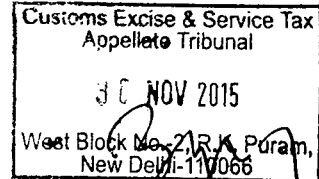


10-135(A)/2015  
20/11/15  
10-135(A)/2015  
20/11/15  
No. 4554/er-15  
First Appeal under Section 19 of the Right to Information Act, 2005

Ref. No. :RTI/P-537/(9514/15)/Appeal/16090

Dated : 28-11-2015

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 :

RTI/serm/15  
4/12/15

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)	26-09-2015	
3.	Details of the order appealed against	Letter ID No. 10-185/2015 dated 12-11-2015	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	12-12-2015	
6.	Whether Appeal in Time.	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 26-9-2015. (Annexure-1) 2. Copy of CPIO letter dated 29-10-2015. (Annexure-2) 3. Copy of CPIO letter dated 12-11-2015. (Annexure-3) 4. Copy of the reply dated 18.11.2015 of Shri Sunil Kumar, Technical Officer and Deemed CPIO (Annexure-4)	

		5. Copy of the CPIO Order 30-9-2015 (Annexure-5) 6. Copy of CPIO Order dated 29-10-2015 (Annexure-6)
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**BRIEF FACTS OF THE CASE**

(1) That the appellant has filed an application dated 26-09-2015 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:

(A) *Please provide datewise details of the action taken on the order dated 29-1-2014 of the Registrar, CESTAT (copy enclosed) and the present status as the display boards are not functioning at all for more than a year.*

(B) *Please intimate the name and designation of the officer / officers, who are responsible for proper functioning of the display board and the officers responsible for its operation in relation to each court. Please provide list of files from which the information as sought above is provided by you.*

(C) *Please provide the file No. in which the matter concerning the Display Board and their maintenance at the CESTAT is contained and provide copy of the Note sheets and correspondence pages of the said file from 1-1-2014.*

(D) *Please provide the details as to the date when the said matter concerning non-operation of the Display Board has been brought to the notice of the Registrar, CESTAT and the directions issued by him and steps take thereon*

(E) *Please provide the details as to the date when the said matter concerning non-operation of the Display Board has been brought to the notice of the President, CESTAT and the directions issued by him and steps take thereon.*

Note : 1) *Since the information as sought above, is held by the Office of the Hon'ble President and the Office of the Registrar, therefore this application may also be forwarded to them.*

- (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. The appellant being aggrieved by the said order of the CPIO is filing the present appeal.
- (4) The CPIO and Deemed CPIO are 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 (SM) and CPIO has deliberately and malafidely not forwarded the RTI Application to the holder of the information, inasmuch as no assistance under Section 5(4) & 5(5) has been sought from the Court Masters and the Registrars, who are the concerned officials, holding the information. Therefore, the order of the CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame and he is liable for penalty under section 20(1) of the RTI Act and recommendation for disciplinary action under section 20(2) of the RTI Act, for delaying and obstructing the information in question, without any reasonable cause.

- (4) That the CPIO, despite the copy of the order dated 29-1-2014 of the Registrar, attached with the RTI Application, has not sought the information from the Court Master view a view to cause obstruction to the information with malafide intent and purpose. Therefore, the order of the CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame and he is liable for penalty under section 20(1) of the RTI Act and recommendation for disciplinary action under section 20(2) of the RTI Act, for delaying and obstructing the information in question, without any reasonable cause.
- (5) That the CPIO and Deemed CPIO have deliberately and malafidely not provided the complete and correct information as sought in Point (A) to (E) 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 and he is liable for penalty under section 20(1) of the RTI Act and recommendation for disciplinary action under section 20(2) of the RTI Act, for delaying and obstructing the information in question, without any reasonable cause.
- (6) That the CPIO and Deemed CPIO have not provided datewise details of the action taken on the order dated 29-1-2014 of the Registrar, even though the court display board is non-functional for nearly two years. Therefore, the order of the CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame and he is liable for penalty under section 20(1) of the RTI Act and recommendation for disciplinary action under section 20(2) of the RTI Act, for delaying and obstructing the information in question, without any reasonable cause.
- (7) That the CPIO and the Deemed CPIO have deliberately and malafidely not provided the name of the officers who are responsible for proper functioning of the display board in each court as sought in Point (B) 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 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 the CPIO and the Deemed CPIO have deliberately and malafidely not provided the information as to the date on which the matter regarding non-operation of the display board has been brought to the notice of the Registrar and the directions issued by him and the steps taken thereon, as sought in Point (D) 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 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 Shri Rajendra Prasad, Former CPIO, CESTAT, New Delhi, deliberately and malafidely not forwarded the RTI Application to the Office of the Registrar and the Office of the President, by his order dated 30-9-2015 (**Annexure-5**), despite specific request made by the appellant in Note (1) 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 and he is liable for penalty under section 20(1) of the RTI Act and recommendation for disciplinary action under section 20(2) of the RTI Act, for delaying and obstructing the information in question, without any reasonable cause.
- (10) That Shri S.K. Verma, Asstt. Registrar (SM) and CPIO, despite specific request of the appellant as contained in Note (1) of the RTI Application, has not forwarded the RTI Application in question to the Office of the President, with a view to cause obstruction to the information without any reasonable cause. 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 also to transfer the RTI Application to the Office of the President, and he is liable for penalty under section 20(1) of the RTI Act and recommendation for disciplinary action under

