

Dy. Secy. CEM/EX-15
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10-129(A)/2015

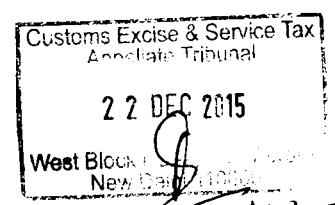
(1)

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

Ref. No. : RTI/P-537/(9547/15)/Appeal/16092

Dated : 19-12-2015

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



A. Contact Details :

1.	Name of the Appellant	R.K. Jain
2.	Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003

B. Details About RTI Request :

1.	Particulars of the CPIO against whose order appeal is preferred	(a) Name	(1) Shri S.K. Verma, CPIO & Asstt. Registrar (2) Shri Mukesh Gupta - AR (Administration), 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)	08-10-2015	
3.	Details of the order appealed against	Letter ID No.10-201/2015 dated 5-11-2015 & order dated 18-11-2015 received on 19-11-2015	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	19-12-2015	
6.	Whether Appeal in Time.	Delay of 3 days in filing the appeal as the appellant had Eye Surgery on 10-12-2015 and was advised two weeks rest by the Doctor	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI application dated 8-10-2015.(Annexure-1) 2. Copy of CPIO's order dated 5-11-2015.(Annexure-2)	

124/SEM/15 (RTI)
20/12/15

		<p>3. Copy of CPIO's letter dated 18-11-2015.(Annexure-3)</p> <p>4. Copy of the letter dated 19-6-2015 of the Registrar giving datewise details for the steps taken for establishment of Addl. Bench of Allahabad.(Annexure-4)</p> <p>5. Copy of order dated 1-11-2011 of A.P.High Court in WP No.2875/2011 (Annexure-5)</p> <p>6. Copy of CIC order dated 24-7-2015 in the case of AS Berar v. Directorate of Education (East) – CIC/SA/A/2015/000743 (Annexure-6)</p>
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BRIEF FACTS OF THE CASE

- (1) That the appellant has filed an application dated 08-10-2015 (Annexure – 1) under Section 6 of the RTI Act, 2005 requesting for the following information:
- (A) *Please provide information as to the date from which CESTAT additional bench at Chandigarh and Hyderabad are likely to start functioning*
- (B) *Please provide date-wise details of the steps taken from 1-7-2015 till the date of providing the information, for making the CESTAT additional Benches at Chandigarh and Hyderabad functional and operational.*
- (C) *Please provide the list of the cases which have been adjourned due to the reason that the impugned orders were passed by Shri R.K. Singh or due to the recusal of Shri R.K. Singh, Member (T) from all Benches of Delhi.*
- (D) *Please provide copies of the register of pending appeals for all the Branches of Delhi as prescribed under Circular F. No. 08/04/Circular/CESTAT/2014dated 4.9.2014 in compliance to Gujarat High Court Order.*
- (E) *Please provide copy of the Registrar report submitted in pursuance to the order dated 15-4-2013 of court No. 2 in application Nos. C/Misc/376-382/2011 and C/Misc/793/2009 in Appeal Nos. C/453, 455, 457, 459-461, 463 & 454/2009 in the case of Davinder Singh Dawar v. CC (Import & General), New Delhi and also provide copies of all note sheets and consequential orders passed by the Bench and the Competent Authority. Please also provide inspection of the*

relevant Case File and if separate file is opened by the Registry, then intimate the said file No. and provide the same for inspection.

- (2) That the appellant vide para 5 of his said application has also made a declaration that the information sought for is not exempted under Section 8 or 9 of the RTI Act, 2005 and also stated that to the best of the knowledge of the appellant, the information pertains to the Office of the CPIO in question.
- (3) That Shri S.K. Verma, CPIO & Assistant Registrar and Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO , Shri Kripa Shankar, AR & Deemed CPIO have deliberately and malafidely not provided complete and correct information and raised an illegal demand for Rs.2548/- for supply of 10 pages of information. The appellant being aggrieved by the said order of the CPIO is filing the present appeal.
- (4) That Shri S.K. Verma, Asstt. Registrar (SM) and CPIO , Shri Kripa Shanker, Asstt. Registrar and Deemed CPIO & Shri Mukesh Gupta – Assistant Registrar (Administration), 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 (SM) and CPIO and Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO, have malafidely claimed a sum of Rs.2,548/-, being the Additional Fees under Section 7(3) of the RTI Act on the false pretext that Shri Satish Kumar,

Head Clerk, has taken two days in preparation of the information sought in Point (B) of the RTI Application, whereas the information now provided is required to be maintained by the CESTAT in the normal course. The CESTAT has provided the letter dated 19-6-2015 (**Annexure-4**) of the Registrar CESTAT which gives datewise details of the steps taken for the establishment of the additional bench at Allahabad. This clearly establishes that the Department cannot charge additional fees of Rs.2548/- for providing similar information for the additional bench at Chandigarh and Allahabad. Therefore, the claim of Shri Mukesh Gupta – Assistant Registrar (Administration), Deemed CPIO and Shri S.K. Verma, Asstt. Registrar (SM) and CPIO, is false and only to cause obstruction and harassment to the appellant, whereas the Full Bench of CIC in the case of *Subodh Jain v. DCP, Delhi Police*, in Case No.CIC/WB/C/2007/00943, decided on 30.10.2009 has already held that no fee is chargeable under Section 7(3) of the RTI Act by the CPIO. In this regard, the Full Bench of CIC has held as under:

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

Emphasis supplied.

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

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

In view of the above decisions, particularly, the Full Bench decision of CIC, the demand raised by the CPIO towards Further Fee / Cost, is incorrect, illegal and without any authority of law and further in view of the fact that the information was already available and CPIO / Deemed CPIO are claiming Rs.2,548/- as additional fee on false plea, as such information was already available on record, therefore, the demand for additional fee may be quashed.

- (4) That a similar demand was raised by Shri S.K. Verma, Asstt. Registrar (SM) and CPIO when he was posted as a CPIO CESTAT, Bangalore but on appeal to the CIC, he was directed to provide the information at the prescribed rate of Rs.2/- per page. 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 Kripa Shanker, Asstt. Registrar and Deemed CPIO and Shri S.K. Verma, Asstt. Registrar (SM) and CPIO has wrongly denied that the information sought in point (C) of RTI Application is not available as no such list is maintained. They have failed to appreciate 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."

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. Therefore, the impugned order is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame.

- (8) That in relation to the information sought in relation to point (E) of the RTI Application, Shri S.K. Verma, Asstt. Registrar (SM) and CPIO and Shri Kripa Shanker, Asstt. Registrar and Deemed CPIO the CPIO have 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 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 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.

- (9) That Shri S.K. Verma, Asstt. Registrar (SM) and CPIO has deliberately and malafidely denied the information as sought in the RTI application by

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

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

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

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

None of the above elements are involved in relation to the information as sought by the appellant under the present RTI application as Tribunal is neither an Investigating Agency nor Law Enforcing Agency nor a Prosecuting Authority, but is an Appellate Forum. The information sought relates to the orders passed by the quasi-judicial authority and records created by the Registry in relation to the appeals before it, thus, section 8(1)(h) has no applicability. Therefore, the order of the CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame.

