalty under section 20(1) of the RTI Act

and recommendation for disciplinary action under section 20(2) of the RTI Act, for delaying and obstructing the information in question, without any reasonable cause

- (8) That Shri S.K. Verma, Asstt. Registrar (SM) and CPIO has claimed exemption u/s 8(1) (j) of the RTI Act, in relation to the information sought in point (H) of the RTI application. The information sought in point (H) of the RTI application relates to the inquiry on the complaint and appeal of the appellant for pilferage of certain records relating to Shri S.K. Verma himself. Since the information sought relates to Shri S.K. Verma, he should have refrain from dealing with the matter. Besides this, the information sought is not a personal information but an inquiry into the missing records being conducted on the behest of the appellant is very much part of the official records and the appellant is therefore entitled to them. Therefore, the order of the CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame and he is liable for penalty under section 20(1) of the RTI Act and recommendation for disciplinary action under section 20(2) of the RTI Act, for delaying and obstructing the information in question, without any reasonable cause.
- (9) That 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.
- (10) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (11) 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.

(12) That a personal hearing may be granted to the appellant before deciding the present appeal.

(13) 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 : 10-11-2015

7/c

ANNEXURE 1

7

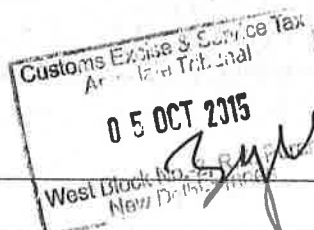
**Application under Section 6 of the Right to Information Act, 2005**

Ref. No. :RTI/P-195/9539/15

Dated : 5-10-2015

CPIO

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 file No. in which the appellate order No. 24/2015 dated 10-4-2015 of the First Appellate Authority has been dealt with. (B) Please provide copies of the all note sheets and correspondence pages of the said file from 10-4-2015 till the date of providing the information. (C) Please provide date-wise details of the action taken on the directions given in the aforesaid appellate order (D) Please provide copies of all the notes put up by the Registrar and the orders or directions given by the President, CESTAT or any other member to whom the matter is assigned. (E) Please provide information as to whether any official has been appointed to inquire into the missing records in view of FAA Order, If yes, please provide the Name of Officer, Date of appointment and copy of the order / direction under which appointed. Please also provide the current status of the said inquiry. (F) Please provide details as to whether any person has been examined by the Inquiry Officer and if yes, name of such person. (G) Please provide the date and diary No. under which applicant's letter No. R16275 dated 31-8-2015 has been received in the CESTAT and a copy of the same with all markings, notations and endorsements thereon. Please also intimate the file No. in which it is dealt with.



		(H) Please provide copies of all note sheets and all correspondence pages of File NO. 88/CESTAT/Cash/Inquiry/S.K.V./2015 <b>Note:-Please provide pointwise information/response for each of above points.</b>
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 042640 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 <b>within 30 days of the Application.</b>	



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

Place : New Delhi

Encl. : as above

lfin/-----9539

F.No. 10-196 /CESTAT/CPIO-ND/RP/2015,  
 Customs, Excise and Service Tax, Appellate Tribunal,  
 West block No.2, R.K.Puram, New Delhi-110066.

Dated 14/10/15

ID No. 10-196/15


Subject: Information sought under RTI Act 2005.

Sir,

Please refer to RTI application of  
 Shri R. K. Jain  
 Under RTI Act 2005 vide No. 9539/15 dated  
05/10/15 (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. 9539/15 dated 05/10/15 CPIO ID No 10-196/2015 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)  
 Asst. Registrar/CPIO

To

1 RTI Cell

2 \_\_\_\_\_

3 \_\_\_\_\_

4. ACP, Computer D/o for uploading on website

Copy for information to:-

Sh. R. K. Jain  
 1519-B BHISHAM PITAMAH MARG,  
 WAZIR NAGAR  
 NEW DELHI-110002

d/c



3

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 Reference;  
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-~~West Block 2~~ Pitamah Marg,  
Wazir Nagar,  
NEW DELHI - 110 003.  
PHONE : 24693001-3004  
MOBILE : 9810077977  
Fax No. 011-24635243

RTI/P-195/9539/15/R17000  
19-10-2015

RTI Cell

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

Sub: My RTI Application No. RTI/9539/15, dated 3/10/2015

Dear Sir,

This refers to the letter F.No. 10-196/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]

Received on  
29/08/2016

**APPELLATE AUTHORITY  
UNDER RIGHT TO INFORMATION ACT, 2005  
CUSTOMS, EXCISE AND SERVICE TAX  
APPELLATE TRIBUNAL,  
WEST BLOCK 2, R.K. PURAM, NEW DELHI - 110 066**

**Date of Hearing/decision: 26.08.2016**

**Appeal No.10-109 (A)/CESTAT/FAA/VP/2015**

**Appeal No.10-132 (A)/CESTAT/FAA/VP/2015**

**CPIO, I.D. No. 10-196/CESTAT/CPIO-VPP/2015**

Sh. R.K.Jain

Appellant

Vs.