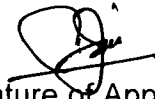
section 20(2) of the RTI Act, for delaying and obstructing the information in question, without any reasonable cause.

- (11) That Shri A. Mohan Kumar, Registrar and Deemed CPIO, has deliberately and malafidely, neither responded the RTI Application nor providing any information despite the RTI Application in question having been forwarded to him by order dated 29-10-2015 of the CPIO (**Annexure-6**). Therefore, he may be directed to provide the information 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.
- (12) 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.
- (13) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (14) 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.
- (15) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (16) 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 the CPIO be directed to forward the RTI Application to the Office of the President, CESTAT.
- (d) That imposition of penalty may also be recommended against the CPIO for not providing the complete and correct information.
- (e) That any other relief as the Appellate Authority deem fit and proper may also be ordered in favour of the appellant.
- (f) 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 : 28-11-2015

o/c

1 (8)

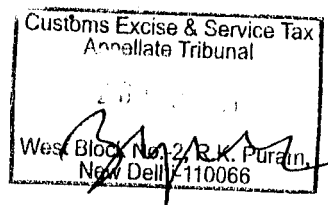
Application under Section 6 of the Right to Information Act, 2005

Ref. No. :RTI/P-195/9514/15

Dated : 26-9-2015

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.	011-2-4635243
3.	Whether a Citizen of India	Yes
4.	Particulars of Information	
	Details of information required	<p>(A) Please provide datewise details of the action taken on the order dated 29-1-2014 of the Registrar, CESTAT (copy enclosed) and the present status as the display boards are not functioning at all for more than a year.</p> <p>(B) Please intimate the name and designation of the officer / officers, who are responsible for proper functioning of the display board and the officers responsible for its operation in relation to each court. Please provide list of files from which the information as sought above is provided by you.</p> <p>(C) Please provide the file No. in which the matter concerning the Display Board and their maintenance at the CESTAT is contained and provide copy of the Note sheets and correspondence pages of the said file from 1-1-2014.</p> <p>(D) Please provide the details as to the date when the said matter concerning non-operation of the Display Board has been brought to the notice of the Registrar, CESTAT and the directions issued by him and steps take thereon</p> <p>(E) Please provide the details as to the date when the said matter concerning non-operation of the Display Board has been brought to the notice of the President, CESTAT and the directions issued by him and steps take thereon.</p>



for Rs. 10 towards payment of fee is enclosed  
herewith. You are requested to filling the name in which the Postal Order is  
payable.

7. As per Section 7 of the RTI Act, 2005 information is to be provided **within 30  
days of the Application.**



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

Place : New Delhi

Encl. : as above

HR

Date: 29.01.2014

**ORDER**

Sub: Operation and control of Display Boards (DB) installed  
in Court room- responsibility of Court Master concerned  
reg.

It has been brought to the notice of the undersigned that DBs installed in the court room are not properly operated/controlled by the Court Masters. This result in confusion and inconvenience to the stake holders.

2. The Court Masters are, therefore, directed to properly and effectively operate and control the DBs in the manner expected of them. Any malfunctioning or non-functioning of the DBs has to be immediately brought to the notice of Computer Section for suitable remedial measures. Any lapse in this regard would be viewed seriously.