- (10) 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.

(11) That the Shri S.K. Verma, Asstt. Registrar (SM) and CPIO has wrongly claimed exemption u/s 8(1)(h) of the RTI Act, as the said section is applicable only when disclosure of the information would cause impediment to the on-going investigation. The information sought by the appellant does not relate to a case where any investigation is pending. Even if it is assumed that investigation in the matter is still pending, the key issue for consideration in that whether disclosure of information as sought by the appellant/complainant would, in any way, impede the process of said inquiry/investigation. The Delhi High Court in the case of *Bhagat Singh Vs CIC*; W.P. (C) No. 3114/2007; dated 03.12.2007 the

Hon'ble Delhi High Court had observed as follows:

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

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

- (12) 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"

- (13) 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..

- (14) 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.
- (15) That the Andhra Pradesh High Court in the case of *PIO Syndicate Bank v. CIC* (W.P.No.28785 of 2011) dated 2-11-2011 (**Annexure-5**) has held that the information cannot be denied under section 8(1)(h) by a Court or Tribunal even if the matter is pending before it. In view of this authoritative pronouncement, the order of the CPIO is liable to be set aside and he may be directed to provide the information.
- (16) 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.
- (17) 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.

- (18) That the CPIO in his order dated 5-11-2015 (Annexure-2) has demanded a fee of Rs.2/- for replying to the RTI query. Under RTI Act, the fees is chargeable only when copies of some documents are sought and provided to the applicant and no additional fees is payable for reply to the RTI Application as held by the CIC in the case of AS Berar v. Directorate of Education (East) – CIC/SA/A/2015/000743 dated 24-7-2015 (Annexure-6).
- (19) 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.
- (20) 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.
- (21) 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.
- (22) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.

- (23) 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.
- (24) That the delay of 3 days in filing the appeal is due to the reasons that the appellant had Eye Surgery on 10-12-2015 and was advised two weeks rest by the Doctor.
- (25) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (26) 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 delay in filing the appeal may be condoned being bonafide.
- (b) That the Original Records may be summoned and perused.
- (c) That the order of the CPIO may be set aside to the extent it demands an additional fee of Rs.2548/- under Section 7(3) of the RTI Act, contrary to various decisions of the CIC including Full Bench decision in the case of Shri Subodh Jain. .
- (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 : 19-12-2015

AC

Annexure - 1

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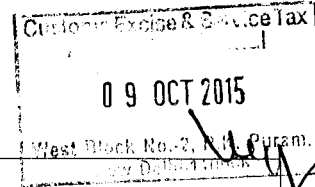
Application under Section 6 of the Right to Information Act, 2005

Ref. No. :RTI/P-195/9547/15

Dated : 8-10-2015

To

Shri S.K. Verma
CPIO & Asstt. 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	(A) Please provide information as to the date from which CESTAT additional bench at Chandigarh and Hyderabad are likely to start functioning (B) Please provide date-wise details of the steps taken from 1-7-2015 till the date of providing the information, for making the CESTAT additional Benches at Chandigarh and Hyderabad functional and operational. (C) Please provide the list of the cases which have been adjourned due to the reason that the impugned orders were passed by Shri R.K. Singh or due to the recusal of Shri R.K. Singh, Member (T) from all Benches of Delhi. (D) Please provide copies of the register of pending appeals for all the Branches of Delhi as prescribed under Circular F. No. 08/04/Circular/CESTAT/2014 dated 4.9.2014 in compliance to Gujarat High Court Order. (E) Please provide copy of the Registrar report submitted in pursuance to the order dated 15-4-2013 of court No. 2 in application Nos. C/Misc/376-382/2011 and C/Misc/793/2009 in Appeal Nos. C/453, 455, 457, 459-461, 463 & 454/2009 in the case of Davinder Singh Dawar v. CC (Import & General), New Delhi and also provide copies of all note sheets and consequential orders passed by the Bench and the Competent Authority. Please also provide inspection of the relevant Case File and if separate file is opened by the

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		Registry, then intimate the said file No. and provide the same for inspection. Note:-Please provide pointwise information/ response for each of above points.
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 042650 for Rs. 10 towards payment of fee is enclosed herewith. You are requested to filling the name in which the Postal Order is payable.	
7.	As per Section 7 of the RTI Act, 2005 information is to be provided within 30 days of the Application.	



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

Place : New Delhi

Encl. : as above

11/11/2005

SKV

(17)

F.No 10-201 / CESTAT/CPIO-ND/BPT/2015
 Customs Excise and Service Tax Appellate Tribunal
 West Block No 2, R.K.Puram, New Delhi-110 066

Dated - 05/11/15

ID No. 10-201/15

To,

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

Subject: Information under Right to Information Act 2005.

Sir,

Please refer to your RTI application No. 9547/15 Dt. 08/10/15
 and our ID No. 10-201/15. The information received from AA Customs
 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. If applicant

the applicant may file the appeal under section 19 of the Act before
 writeable S.K. Mohanty, FAA, CESTAT, N. Delhi
 within 30 days after receipt of this order.

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

Emel:- As above

Copy to:- Computer Section for website

CUSTOMS, SERVICE TAX & ANTIDUMPING BRANCH

I.D.No.10-201/2015

With reference to I.D.No.10-201/2015 dated 14.10.2015 , the information sought by applicant vide point (A)&(B) do not pertain to this bench registry,the information sought vide point(C) in this regard it is submitted that no such list is available, in regard point (D)the copy of the Registers maintained separately as Gujarat High Court direction has already been provided in reply to your I.D.No.10-65/15 dated 4.6.15,the information sought vide point (E), In this regard it is submitted that the above matters are sub-judice before the Hon'ble Tribunal.Therefore information sought by is exempted under section 8(1)(h) of the RTI Act, therefore the information can not be provided.

Dated:03.11.2015

[Signature]
3/11/15
Asstt. Registrar.

Copy to:-

✓ 1.CPIO.

2.O/c.

A.R.

Annexure 3
19

F.No. 10-201 / 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. 10-201/2015

To,

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

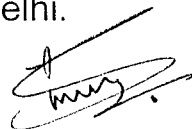
Subject: Information under Right to Information Act 2005.

Sir,

Please refer to your RTI application No. **9547/15** Dt. **08.10.2015** and our ID No. **10-201/2015** the information received from **AR (Admn.)** containing **10 pages** is enclosed herewith.

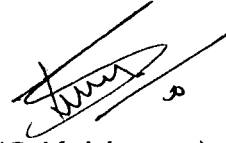
The information was not readily available in the form which was sought. It has been collected and compiled by the head clerk Mr. Satish Kumar posted in Admn. Section of CESTAT which took two days. His salary is Rs. 38216/- per month, Therefore a sum of rupees 2548 is the cost of generation of the Information costed to the CESTAT because the person prepared it spent the time for collection and preparation of the information by way of leaving his normal duties, hence you are directed to deposit to rupees 2548 under section 7(3) of the RTI Act.