Sh. V.P. Pandey, Asst. Registrar/CPIO


Respondent

**ORDER**

132/2016

Information sought under point 'A' has been received by appellant. With reference to information sought on point 'B', out of total 11 pages of information sought CPIO, has provided only two pages. Hence, request for provision of the balance 9 pages. Information on points 'A', 'C', 'F' & 'H' have already been provided. On point 'D' & 'E' the CPIO has informed that he has sought information under Section 5 (iv) and 5 (v) from Registrar as well as A.O. of CESTAT. The same may please provided to the appellant within three weeks from the date of receipt of this order. He also request that information in point No. 'G' may be provided. CPIO is directed to provide the information within three weeks.

2. The appeal is disposed of in above terms.

  
(V. Padmanabhan)  
Appellate Authority

Copy to :-

1. Sh. R.K.Jain, 1512, Bhishm Pitamah Marg  
Wazir Nagar, New Delhi-110 003.

2. Shri V.P. Pandey, Asst. Registrar/CPIO, CESTAT, New Delhi.
3. Office copy

10-110(A)/2015

①

By no. 4237/CE-15  
10/11/15  
103/skm/RTI/15  
16/11/15

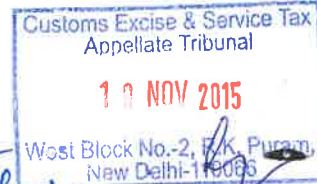
**First Appeal under Section 19 of the Right to Information Act, 2005**

Ref. No. : RTI/P-501/(9508/15)/Appeal/16065

Dated : 10-11-2015

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 (1) Shri S.K. Verma Asstt. Registrar/CPIO (2) Shri Mukesh Gupta, AR (Admn.) & Deemed CPIO (b) Address Customs Excise & Service Tax Appellate Tribunal, West Block 2, R.K.Puram, New Delhi - 110065
2.	Date of submission of application (Copy of application attached)	25-09-2015
3.	Details of the order appealed against	Letter F.No. 10-183/CESTAT/CPIO-ND/RP/2015 dated 2-11-2015
4.	Prayer or relief sought	See Prayer clause at the end
5.	Last date for filing the appeal	2-12-2015
6.	Whether Appeal in Time.	Appeal in time
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 25-9-2015 (Annexure-1) 2. Copy of Accounts Officer/CPIO letter dated 30-9-2015 (Annexure-2) 3. Copy of Appellant letters dated 12-10-2015 (Annexure-3)

		4. Copy of Asstt. Registrar/CPIO letter dated 2-11-2015 ( <b>Annexure-4</b> ) 5. CESTAT Appellate order No. 61/2014 dated 14-10-2014 ( <b>Annexure-5</b> )
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### BRIEF FACTS OF THE CASE

- (1) That the appellant has filed an application dated 25-09-2015 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:
- (A) *Please provide list of the CESTAT officials / employees including at Zonal Benches, who have not so far filed Annual Returns of assets as provided in the Lokpal and Lokayuktas Act, 2013 during 2014 & 2015.*
- (B) *Please provide name of the CESTAT officials (including Zonal Benches) who have filed the Annual Returns of assets as provided in the Lokpal and Lokayuktas Act, 2013 along with the date of filing during 2014 & 2015.*
- (C) *Please provide copy of the Annual Returns of assets as provided in the Lokpal and Lokayuktas Act, 2013 filed by the CESTAT officials & employees (including at Zonal Benches) as referred to in Point (B) above.*
- (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 and Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO, have deliberately and malafidely denied the information as sought in Point (A) to (C) of the RTI Application by claiming wrong exemption. The appellant being aggrieved by the said order of the CPIO is filing the present appeal.

### GROUND OFS OF APPEAL

- (1) That the order in question of the CPIO and Deemed 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/CPIO and Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO, have deliberately and malafidely denied the information as sought in Point (A) of the RTI Application by claiming wrong exemption just to delay and deny the information. In this point, the appellant has merely sought the details of officials who have not filed the Annual Return as required under Lokpal and Lokayukta Act for the years 2014 & 2015 and date of filing in respect of each of them. Such information can by no stretch of imagination be treated as personal information exempted under Section 8 (1)(j) of the RTI Act,. Therefore, the order of the CPIO and Deemed CPIO are liable to be set aside with direction to provide point-wise information to the appellant within time bound frame.
- (4) That Shri S.K. Verma, Asstt. Registrar/CPIO and Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO, have deliberately and malafidely denied the information as sought in Point (B) of the RTI Application by claiming wrong exemption just to delay and deny the information. In these points, the appellant has merely sought the list of the officials who have not filed the Annual Return for the years 2014 & 2015 and action taken thereon for ensuring compliance to the Government Rules in this respect. Such information can by no stretch of imagination be treated as personal information exempted under Section 8 (1)(j) of the RTI Act. Therefore, the order of the CPIO and Deemed CPIO are liable to be set aside with direction to provide point-wise information to the appellant within time bound frame.
- (5) That the issue regarding supply of the information as sought in Point (A) &



(B) of the RTI Application is no more *res integra*. The First Appellate Authority of the CESTAT, Delhi, by order dated 61/2014 dated 14-10-2014 (Annexure-5) has clearly held that such information is not exempted from disclosures under Section 8(1)(j) 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.