To,  
All the Court Masters

*Copy to all*

*[Signature]*  
Registrar

Copy to:

- 1. AR (Admin)/AR (Excise)/AR (Customs)/AR (SM)
- 2. PA to Registrar
- 3. Office copy

*[Signature]*

F.No.10-185 / CESTAT/CPIO-ND/RP/2015  
 Customs Excise and Service Tax Appellate Tribunal  
 West Block No 2, R.K.Puram, New Delhi-110 066

Dated- 29/10/15  
 ID No. 10-185/2015


To,  
 Shri R.K. Jain  
 1512-B- Bhashma Pitamaha  
 Mang. Wazir Nager,  
 New Delhi - 110003.

Subject: Information under Right to Information Act 2005.

Sir,

Please refer to your RTI application No- 9514/15, Dt- 21/9/15  
 and our ID No.....10-185/15. the information received from - AE (Admin)  
 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.

  
 29/10  
 (S.K. Verma)  
 Asstt. Registrar/CPIO

Encl:- As above

Copy to:- Computer Section for website

F.No. 33(326)/RTI/Misc./CESTAT-ND/Admn.2015  
Customs Excise & Service Tax Appellate Tribunal  
West Block No. 2, R.K. Puram, New Delhi - 66


Dated : 26.10.2015  
I.D. No. 10-185/2015

Sub : Information sought under Right to Information Act, 2005

Sir,

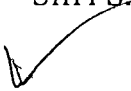
Please refer to the RTI application no. RTI/P-195/9514/15 dated 26.9.2015 filed by Shri R.K. Jain in CPIO I.D. No. 10-185/2015. The point wise reply to the RTI is as under :

- (A) To (E) - Information sought by the applicant does not pertain to Admn. Section

  
27.10.15  
(Mukesh Gupta)  
Asstt. Registrar (Admn.)

To

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

  
27/10/15

F.No/10-185/CESTAT/CPIO-ND/RP/2015  
 Customs Excise and Service Tax Appellate Tribunal  
 West Block No 2, R.K.Puram, New Delhi-110 066

Dated- 12-11-15

ID No. 10-185/2015

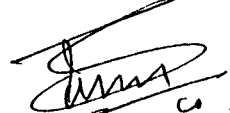
To,  
 Shri R.K. Jain  
 1512-B- Bhishma Pitamaha  
 Marg, Wazir Nager,  
 New Delhi - 110003.

Subject: Information under Right to Information Act 2005.

Sir,

Please refer to your RTI application No- 9514/15 Dt- 26.9.15  
 and our ID No. 10-185/2015 the information received from Admn.  
 containing 1 pages is enclosed herewith for your reference  
 please.

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

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

Encl: As above

Copy to:- Computer Section for website

16971 Grand file.

12

13

14

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Annex 4

(15)

**F.No. 10-185 / CESTAT/CPIO-ND/SKV/2015**  
**Customs Excise and Service Tax Appellate Tribunal**  
**West Block No 2, R.K.Puram, New Delhi-110 066**

Dated.18.11.2015

ID No. 10-185/2015

To,

✓  
**Sh. R.K. Jain**  
**1512-B, Bhishm Pitamah Marg,**  
**Wazir Nagar, New Delhi-110003**

Subject: Information under Right to Information Act 2005.

Sir,

Please refer to your RTI application No. **9514/15** Dt. **26.09.2015** and our ID No. **10-185** the information received from **Technical Officer, The Registrar, AR( Computer)** containing **15 pages** is enclosed herewith for your reference please.

You are, Therefore, requested to please acknowledge the receipt and deposit Rs. 30 (@ 2/- per page) to this Tribunal by cash or DD in favour of Accounts Officer, CESTAT, New Delhi.

If the applicant is aggrieved, he may file an appeal under section 19 of RTI Act within thirty days before Hon'ble First Appellate Authority . CESTAT New Delhi.

  
(S.K. Verma)

Central Public Information Officer

Encls:- As above

Copy to:- Computer section for website

Guard file

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

Dated: 12.11.2015

**Note**

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

**Refer: RTI/P-195/9514/15 dated 26/09/2015**

Please refer to note dated 29/10/2015 of CPIO issued vide F.No. 10-185/CESTAT/CPIO-ND/RP/2015 on the captioned subject. The point wise information relate to computer section is furnished below.