You are, Therefore, requested to please acknowledge the receipt of information and to deposit Rs. 2568(2548+20 for copying charges) (@ 2/- per page) to this Tribunal by cash or DD in favour of Accounts Officer, CESTAT, New Delhi.



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



(S.K. Verma)

Central Public Information Officer

Encls:- As above

Copy to:- Computer section for website

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F.No.33/331/RTI/Misc/CESTAT/ND/Admn./2015
Customs, Excise & Service Tax Appellate Tribunal,
West Block No.2, R.K. Puram, New Delhi – 110 066.

I.D. No.10-201/2015

Dated: 17/11/2015

Subject : Furnishing of Information sought under the RTI Act 2005 – reg.

Sir,

Please refer to your letter No.F.No.10-201/CESTAT/CPIO-ND/SKV/2015 dated 14/10/2015 regarding the RTI application I.D. No.10-201/2015 of the applicant Shri R.K. Jain. In this regard, it is submitted that the information sought is as follows:

Point 'A'	-	Copy of Notification enclosed	-	02 pages
Point 'B'	-	Details in respect of Chandigarh	-	03 Pages
		Details in respect of Hyderabad	-	02 Pages
Point 'C'	-	Does not pertain to Admn. Section		
Point 'D'	-	Does not pertain to Admn. Section		
Point 'E'	-	Does not pertain to Admn. Section		

Yours faithfully,


(Mukesh Gupta) 17/11/15
Assistant Registrar (Admn.)

To,

Shri S.K. Verma, Assistant Registrar / C.P.I.O., CESTAT, New Delhi (The above information has been prepared by Head clerk Sh. Satish Kumar and at present his Basic Pay + Grade Pay + DA for is Rs. 38,216/-). He has taken two days for this preparation.)



Steps taken for Hyderabad Bench from 01/07/2015 onwards

03.07.2015 - Letter No. 23(44)/Set up/Hyd./CESTAT/Admn./2013 dated 03/07/2015 addressed to the Supdt. Engineer (Elect.), CPWD, Hyderabad for expediting the addition, alteration and renovation work of the CESTAT office at Hyderabad.

12.08.2015 - Letter No. 23(44)/Set up/Hyd./CESTAT/Admn./2013 dated 12/08/2015 addressed to the Supdt. Engineer (Elect.), CPWD, Hyderabad for expediting the addition, alteration and renovation work of the CESTAT office at Hyderabad.

12.08.2015 - Letter No. 23(44)/2015/HCED-II/HYD/1403 dated 12/08/2015 addressed to the Supdt. Engineer (Civil), CPWD, Hyderabad for expediting the addition, alteration and renovation work of the CESTAT office at Hyderabad.

12.08.2015 - Letter No. 51(8)/Set up/Hyd./CESTAT/Admn./2013 dated 12/08/2015 received from the Supdt. Engineer (Elect.), CPWD, Hyderabad for payment of balance fund for the electric work of the CESTAT office at Hyderabad.

19.08.2015 - Letter No. 23(44)/2015/HCED-II/HYD/1403 dated 19/08/2015 to the Pay and Accounts Officer for issuance of Authorization of letter of credit for Rs.10,00,000/- (Rupees Ten Lakhs only) and release the amount in favor of the Executive Engineer (Elect.)HCED-II, CPWD, Hyderabad.

25.08.2015 - Pay and Accounts Office, Ministry of Finance, Department of Revenue, Church Road Hutments, New Delhi issued the Authorization of letter of credit for Rs.10,00,000/- in favour of Executive Engineer (Elect.)HCED-II, CPWD, Hyderabad.

15.09.2015 - Shri R.K. Jain inspected the file under the RTI Act, 2005 under CPIO I.D. No.10-138/2015.

18.09.2015 - Letter No. 23(100)2015/HCSO-III/3/667 dated 18/09/2015 received from the Assistant Engineer (Civil) for inspection of the premises of CESTAT Hyderabad.

24.09.2015 - Tour Order dated 24/09/2015 issued in respect of Shri A. Mohan Kumar, Registrar to visit Hyderabad for inspection work on 09/10/2015 and 10/10/2015.

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07.10.2015 - Letter No. 23(44)/2015/HCED-II/HYD/1403 dated 07/10/2015 informing the Assistant Engineer (Civil), Hyderabad about the official tour of Shri A. Mohan Kumar, Registrar to Hyderabad on 09/10/2015 and 10/10/2015.

10.09.2015 - Shri Jain, S.D.E. and site in-charge of the office premises at Chandigarh personally called the Registrar on 10/09/2015 to modify the tour program for 11.09.2015 and to visit Chandigarh on some other day, as the Hon'ble Prime Minister will be in Chandigarh on 11/09/2015.

13.10.2015 - Sanction issued for purchase of postal stamps for the Regional bench at Hyderabad.

16.10.2015 - Purchase order for the new furniture items for the Regional bench at Hyderabad placed to M/s Supertech (India) Pvt. Ltd., New Delhi.

16.10.2015 - Tender Notice for the remaining furniture items for the Regional bench at Hyderabad uploaded on the website of CESTAT office.


17.11.15
Assistant Registrar (Admn.)

Steps taken for Chandigarh Bench from 01/07/2015 onwards

29.06.2015 - Shri Jain, S.D.E. and site in-charge of the office premises at Chandigarh spoke to the Registrar over Phone on 29/06/2015 to visit the site for inspection followed by Letter Memo.No.CP6/2015/4857 dated 29/06/2015 received, in the CESTAT office, on 02/07/2015 from Chandigarh Engineering Department intimating that framing work of aluminum partitions has been done and requested the Registrar to visit the premises.

30.06.2015 - Tour Order dated 30/06/2015 issued in respect of Shri A. Mohan Kumar, Registrar and Shri Satish Kumar, Head Clerk to visit Chandigarh for inspection work on 01/07/2015.

01.07.2015 - Shri A. Mohan Kumar, Registrar and Shri Satish Kumar, Head Clerk visited Chandigarh for inspection work on 01/07/2015 and returned back same day.

29.07.2015 - Tender Notice for purchase of new furniture items was uploaded on the website of the office by the Computer section. Separate letters were also sent by Speed Post to M/s Godrej (New Delhi Office), M/s. Featherlite New Delhi, M/s Falcon Furniture & M/s Gem Sales Corp., (Chandigarh) and M/s. Delite Hi-Tech Furniture Indus., New Delhi.

30.07.2015 - Letter Memo.No.CP6/2015/6032 dated 30/07/2015 received, in the CESTAT office, on 30/07/2015 by email and on 03/08/2015 by post, from Chandigarh Engineering Department intimating that the work is in full swing and further requesting for pending payment.