- (6) That Shri S.K. Verma, Asstt. Registrar (SM) and CPIO and Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO, have deliberately and malafidely not provided the copies of the Annual return for the year 2014 & 2015 as filed under the Lokpal and Lokayukta Act, 2013. They may therefore, be directed to provide the information within time bound frame.
- (7) 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.
- (8) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (9) 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.
- (10) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (11) 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 : 10-11-2015

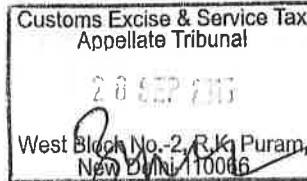
Application under Section 6 of the Right to Information Act, 2005

Ref. No. :RTI/P-195/9508/15

Dated : 25-9-2015

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 list of the CESTAT officials / employees including at Zonal Benches, who have not so far filed Annual Returns of assets as provided in the Lokpal and Lokayuktas Act, 2013 during 2014 &amp; 2015.</p> <p>(B) Please provide name of the CESTAT officials (including Zonal Benches) who have filed the Annual Returns of assets as provided in the Lokpal and Lokayuktas Act, 2013 along with the date of filing during 2014 &amp; 2015.</p> <p>(C) Please provide copy of the Annual Returns of assets as provided in the Lokpal and Lokayuktas Act, 2013 filed by the CESTAT officials / employees (including at Zonal Benches) as referred to in Point (B) above.</p> <p><b>Note:- Please provide point-wise information/ response for each of above points.</b></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.	
6.	A Postal Order No. 32F 040329 for Rs. 10 towards payment of fee is enclosed herewith.	

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

Place : New Delhi

Encl. : as above

11/10/2015

F.No.10-183...../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. 10-183/2015

Subject: Information sought under RTI Act 2005.

Sir,

Please refer to RTI application of  
Shri R. K. Jain  
Under RTI Act 2005 vide No. 9508/15 dated  
25/9/15 (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. 9508/15 dated 25/9/15 CPIO ID No 10-183/2015 is  
forwarded herewith to the following officers as deemed CPIO with the  
request to provide correct and para-wise information/inspection on or  
before 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. AR, Admin, CESTAT, New Delhi.

2. \_\_\_\_\_

3. \_\_\_\_\_

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

Copy for information to:-

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

Stamped file  
1-16543

alc

ANNEXURE- 3

(8)

**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

1512-B, Bhishm Pitamah Marg,

Wazir Nagar,

NEW DELHI - 110 003.

PHONE : 24693001-3004

MOBILE : 9810077977

Fax No. 011-24635243

RTI/P-195/9508/15/R16912  
12-10-2015

Assistant Registrar, Admin

Customs Excise & Service Tax Appellate Tribunal,

West Block 2, R.K.Puram,

New Delhi - 110066

**Sub: My RTI Application No. RTI/9508/15, dated 25/9/2015**

Dear Sir,

This refers to the letter F. No. 10-183/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]

**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. 10-110(A)/2015**  
**CPIO ID No. 10-183 (A)/2015**

Shri R.K.Jain

...Appellant

Vs.

CPIO, CESTAT

...Respondent

Date of Hearing/Decision: 03.05.2016

**ORDER** 78/2016


The grievance of the appellant in this appeal is that the information sought for relate to the Lokpal & Lokayukta Act, 2013 have not been furnished by the CPIO. Pursuant to the RTI application, the CPIO brought the letter dated 27.10.2015 of the deemed CPIO to the notice of the First Appellate Authority, wherein it has been stated that the requisite information since relates to the personal record of the employees cannot be furnished in terms of the exemptions provided under Section 8 (1) (j) of the RTI Act, 2005. He further submits that the Lokpal & Lokayukta Act, 2013 have so far not been implemented and accordingly, the RTI application does not stand on this ground.

2. The appellant submits that the stand taken by the deemed CPIO vide his letter dated 27.10.2015 is not acceptable, inasmuch as, no such exemption has been provided in the statute for non-furnishing the information.

3. I have heard both sides. Since Lokpal & Lokayukta Act, 2013 has so far not been implemented, the information sought for under the said statute cannot be furnished at this juncture, and therefore, the appeal stands dismissed on this ground alone.

4. Consequently, the order of deemed CPIO communicated under his letter dated 27.10.2015 is also set aside.

ISSUED ON  
5/5/16  
SIGN. (DESPATCH SECTION)  
CUSTOMS, EXCISE & SERVICE TAX  
APPELLATE TRIBUNAL  
NEW DELHI-110066

  
(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