**A** In absence of feedback with respect to functioning of the display board, no action so far has been taken in terms of the order dated 29.01.14. Moreover, this office is not in a position to set right the defect/malfunctioning of the display board in absence of the procurement details of the machines. On being asked the, Office of Chief Commissioner (AR) has not provided with the details. Copies of the letters dated 26/05/2015, 25/02/2015 and 18/11/2014 enclosed as ready reference.

**B** Information already provided vide F.No. 8/2/CESTAT/Comp/08 Vol-1 dated 29/01/2014 and 7(1)/CESTAT/RTI/CompSec/2014 dated 05/11/2014. (Copies enclosed for ready reference).



**C** F.No. 10(1)/CESTAT/Display board/2014. Copy of note sheet enclosed.

**D** The matter was referred by this office to office of the Chief Commissioner (AR) and steps taken are dealt in the file no 10(1)/CESTAT/Displaybaord/2014.

**E** Attempt was taken to sort out the issue in co-ordination with office of the Chief Commissioner, (AR). However in absence of procurement details, necessary steps for respective condition of the display board could not be initiated. Matter has not been brought to the notice of the Hon'ble President.

CPIO is requested to collect the appropriate charges for the enclosure.

*Encl: 1 page*

  
**(Sunil Kumar)**  
**Technical Officer**

**To**

**The CPIO, CESTAT Delhi**

Annex 5

18

F.No. 10-185/15/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. 10-185/15

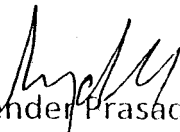
Subject: Information sought under RTI Act 2005.

Sir,

Please refer to RTI application of  
Shri R. K. Jain  
Under RTI Act 2005 vide No. 9514/15 dated  
26/9/15 (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. 9514/15 dated 26/9/15 CPIO ID No 10-185/15 is  
forwarded herewith to the following officers as deemed CPIO with the  
request to provide correct and para-wise information/inspection on or  
before 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, Admn./Gen. Admn, CESTAT, New Delhi

2. ~~AR/IT, CESTAT~~

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

4. AR/IT, Computer Plc for uploading on website

Copy for information to:-

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

Handwritten: 16545

Annex 6

19

RP

F.No. 10-185.../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. 10/185/15

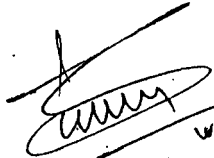
Subject: Information sought under RTI Act 2005.

Sir,

Please refer to RTI application of  
Shri R.K. Jain  
Under RTI Act 2005 vide No. 95/4/15 dated  
26/9/15 (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. \_\_\_\_\_ dated \_\_\_\_\_ CPIO ID No 10-185/15 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 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)  
Asstt. Registrar/CPIO

To

1 Registrar

2 C.T.

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

Copy for information to:-

Sh R.K. Jain, 1512-B, Bhushm Pitamah Marg,  
826 Con/14 Waris Nagar, New Delhi-110003.

Received on  
03/08/16

**FIRST APPELLATE AUTHORITY**  
UNDER RIGHT TO INFORMATION ACT, 2005  
Customs, Excise & Service Tax Appellate Tribunal  
West Block-2, R.K. Puram, New Delhi-66.

**Appeal No. 10-133(A)/2015**  
**CPIO ID No. 10-185/CESTAT/CPIO-RP/2015**

Shri R.K.Jain ...Appellant  
Vs.  
CPIO, CESTAT ...Respondent

Date of Hearing/Decision: 19.04.2016

**ORDER** 107/2016

The grievance of the appellant in the RTI application is that incomplete information have been provided by the CPIO/deemed CPIO inasmuch as the order dated 29.01.2014 of the Registrar have not been properly taken into consideration.

2. Pursuant to the appeal, the CPIO submits that the action taken report in the form of a note dated 12.11.2015 has already been communicated by the Technical Officer to the CPIO, which has been forwarded to the appellant. The CPIO further submits that since the information contained in the note dated 12.11.2015 have duly conveyed the action taken on the part of the Technical Officer, the same should be construed as the necessary compliance for the purpose of RTI statute.