10.08.2015 - The Registrar informed Shri S.S. Sandhu, Senior Counsel by email about the progress work of the office premises at Chandigarh and details of the payment made so far to the Chandigarh Engineering Department. The Registrar further requested Shri S.S. Sandhu, Senior Counsel for seeking direction from the Hon'ble High Court to complete the work and handover the possession to CESTAT at earliest possible so as to start functioning of Tribunal.

17.08.2015 - Sanction Order for Rs.15 lakh issued for payment to Chandigarh Engineering Department.

24.08.2015 - Letter Memo.No.CP6/2015/6873 dated 21/08/2015 received, in the CESTAT office, on 24/08/2015 by email and on 01/09/2015 by post, from Chandigarh Engineering Department intimating that they have filed an affidavit in the Hon'ble Punjab & Haryana High Court that the addition, alteration and renovation work of the CESTAT office at Chandigarh will be completed by 31/08/2015 and further requesting for balance payment.

25.08.2015 - Letter No.23(46)/Set up/Chandigarh/CESTAT/Admn./13 dated 25/08/2015 enclosing the draft of Rs.15 lakh dispatched to Executive Engineer, CP6, Chandigarh Engineering Department.

26.08.2015 - Letter Memo.No.CP6/2015/7012 dated 25/08/2015 received, in the CESTAT office, on 26/08/2015 by email from Chandigarh Engineering Department requesting to depute some responsible officer to inspect the addition, alteration and renovation work of the CESTAT office at Chandigarh and to assist in taking decision regarding renovation work as per the site requirement.

08.09.2015 - Tour Order dated 08/09/2015 issued in respect of Shri A. Mohan Kumar, Registrar and Shri Satish Kumar, Head Clerk to visit Chandigarh for inspection work on 11/09/2015.

10.09.2015 - Shri Jain, S.D.E. and site in-charge of the office premises at Chandigarh personally called the Registrar on 10/09/2015 to modify the tour program for 11.09.2015 and to visit Chandigarh on some other day, as the Hon'ble Prime Minister will be in Chandigarh on 11/09/2015.

14.09.2015 - Tour Order dated 14/09/2015 issued in respect of Shri A. Mohan Kumar, Registrar and Shri Satish Kumar, Head Clerk to visit Chandigarh for inspection work on 15/09/2015.

15.09.2015 - Shri A. Mohan Kumar, Registrar and Shri Satish Kumar, Head Clerk visited Chandigarh for inspection work on 15/09/2015 and returned back same day. The addition, alteration and renovation work of the CESTAT office at Chandigarh was inspected in the presence of Shri Jain, S.D.E. and Shri Atul, Contractor. During the inspection, it was observed that, some minor works have not be catered as per the requirement of this department and which were specifically directed to be carried out during my last inspection on 01/07/2015 in the presence of Shri Jagdish Ram, Executive Engineer-CP-6 and Shri Atul, Contractor. The following work, as explained to Shri Jain, S.D.E. and Shri Atul, Contractor, was to be done at earliest:

1. Railing on the Dias Table of the Judges in both the Court Rooms
2. Extension of platform and shifting of stair-steps in Court I
3. Aluminum partition of 3 feet height between the Judge's Dias and the Advocate's table in both the Court Rooms
4. Painting and distempering of the Stair case from ground floor to top floor
5. No requirement of wood flooring in the Judge's Chambers.

Shri Jain, S.D.E. and Shri Atul, Contractor were requested to carry out the above stated work at the earliest and submit the completion certificate to this department so as to start functioning of the office without any further delay.

16.09.2015 - Letter No.23(46)/Set up/Chandigarh/CESTAT/Admn./13 dated 16/09/2015 was addressed to the Chief Engineer, Chandigarh Engineering Department to give direction to the officers to carry out the necessary modifications in the addition, alteration and renovation work of the CESTAT office at Chandigarh.

08.09.2015 - Letter Memo.No.CP6/2015/8060 dated 28/08/2015 received, in the CESTAT office, on 08/09/2015 by post, from Chandigarh Engineering Department acknowledging earlier payments and further requesting for pending payment.

16.09.2015 - Letter No.23(46)/Set up/Chandigarh/CESTAT/Admn./13 dated 16/09/2015 addressed to Shri Sanjiv Jain, Owner of the premises hired on rent at Chandigarh for installation of Lift in the office premises.

17.09.2015 - Sanction Order for Rs.7 lakh issued for payment to Chandigarh Engineering Department.

24.09.2015 - Tender Notice for purchase of new furniture items was once again uploaded on the website of the office by the Computer section. Separate letters were reissued by Speed Post to M/s Godrej (Chandigarh, Mumbai and Telengana offices), M/s Falcon Furniture & M/s Gem Sales Corp., (Chandigarh).

07.10.2015 - Letter No.23(46)/Set up/Chandigarh/CESTAT/Admn./13 dated 07/10/2015 enclosing the draft of Rs.7 lakh dispatched to Executive Engineer, CP6, Chandigarh Engineering Department.

13.10.2015 - Sanction issued for purchase of postal stamps for the Regional bench at Chandigarh.

13.10.2015 - Purchase order for the new furniture items for the Regional bench at Chandigarh was placed to M/s Supertech (India) Pvt. Ltd., New Delhi.


17.11
Assistant Registrar (Admn.)

27

01(04)Regional Bench/CESTAT/2015
CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block 2, R.K.PURAM, NEW DELHI – 110066

Dated : 06.11.2015

Notification No. 03 of 2015

The Hon'ble President is pleased to notify as follows:

SUBJECT : CONSTITUTION OF BENCH AT HYDERABAD

In exercise of powers conferred by Section 129C of the Customs Act, 1962 (52 of 1962) read with Section 35D of the Central Excise Act, 1944 (1 of 1944), Section 86 of the Finance Act, 1994, Section 9C of the Customs Tariff Act, 1975 and all other enabling provisions; and in terms of the decision of the Union Cabinet dated 21.03.2013 as conveyed by the letter F.No. 27/06/07-Ad.IC (CESTAT) dated 13.11.2013 of the Government of India, Ministry of Finance, Department of Revenue, The President of the Customs, Excise & Service Tax Appellate Tribunal hereby orders that there shall be Regional Bench at Hyderabad.

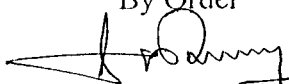
In terms of the jurisdiction specified in the letter dated 13.11.2013 of the Government of India, the Regional Bench, Hyderabad shall deal with all matters arising within its jurisdiction as specified in the table below and such other matters as may be transferred to it by a general or special order of the President.