3. Heard both the sides.

4. I find that the Technical Officer (deemed CPIO) vide his note dated 12.11.2015 has communicated that the matter has been referred to the Chief Commissioner (AR) and steps taken in that regard are dealt with in the file No. 10(1)/CESTAT/Display Board/2014.

AKY

5. Considering the fact that the file in context with the subject is maintained in the computer section of the Tribunal, in my opinion, the same can be furnished for the needful of the appellant. Therefore, the concerned official is directed to furnish the said file to the appellant within a period of 3 weeks. The Technical Officer is directed to inform the appellant regarding the development, if any, taken place after 12.11.2015 till the date the concerned file is forwarded to the appellant.

  
29.7.16  
(S.K. MOHANTY)

**APPELLATE AUTHORITY**

Copy to:-

1. Shri.R.K.Jain, 1512-B, Bhishm Pitamah Marg, Wazir Nagar, New Delhi-110003, w.r.t. letter No. RTI/P-501/9505/15)/Appeal/16069 dated 07.11.2015
2. CPIO, CESTAT, New Delhi.
3. Office Copy

g no. 4555/ex-15  
20/11/15

S/S to PAN 10-134(A)/15

①

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

Ref. No. : RTI/P-537/(9567/15)/Appeal/16095  
Dated : 28-11-2015

Shri S.K.Mohanty  
1st Appellate Authority Under RTI Act, 2005,  
Customs, Excise & Service Tax Appellate Tribunal,  
West Block 2, R.K.Puram,  
New Delhi - 110066

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

**A. Contact Details :**

1.	Name of the Appellant	R.K. Jain
2.	Address	1512-B, Bhisim 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 (SM) and CPIO (2) Shri S. Senthil Kumaran, SSP to Member (Technical) & Deemed CPIO
		(b) Address	CESTAT, West Block 2, R.K.Puram, New Delhi - 110066
2.	Date of submission of application	19-10-2015	
3.	Details of the order appealed against	ID No.10-218/2015 dated 20-11-2015	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	20-12-2015	
6.	Whether Appeal in Time.	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 19-10-2015 ( <b>Annexure-1</b> ) 2. Copy of CPIO Letter dated 20-11-2015 ( <b>Annexure-2</b> ) 3. Copy of relevant extract of Chapter XIII of the CESTAT Judicial Manual ( <b>Annexure-3</b> )	

3/SKMP/RTI/15  
11/12/15

### BRIEF FACTS OF THE CASE

- (1) That the appellant has filed an application dated 19-10-2015 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:
- (A) *Please provide the following information in relation to Customs, Service Tax & Anti-Dumping Bench and Single Member Bench of CESTAT, New Delhi.*
- (i) *Please provide list of cases in which the Orders were reserved by the Bench of Hon'ble President (Single Member+DB+Larger Bench) from 1-1-2014 till the date of providing the information. Please provide copies of relevant records kept in the regards.*
- (ii) *Please provide list of cases in which the orders were reserved by the Bench consisting of Mrs. Archana Wadhwa, Member (J), Shri Rakesh Kumar, Member (T), Shri Ashok Jindal, Member (J), Shri Anil Chaudhary, Member (J), Shri M.V. Ravindran, Member (J) and Shri P.K. Das, Member (J), from 1-1-2014 till the date of providing the information. Please also provide separate list for stay orders and for appeals. Please provide copies of relevant records kept in the regards.*
- (iii) *Please provide list of cases in which the orders were not issued within 60 days of reserving the orders. Please also provide separate list for stay orders and for appeals for the orders reserved from 1-1-2014 till the date of providing the information.*
- (iv) *Please provide list of cases in which the orders were reserved by above Benches of CESTAT but which were pending for pronouncement as on 1-4-2015 & 1-6-2015. Separate list for each Member may be provided.*
- (v) *Please provide list of cases in which decisions were pronounced but written orders still remain to be passed and issued as on 1-1-2015 for the Benches presided over by the Hon'ble President, Mrs. Archana Wadhwa, Member (J), Shri Rakesh Kumar, Member (T), Shri Ashok Jindal, Member (J), Shri R.K. Singh, Member (T) and Shri M.V. Ravindran, Member (J).*

- (vi) *Please provide the list of case in which orders were not issued without four months of their having reserved and the permission was sought from the President, CESTAT, for pronouncement of orders after four month. Please also provide copies of the President's orders in all such cases.*
- (vii) *Please provide list of the orders which have been despatched beyond 10 days of their passing and please also indicate the days taken at the level of the PS to the Member and the Assistant Registrar of concerned Bench and the Despatch Section. The information may be provided for the orders passed after 1st September, 2014 till the date of providing information. Information can be provided in the form it is suitable and convenient to 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 and Shri S. Santhil Kumaran, SPS to Shri R.K. Singh, Member (Tec.) have deliberately and malafidely not provided complete and correct information as sought by the appellant. The appellant being aggrieved by the said order of the CPIO is filing the present appeal.
- (4) The Shri S.K. Verma, Asstt. Registrar (SM) and CPIO and Shri S. Santhil Kumaran, SPS to Shri R.K. Singh, Member (Tec.) and Deemed CPIO are deliberately and malafidely obstructing the information without any reasonable cause therefore they are liable for penal action. The First Appellate Authority is not empowered to take action under section 20 of the RTI Act, therefore the appellant reserves his right to move direct complaint to CIC u/s 18 of the RTI Act

#### **GROUND OF APPEAL**

- (1) That the order in question of the CPIO is incorrect and illegal and contrary to the provisions and spirit of the RTI Act, 2005 hence liable to be set



aside.

- (2) That the information sought by the appellant is not exempted under Section 8 or 9 or any other provisions of the RTI Act, 2005, therefore, there was no valid cause or reason or ground for not providing the information.
- (3) That Shri S.K. Verma, Asstt. Registrar/CPIO and Shri S. Santhil Kumaran, SPS to Shri R.K. Singh, Member (Tec.) and Deemed CPIO have deliberately and malafidely not providing the information as sought in Point (A) (i) to A(vii) of the RTI Application on the false pretext that such data are not maintained by the Secretariat of Hon'ble Shri R.K. Singh, Member (Technical). As per provisions of Chapter XIII of the CESTAT Judicial Manual (**Annexure-3**), all the SPS / PA are required to maintain the Movement Register as specified in para 13.5 & 13.6. Moreover, as per para 13.7, the Assistant Registrar concerned is also to maintain records of the file received from SPS / PA of the concerned Member. Therefore, the information sought in Point (A) (i) to A(vii) of the RTI Application could have been provided from the said records. Once the records are required to be maintained as per the CESTAT Judicial Manual, the relevant information cannot be denied on the ground that the such records are not maintained in the prescribed form. The information has to be provided from other records. Therefore, the orders of the Shri S.K. Verma, Asstt. Registrar (SM) and CPIO and Shri S. Senthil Kumaran, SPS to Shri R.K. Singh and Deemed CPIO, are liable to be set aside with direction to provide point-wise information to the appellant within time bound frame and they are liable for penalty under section 20(1) of the RTI Act and recommendation for disciplinary action under section 20(2) of the RTI Act, for delaying and obstructing the information in question, without any reasonable cause.
- (4) That the claim of the Shri S.K. Verma, Asstt. Registrar (SM) and CPIO and Shri S. Senthil Kumaran, SPS to Shri R.K. Singh and Deemed CPIO, that no records are maintained is not true as in the past similar information

has been provided to the appellant and files are sent from the SPS / PA of the Member to the Registry after duly recording it in the records. The CPIO and Deemed CPIOs are deliberately making misleading and false statements to suppress the information. Therefore, the orders of the Shri S.K. Verma, Asstt. Registrar (SM) and CPIO and Shri S. Senthil Kumaran, SPS to Shri R.K. Singh and Deemed CPIO, are liable to be set aside with direction to provide point-wise information to the appellant within time bound frame and they are liable for penalty under section 20(1) of the RTI Act and recommendation for disciplinary action under section 20(2) of the RTI Act, for delaying and obstructing the information in question, without any reasonable cause.

- (5) That 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.

- (6) 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.