The jurisdiction of the Regional Bench, Hyderabad shall be as set out in the table below:

Title of the Bench	Location	Jurisdiction
Regional Bench Hyderabad	Hyderabad	territorial jurisdiction of erstwhile state of Andhra Pradesh i.e. Andhra Pradesh, Telangana and Yanam commune of the Union territory of Pondicherry

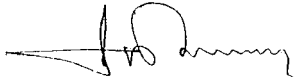
The Regional Bench, Hyderabad shall start functioning by accepting filing of appeals w.e.f. 14.12.2015 at the following address:

**Customs, Excise & Service Tax Appellate Tribunal,
1st Floor, HMWSSB Building Rear Portion
Khairtabad, Hyderabad 500004**

By Order

(A.Mohan Kumar) 6/11/15
Registrar

Copy to:

1. Sr. P.S. to President, CESTAT, New Delhi.
2. All Members of CESTAT (including outlying Benches).
3. Under Secretary, AD.IC, Department of Revenue, North Block, New Delhi.
4. SPS to Chairman, CBEC, New Delhi.
5. PPS to JS (Review), CBEC Offices, Hudco Vishala Building, B Wing, Bhikaji Cama Place, R.K.Puram, New Delhi.
6. Chief Departmental Representative, CESTAT, New Delhi/JCDR, Bangalore.
7. Chief Commissioners/ Commissioners, Central Excise, Customs, Service Tax, Visakhapatnam zone/Hyderabad zone, Hyderabad –I,II, III, IV, Service Tax, Hyderabad Appeals I & II, Service Tax Appeals and Audit, Guntur, Visakhapatnam-I, II,III, Tirupati, Visakhapatnam Customs(Prev), Visakhapatnam-I (Appeals), Guntur Appeals –II Visakhapatnam Audit - for information and with a request to put up the notification in their respective website and also in the Notice Board.
8. Bar Association of Indirect Tax Bar Association, Delhi, Chennai, Mumbai, Kolkata, Ahmedabad, Bangaluru, Allahabad.
9. P.A. to Registrar, CESTAT, New Delhi
10. Deputy Registrar/ Assistant Registrar/Technical Officer, CESTAT, including outlying Benches
11. Accounts Officer, CESTAT, New Delhi
12. The Pay and Accounts Officer, Department of Revenue.
13. Guard File
14. CESTAT Website/ Notice Board


(A. Mohan Kumar) 6/11/15
(Registrar)

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01(04)Regional Bench/CESTAT/2015
CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block 2, R.K.PURAM, NEW DELHI – 110066

Dated : 04.11.2015

Notification No. 02 of 2015

The Hon'ble President is pleased to notify as follows:

SUBJECT : CONSTITUTION OF BENCH AT CHANDIGARH

In exercise of powers conferred by Section 129C of the Customs Act, 1962 (52 of 1962) read with Section 35D of the Central Excise Act, 1944 (1 of 1944), Section 86 of the Finance Act, 1994, Section 9C of the Customs Tariff Act, 1975 and all other enabling provisions; and in terms of the decision of the Union Cabinet dated 21.03.2013 as conveyed by the letter F.No. 27/06/07-Ad.IC (CESTAT) dated 13.11.2013 of the Government of India, Ministry of Finance, Department of Revenue, The President of the Customs, Excise & Service Tax Appellate Tribunal hereby orders that there shall be Regional Bench at Chandigarh.

In terms of the jurisdiction specified in the letter dated 13.11.2013 of the Government of India, the Regional Bench, Chandigarh shall deal with all matters arising within its jurisdiction as specified in the table below and such other matters as may be transferred to it by a general or special order of the President.

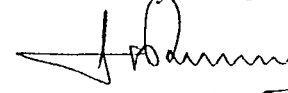
The jurisdiction of the Regional Bench, Chandigarh shall be as set out in the table below:

Title of the Bench	Location	Jurisdiction
Regional Bench Chandigarh	Chandigarh	Appeals arising from territories within the territorial jurisdiction of Union Territory of Chandigarh, the States of Punjab & Haryana, Jammu & Kashmir and Himachal Pradesh

The Regional Bench, Chandigarh shall start functioning by accepting filing of appeals w.e.f. 01.12.2015 at the following address:

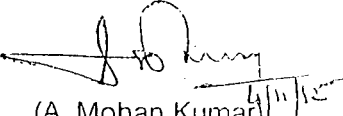
Customs, Excise & Service Tax Appellate Tribunal
3rd Floor, SCO No. 147-148, Sector-17C,
Chandigarh- 160017

By Order


(A.Mohan Kumar) 4/11/15
Registrar

Copy to:

1. Sr. P.S. to President, CESTAT, New Delhi.
2. All Members of CESTAT (including outlying Benches).
3. Under Secretary, AD.IC, Department of Revenue, North Block, New Delhi.
4. SPS to Chairman, CBEC, New Delhi.
5. PPS to JS (Review), CBEC Offices, Hudco Vishala Building, B Wing, Bhikaji Cama Place, R.K.Puram, New Delhi.
6. Chief Departmental Representative, CESTAT, New Delhi
7. Chief Commissioners/ Commissioners, Central Excise, Customs, Service Tax (Faridabad-I, Faridabad-II, Gurgaon-I, Gurgaon-II, Panchkula, Rohtak, Sonapat, Chandigarh-I, Chandigarh-II, Jalandhar, Jammu Kashmir, Ludhiana, Chandigarh Appeals-I and Chandigarh Appeals-II and Chandigarh (Audit))- for information and with a request to put up the notification in their respective website and also in the Notice Board.
8. Bar Association of Indirect Tax Bar Association, Delhi, Chennai, Mumbai, Kolkata, Ahmedabad, Bangalore, Allahabad.
9. P.A. to Registrar, CESTAT, New Delhi
10. Deputy Registrar/ Assistant Registrar/ Technical Officer, CESTAT, including outlying Benches
11. Accounts Officer, CESTAT, New Delhi
12. The Pay and Accounts Officer, Department of Revenue.
13. Guard File
14. CESTAT Website/ Notice Board


(A. Mohan Kumar) 4/11/15
(Registrar)

Annexure 4 (163) (31)
325
247

23(45)/ Set up/Allahabad/ CESTAT/Admn./13
Customs Excise & Service Tax Appellate Tribunal
West Block No.2, R.K. Puram, New Delhi

Dated : 19.06.15

To

The Under Secretary-Ad-IC
Govt. of India
M/o Finance, D/o Revenue
North Block
New Delhi

Subject : **WT No. 354/2015-M/s. Om Shiv Transport Allahabad Vs Union of India, through Secretary, Department of Revenue & 4 others - reg.**

Sir,

Kindly refer to your letter F. No. C.18017/1/2015-Ad.IC (CESTAT) dated 17.06.15 on the subject cited above, in this connection, the following steps initiated by the Tribunal for setting up the additional Bench of CESTAT at Allahabad details as under:-

14.11.2013	Letters were sent to Federation of Indian Chambers of Commerce and Industry, Lucknow/Chief Commissioner of Central Excise/ Registrar General, High court of Judicature at Allahabad/ CPWD/ The Chief Secretary of Uttar Pradesh Govt. seeking assistance in finding a suitable premises for accommodating the new bench of the Tribunal at Allahabad.
18.02.2014	The Tribunal vide letter dated 18.02.2014 requested the CPWD to issue NOC in case no govt building was available so that private building could be hired. As per the guidelines for hiring of official accommodation on rental basis, if no Govt. building is available, then for hiring new premises on rental basis, an advertisement has to be placed in the local as well as national newspaper, calling for the tenders in a two bid system.
26.2.2014	The CPWD vide its letter C. No. 2(1)/EKM/2014/469 dated 26.02.2014 conveyed the non-availability of Govt. building at Allahabad and issued NOC.

09.3.2014	<p>An advertisement calling for the tenders in two bid system was placed in the Dainik Jagran and Hindustan Times, Allahabad edition on 9.3.2014 inviting offers for a premises measuring area 10000-12000 sq.ft. in Allahabad for setting up the bench of CESTAT.</p> <p>The last date & time for submission of bids was 24.3.2014 at 5.00 p.m. In response to the advertisement placed in the newspaper seeking suitable premise for setting up the additional bench at Allahabad, only one offer was received from Shri Sandeep Bhargava.</p>
27/28.06.2014	<p>The President, Hon'ble Mr. Justice G. Raghuram along with the Registrar of the Tribunal visited Allahabad on 27 to 28th June 2014, for inspecting the aforementioned sites/ premises and assess their suitability for accommodating the office of Tribunal at Allahabad and found the same suitable for accommodating the bench of the Tribunal.</p>
14.07.2014	<p>Subsequently, the Commissioner, Allahabad was requested vide letter dated 14.7.2014, to ascertain the fair rent of the premises from the CPWD at Allahabad.</p>
27.8.2014 & 24.09.2014	<p>The office of the Commissioner requested the Executive Engineer (Civil), CPWD, Allahabad vide letter No. I/CESTAT BLDC/SUPDT/HQ/2014/11352-11355 dated 27/08/2014 and subsequently vide letter dated 24/09/2014 to expedite the matter for issue of Fair Rent Reasonability Certificate.</p>
09.02.2015	<p>The office of the Commissioner of Central Excise vide letter dated 09.02.2015 forwarded the requisite Proforma (as desired by the CPWD) to be filled up by the hiring office i.e. Tribunal, in respect of the property to be hired for issue of Fair Rent Reasonability Certificate.</p>
12.3.2015	<p>The Registrar vide letter dated 12.03.2015 forwarded the requisite Proforma duly filled up to the Commissioner of Central Excise for onward submission to the CPWD office at Allahabad.</p>
24.04.2015	<p>Letter received from the Ministry enclosing the copy of WT No. 354/2015-M/s. Om Shiv Transport Allahabad Vs Union of India, through Secretary, Department of Revenue & 4 others.</p>

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RTI-9411
(101)

33/23

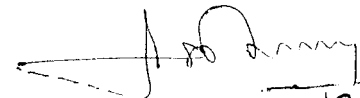
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12.05.2015	Reply alongwith affidavit filed in the Hon'ble High Court Allahabad passed in Writ Tax No. 354 of 2015.
20.05.2015	Letter addressed to Assistant Registrar, Income Tax Appellate Tribunal, (ITAT), Allahabad requesting to communicate the availability of the space for the additional Bench of CESTAT at Allahabad.
03.06.2015	Letter addressed to the Chief Commissioner of Income Tax, Allahabad where the Income Tax Appellate Tribunal situated is under the custody of Income Tax Department, Aaykar Bhawan.
05.06.2015	Letter received from Income Tax Appellate Tribunal, Headquarter Mumbai wherein intimated regarding non-availability of the space at Aaykar Bhawan, Allahabad.
09.06.2015	Letter received from Joint Commissioner of Income Tax (HQ) to the Commissioner Customs & Central Excise, Allahabad however informing that space mentioned in the order of the Hon'ble High Court is in exclusive control and possession of Hon'ble ITAT, Allahabad Bench, Allahabad & requested to make approach from Chairman, ITAT, New Delhi.

The Building identified for setting up of Bench of CESTAT at Allahabad is owned by Sh. Sandeep Bhargava & located at 24/28, Sarojini Naidu Marg, Civil Lines, Allahabad. Even though the building is not upto the expectation, since, there was no other building available around 1200 to 1300 sq. ft., it was decided to shortlist this premises subject to the condition that the landlord make available of the building as per our requirement on useable conditions. Presently, some tenants are occupying the premises & on the basis of the building being approved by the Competent Authority, the landlord agreed to evict the tenant. This may take minimum period of three month from the date of acceptance.

This is your kind information & further action at your end.

Yours faithfully,



19/6/15

(A. Mohan Kumar)
Registrar



22/6/15

High Court of Andhra Pradesh & Telgana Annex 5
39

* The Hon'ble Sri Justice C.V.Nagarjuna Reddy

+ Writ Petition No.28785 of 2011

% DT.02.11.2011

Between:

Public Information Officer,
Under RTI Act,
Syndicate Bank, Regional Office,
Mugulrajapuram, Vijayawada.

...Petitioner

Vs.

\$ Central Information Commission
under Right to information Act,
New Delhi, rep. by its Registrar and another.

...

Respondents

^ **Counsel for the Petitioner:**
A.Krishnam Raju

Sri

! **Counsel for respondent No.1:**
Smt.S.Nanda

Counsel for respondent No.2: -----

< **Gist:**

> **Head note:**

-
? **Cases referred:**

The Hon'ble Sri Justice C.V.Nagarjuna Reddy

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Writ Petition No.28785 of 2011

Date: 2nd November, 2011

Between:

Public Information Officer,
Under RTI Act,
Syndicate Bank, Regional Office,
Mugulrajapuram, Vijayawada

..... Petitioner

and

Central Information Commission
under Right to Information Act,
New Delhi, rep. by its Registrar and another.

.....Respondents

Counsel for the Petitioner: Mr.A.Krishnam Raju

Counsel for respondent No.1: Mrs.S.Nanda

Counsel for respondent No.2: ---

The Court made the following :

ORDER:

This Writ Petition is filed for a certiorari to quash decision No.CIC/SM/A/2010/001566/SG/14914, dated 28-09-2011, of respondent No.1, in Appeal No.CIC/SM/A/2010/001566/SG.

The petitioner is the Public Information Officer, Syndicate Bank Regional Office at Mugulrajapuram, Vijayawada, under the Right to Information Act, 2005 (for short 'the Act').

Respondent No.2 made application, dated 24-07-2010, before the petitioner, under the Act, seeking the following information:

1.When were the accounts of the unit M/s.Coastal Andhra Agri Feed Technologies declared NPA and the exact amount of book debts as on the date of NPA of all its accounts.

2.What is the status of the account as on 1st October, 2009, whether it is classified substandard, doubtful or loss asset.

3.Whether the Vakalpudi Branch submitted Annexure-I, for ONE TIME SETTLEMENT SCHEME FOR MSE ACCOUNTS to the Competent Authority in compliance of Circular No.213-2009-BC-REC-09/24-09-2009 issued by General Manager, Syndicate Bank, Head Office, Manipal.

4.If not covered as to the reason why the bank OTS was not offered to the said unit and the particulars and details as to why the OTS was declined and the details of orders passed in this regard, may be informed.