- (7) 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 Bandhopadyay) 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."*

- (8) 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 orders of the Shri S.K. Verma, Asstt. Registrar (SM) and CPIO and Shri S. Senthil

Kumaran, SPS to Shri R.K. Singh and Deemed CPIO, are liable to be set aside with direction to provide point-wise information to the appellant within time bound frame and they are 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 information sought in the RTI Application in question has been provided by the other Members of the CESTAT, to the appellant, this also shows that the relevant records are being maintained in the CESTAT. As per the information of the Appellant the records in question are being maintained in the CESTAT by the SPS / PA of the each Member right from the beginning and the maintenance of the records is wrongly been denied by the Shri S. Santhil Kumaran, SPS to Shri R.K. Singh, Member (Tec.) and Deemed CPIO, with a view to suppress the same. The Deemed CPIO is raising false pleas to delay and deny the information. Therefore, the order of the Shri S.K. Verma, Asstt. Registrar (SM) and CPIO and Shri S. Senthil Kumaran, SPS to Shri R.K. Singh and Deemed CPIO, are liable to be set aside with direction to provide point-wise information to the appellant within time bound frame and they are also liable for penalty under section 20(1) of the RTI Act and recommendation for disciplinary action under section 20(2) of the RTI Act, for delaying and obstructing the information in question, without any reasonable cause.
- (10) That the CPIO has erred in not providing the information to the appellant though as per the provisions of the RTI Act, the appellant is entitled to information as sought by him. Therefore, the order of the CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame.
- (11) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.

- (12) That as per proviso to Section 8(1) of the RTI Act, 2005, the information which can not be denied to the Parliament or the State Legislatures shall not be denied to any person. The information sought by the appellant in the subject application is the one which cannot be denied to the Parliament or the State Legislatures and hence it cannot be denied or refused to the appellant.
- (13) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (14) 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 : 28-11-2015

old no 9164

o/c

Annexure-1

(10)

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

Ref. No. :RTI/P-195/9567/15

Dated : 19-10-2015

Customs Excise & Service Tax  
Appellate Tribunal

19 OCT 2015

West Block 2,  
New Delhi-110066

To

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	<p>(A) Please provide the following information in relation to Customs, Service Tax &amp; Anti-Dumping Bench and Single Member Bench of CESTAT, New Delhi.</p> <p>(i) Please provide list of cases in which the Orders were reserved by the Bench of Hon'ble President (Single Member+DB+Larger Bench) from 1-1-2014 till the date of providing the information. Please provide copies of relevant records kept in the regards.</p> <p>(ii) Please provide list of cases in which the orders were reserved by the Bench consisting of Mrs. Archana Wadhwa, Member (J), Shri Rakesh Kumar, Member (T), Shri Ashok Jindal, Member (J), Shri Anil Chaudhary, Member (J), Shri M.V. Ravindran, Member (J) and Shri P.K. Das, Member (J), from 1-1-2014 till the date of providing the information. Please also provide separate list for stay orders and for appeals. Please provide copies of relevant records kept in the regards.</p> <p>(iii) Please provide list of cases in which the orders were not issued within 60 days of reserving the orders. Please also provide separate list for stay orders and for appeals for the orders reserved from 1-1-2014 till the date of providing the information.</p> <p>(iv) Please provide list of cases in which the orders were reserved by above Benches of CESTAT but which were pending for</p>

		<p>pronouncement as on 1-4-2015 &amp; 1-6-2015. Separate list for each Member may be provided.</p> <p>(v) Please provide list of cases in which decisions were pronounced but written orders still remain to be passed and issued as on 1-1-2015 for the Benches presided over by the Hon'ble President, Mrs. Archana Wadhwa, Member (J), Shri Rakesh Kumar, Member (T), Shri Ashok Jindal, Member (J), Shri R.K. Singh, Member (T) and Shri M.V. Ravindran, Member (J).</p> <p>(vi) Please provide the list of case in which orders were not issued without four months of their having reserved and the permission was sought from the President, CESTAT, for pronouncement of orders after four month. Please also provide copies of the President's orders in all such cases.</p> <p>(vii) Please provide list of the orders which have been despatched beyond 10 days of their passing and please also indicate the days taken at the level of the PS to the Member and the Assistant Registrar of concerned Bench and the Despatch Section. The information may be provided for the orders passed after 1st September, 2014 till the date of providing information. Information can be provided in the form it is suitable and convenient to you.</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 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 042676 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  
Hira/---  
HR



F. No. 10-218 / CESTAT/CPIO-ND/SKV/2015  
Customs Excise and Service Tax Appellate Tribunal  
West Block No 2, R.K. Puram, New Delhi-110 066

Dated. 20.11.2015

ID No. 10-218/2015

To,

Sh. R.K. Jain  
1512-B, Bhishm Pitamah Marg,  
Wazir Nagar, New Delhi-110003

Subject: Information under Right to Information Act 2005.