5.How many notices were issued under Section 13 (2) of SARFAESI Act to the borrower and on what dates and the exact amounts demanded to be repaid by the borrowers”.

The said application was rejected by the petitioner *vide* Order, dated 04-08-2010, on the ground that the Bank has initiated proceedings under the Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act, 2002 (hereinafter referred to as 'the SARFAESI Act') for recovery of dues from respondent No.2 and that therefore, the information sought for by him falls within the exempted category under Section 8(1) (h) of the Act. Against the said order of the petitioner, respondent No.2 filed a first appeal before the General Manager of the Bank, who is senior in rank to the petitioner. While substantially confirming the order of the petitioner, the General Manager, however, directed the petitioner to furnish more information regarding the OTS proposal. Accordingly, he has partly allowed the appeal. Feeling aggrieved by the said order, respondent No.2 has filed a Second Appeal before respondent No.1, who, by the impugned order, allowed the same by holding that the onus, to prove that denial of information is justified, is on the Public Information Officer under Section 19 (5) of the Act and that since he failed to offer any such justification, the appeal deserves to be allowed. Feeling aggrieved by the said order, the Public Information

Officer has filed the present Writ Petition.

Heard Sri A.Krishnam Raju, learned Counsel for the petitioner, and perused the record.

In the first place, this Court is of the opinion that the Writ Petition, filed by the Public Information Officer, is not maintainable because even though he is an employee, he is designated as Public Information Officer, who is charged with the duty of dealing with the requests of persons seeking information and render reasonable assistance to such persons. Under Section 7 of the Act, the Public Information Officer shall dispose of the requests received by him either by providing information on payment of the prescribed fee or by rejecting the request for any of the reasons specified in Sections 8 and 9 of the Act. A person, who does not receive a decision within the time specified under sub-section 1 of Section 7 of the Act or is aggrieved by the decision of the Central Public Information Officer or the State Public Information Officer, is entitled to file an appeal to such Officer, who is senior in rank to the Central Public Information Officer or the State Public Information Officer. A second appeal against such decision shall lie to the Central Information Commission or the State Information Commission as the case may be.

The scheme of the Act, discussed above would reveal that every Public Information Officer nominated as such under the Act has a dual role to play *viz.*, as an officer of the Public Authority and also the Public Information Officer. While such Officer is loyal to his employer while acting in his role as the Officer, he acts as a quasi-judicial authority while disposing of the

request made for furnishing information. His orders are subject to further appeals. Therefore, in the opinion of this Court, the Public Information Officer cannot dawn the role of the Officer of the Public Authority in relation to the orders passed by the appellate authorities against the orders passed by him. If his order is reversed by the appellate authority, he cannot be treated as aggrieved party giving rise to a cause of action for him to question such Orders. It is only either the public authority, against whom the directions are given, or any other party, who feels aggrieved by such directions, that can question the orders passed by the appellate authorities. As such, the Public Information Officer, who filed this Writ Petition, is wholly incompetent to question the order of the appellate authority and the Writ Petition filed by him is not maintainable.

Even on merits, this Court has no hesitation to hold that the information sought for by respondent No.2 does not fall within the exempted category under Section 8 (1) (h) of the Act because the information, which respondent No.2 has sought, relates to pending proceedings before the Debt Recovery Tribunal. However, what is exempted under section 8 (1) (h) is information, which would impede the process of investigation or apprehension or prosecution of offenders. It is not the pleaded case of the Bank that any investigation or apprehension or prosecution of respondent No.2 will be impeded by furnishing information sought for by him. Even if the information relates to a pending dispute before a Court or Tribunal, that would not fall under Section 8(1)(h) of the Act.

For the above-mentioned reasons, the Writ Petition

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is dismissed.

As a sequel, WPMP.No.35591 of 2011, filed by the petitioner for interim relief, is disposed of as infructuous.

(C.V.Nagarjuna Reddy, J)

2nd November, 2011

Note:
LR copy
(B/o)
LUR

Fee Not Chargeable for RTI Reply

(41)

Annexure 6

CENTRAL INFORMATION COMMISSION

(Room No.315, B-Wing, August Kranti Bhawan, Bhikaji Cama Place, New Delhi 110 066)

Prof. M. Sridhar Acharyulu (Madabhushi Sridhar)

Information Commissioner

CIC/SA/A/2015/000743

A.S.Berar Vs. Dte of Education (East)

Important Dates and time taken:

RTI/PIO:10-3/27-3-15	FA/FAO:23-4/28-4-15	Second appeal: 21-5-2015
Hearing: 15-07-2015	Directed to provide.	Decision: 24.07.2015

Summary: This is yet another peculiar case of petty pecuniary demand. The PIO is not justified in demanding Rs. 6 for information typed on three pages, and appellant equally not reasonable in demanding its refund. The public purpose of RTI question in this case is to know the status of Punjabi as third language in Delhi schools. The Public Authority has already spent a lot of money on collecting information from around 100 schools, response to which could be summed up in 3 pages. Delay/refusal of information for paltry amount and petty reasons is not in tune with objective of RTI. Commission recommends introduction of RTI specific stamps on the lines of Radio licensing fee in good olden days, to avoid unnecessary expenditure for both appellants and PIOs.

Parties Present:

The appellant is present along with Dr. Raghbir Singh. The Public Authority is represented by Ms. Neha Shankar, Superintendent (RTI)

Facts:

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2. Appellant by his RTI application had sought to know how many students opted for Punjabi as a third language in Class VI in each school of East District in the academic year 2014-15. PIO by his letter dated 27.03.2015 requested the appellant to submit fee for providing 3 pages. Challenging this, appellant filed first appeal. FAA by his order dated 28.04.2015 upheld the information furnished by the PIO. Appellant approached the Commission.

DECISION:

3. Both the parties made their submissions. The appellant submitted that he had got information only for 58 schools out of 100 schools for which he had asked for the information regarding the number of students who opted Punjabi as 3rd language during the academic year 2014-15.

4. The PIO on 27.3.2015 wrote to Lt. Col. Berar, appellant that he could collect information from their office on payment of Rs 2 per page. When asked whether they are charging for three documents? the RTI superintendent said 'no', they have typed the information based on responses from 58 schools and for that compilation of information typed in three pages, she was charging Rs 6. This is yet another case where PIO held up information for paltry amount. It is not the question of realization of RTI Fee of Rs 10, not even cost of copying, it is a peculiar charge! Demand of charges for a covering letter written by PIO.

5. Senior Law Officer (retd) Dr. Raghbir Singh (ILS) was highly critical of the way the department demanded charges like this. He explained they can charge Rs 2 per page, only when they copy the documents.

6. Neither the Act nor Rules said anywhere that the public authority should charge Rs 2 for writing a response or answering certain points under RTI, like yes or no or information attached. The Act does not provide for pricing the information or collecting cost for searching the files or writing notes from them. Charging Rs 2 for covering letter or typing on paper

information collected from other files is unheard of. These methods by the public authority will lead to delay or denial of the information.