Sir,

Please refer to your RTI application No. 9567/15 Dt. 19.10.2015 and our ID No. 10-218 the information received from Sr. P.S. to M (T-RKS) containing . 1 page is enclosed herewith for your reference please.

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

If the applicant is aggrieved, he may file an appeal under section 19 of RTI Act within thirty days before Hon'ble First Appellant Authority. CESTAT New Delhi.

  
(S.K. Verma) 20/11

Central Public Information Officer

Encls:- As above

Copy to:- Computer section for website

2. In response to the information called for under Para-4(A) (i) to (vii) of the RTI Application dated 19.10.2015 forwarded by the CPIO, I am directed to inform that these kind of data are not maintained by the Secretariat of Hon'ble Shri R.K. Singh, Member (Technical).

Thanking you,

Yours faithfully,



(S. Senthil Kumaran)  
Sr. P.S. to Member  
13 November, 2015

CHAPTER-XIII

DISPOSAL OF APPEALS, CROSS-OBJECTIONS, STAY APPLICATIONS AND MISCELLANEOUS APPLICATIONS AND DISPATCH OF ORDERS TO THE PARTIES:

13.01 After the sitting of the bench is over all files/folders, except the main folder on which orders are yet to be recorded by the bench, should be collected by the Court Master from the Presiding Member or the other Member of the bench and placed together. He shall then segregate cases that have been adjourned after hearing in part or without hearing. He shall check whether the order-sheets are signed by all the Members and if so, he shall handover the files to the Assistant Registrar on the same day after making a note of further dates in his own court diary. He shall then obtain the orders of the bench on all the main folders of the files on which the orders are yet to be recorded by the bench.

13.02 All such files in which orders are to be dictated or were dictated in the open court but have to be typed shall be handed over to the SPS/PA of the concerned Member (a Presiding Member of the bench or the other Member if the file is marked by the Presiding Member to the other Member) on obtaining his signature in a note book.

13.03 After taking down the dictation, the SPS/PA of the Member shall type a draft order and take a printout on white paper and send the same, along with the main folder of the file, to the Member who dictated the order. After making necessary

respect of division bench matters).

**13.05** On receipt of such orders, the SPS/PA shall obtain the dated signature of the concerned Member and send the green-sheet order along with the first folder of the file back to the SPS/PA from whom he had received the same under a movement register meant for the purpose.

**13.06** On receipt of the green-sheet order along with the main folder, the concerned SPS/PA shall attach the duplicate folders to the main folder keeping the original green-sheet order copy in the main folder and send it to the concerned Assistant Registrar through a movement register and obtain his dated signature in token of having received the orders along with the files.

**13.07** The concerned Assistant Registrar will then record the decision in the court diary or in the after court cause list as also the date of receipt of the order from the SPS/PA and then send the said files to the concerned Head Clerk for preparation of preamble to the orders.

Received on 03/08/16

**APPELLATE AUTHORITY**  
UNDER RIGHT TO INFORMATION ACT, 2005  
Customs, Excise & Service Tax Appellate Tribunal  
West Block-2, R.K. Puram, New Delhi-66.

**Appeal No. 10-134(A)/2015**  
**CPIO ID No. 10-218/CESTAT/CPIO-SKV/2015**

Shri R.K.Jain ...Appellant

Vs.

CPIO, CESTAT ...Respondent

Date of Hearing/Decision: 19.04.2016

**ORDER** 113/2016

The appellant submits that the information sought for vide RTI application have already been provided by the CPIO during the pendency of the appeal. Thus, he is not interested in pressing for the appeal. The prayer of the appellant is considered and the appeal is dismissed as withdrawn.

  
29.7.16

**(S.K. MOHANTY)**  
**APPELLATE AUTHORITY**

Copy to:-

1. Shri.R.K.Jain, 1512-B, Bishm Pitamah Marg, Wazir Nagar, New Delhi-110003, w.r.t. letter No. RTI/P-501/9505/15)/Appeal/16069 dated 07.11.2015
2. CPIO, CESTAT, New Delhi.
3. Office Copy

Neha

delhi.