7. The Commission also found that certain RTI sections are wasting papers in many ways. They write 'letter is attached', and that letter contains two sentences like 'information sought is not available'. Such letters sent through three or four wings of the office reflect the office's response and responsibility. At each stage, a file was built, letter was written after file noting was approved and then posted.

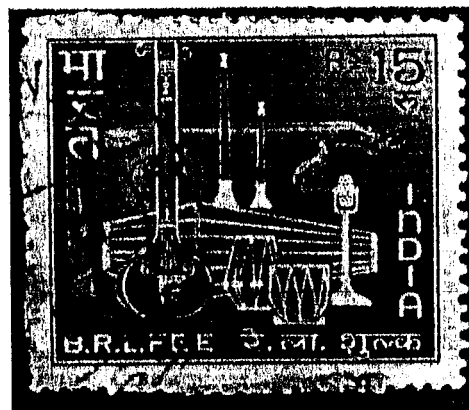
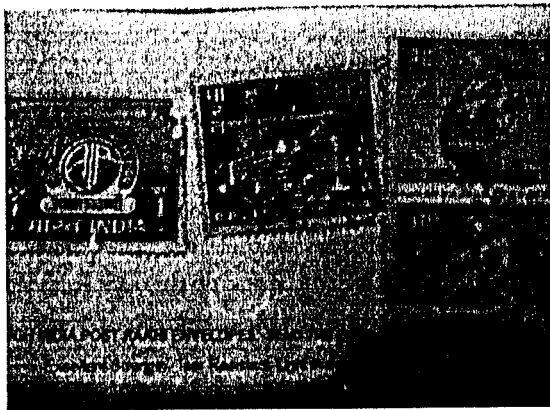
8. In a response from the Ministry of Communications & IT. Department of Posts, on 18th October 2013, to an RTI petition filed by Mr. Subhash Chandra Aggarwal, sent through Ministry of Finance, it was stated: "As per costing exercises 2011-12 the operational cost of a postal order is Rs 37.45". This means to realize IPO for Rs 6, the department has to spend Rs 37.45, besides wasting man hours and stationery for writing the letter. Cost must have increased in 2015.

9. These are the commonsense points the PIO missed to apply.

- a) Postal order for less than Rs 10 is discontinued, thus asking for Rs 6 is meaningless.
- b) Even if IPO for Rs 10 is given to pay Rs 6, the public authority has to incur operational cost for IPO Rs 37.45 to transfer the cash.
- c) In writing a letter to appellant to demand Rs 10, the public authority has to spend at least one man hour.
- d) To post that letter the PIO has to spent Rs 17 (for local speed post, 28 for non-local), or Rs 22 (17 plus 5 Registered Post, for every next 20 grams or part of it Rs. 5 in addition), or Rs 27 (Registered post acknowledgement due).

second appeal filed by Subhash Chandra Agrawal cautioned the IPOs. It is not prudent to ask for Rs 2 per page of giving one page of information, because in the process, much more public money is lost in correspondence". The IPOs for Rs 1,2,5,7 were discontinued, but IPO of Rs 10 is retained, perhaps for helping payment of Rs 10 RTI fee. Because of non-availability of IPOs of smaller denominations, the applicants have to pay more money than what is prescribed. For instance to pay Rs 12 copying charges one has to take IPO of Rs 20.

11. In order to avoid all these complex and costly affairs considering delay & wastage of money in collecting fee and charges, the Commission recommends the Government of India, especially, the Department of Personnel & Training and the Department of Posts, to arrange exclusive stamps for RTI on the lines of Radio licensing stamps, which were used to collect the license fee decades ago. (a picture of those stamps is given below, how these stamps were fixed in a license book for Radio can also be seen). It will be useful and easy to pay RTI fee or cost of copying if these RTI stamps are made in different denominations of Rs 2, 10, 50, and 100.



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(M. Sridhar Acharyulu)
Information Commissioner

Authenticated true copy

(Babu Lal)
Deputy Registrar.

Address of the parties :

1. The PIO under RTI, Govt. of Delhi
Directorate of Education (East District), D-Block, Anand Vihar,
Delhi-110092 (RTI Cell)

2. Lt. Col. A.S. Berar (Retd)
194-Hargobind Enclave, Delhi-110092.

3. The Secretary to Government of India,
Department of Personnel & Training, North Block
New Delhi-110001.

4. The Secretary to Government of India
Department of Posts,
Sanchar Bhavan, New Delhi-110001

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.10-92(A)/2015
Appeal No.10-129(A)/2015
CPIO ID NO. 10-201/CESTAT/CPIO-SKV/2015

Shri R.K.Jain ...Appellant

Vs.

CPIO, CESTAT ...Respondent

Date of Hearing/decision: 26.04.2016

ORDER 120/2016

The grievance of the appellant is that information provided by the deemed CPIO vide reply dated 3.11.2015 are not satisfactory inasmuch as with regard to point No. D, the information provided is not upto date and not for the period covered under the RTI application. With regard to point No. E, the grievance of the appellant is that even if the case matter is subjudice before the Tribunal, the information can be furnished by the concerned section. To support his above stand, the appellant has referred to order No. 69/2016 passed by the First Appellate Authority, CESTAT.

2. With regard to Point No. C, the CPIO submits that since no such list is maintained and available in the CESTAT as regards member-wise recusal for hearing the appeal, the information cannot be furnished and the statute specifically provides that the

SKM

basis, pursuant to the RTI application. 2015-2016

if the applicant specifically asked for any information about any particular file, the same can be furnished by the CPIO upon receipt of proper case number from the appellant.

4. I have heard both the sides.

5. I find that with regard to point No. C, the reply of AR vide letter dated 3.11.2015 is that no such list is available in the section. However, while going through the submissions of the CPIO, I find that the CPIO is not reluctant in furnishing the information. But his contention is that the information can be furnished upon receipt of specific reference of appeal viz. name of appellant, appeal number, date of hearing etc. from the appellant. Since the CPIO has stated the modus operandi of maintenance of records and he has not specifically denied in non-submission of the information with regard to Point No. C, I do not find any plausible reason to interfere in such case, and thus, the plea with regard to point No. C is rejected. However, the appellant is at liberty to obtain the information on furnishing particulars of appeal before the concerned section.

6. With regard to point No. D, I find from the letter dated 3.11.2015 ^{of} ~~from~~ the Assistant Registrar that the related

fact .

information has been provided to the appellant, pursuant to the RTI application dated 04.6.2015. The information provided therein is upto 08.1.2015. In view of the said fact, I direct the CPIO to furnish upto date information maintained in this regard by the Registry.

7. As regards, the appeal in context with Point No. E, I find that this forum vide order No. 69/2016 has recorded that information can be furnished to the appellant. Considering the fact, I direct the CPIO to collect the requisite information from the concerned section and to forward the same within a period of 6 weeks from the date of receipt of this order.

8. The appeal is disposed of in above terms.


(S.K. MOHANTY)
APPELLATE AUTHORITY

Copy to:-

1. Shri.R.K.Jain, 1512-B, Bhishm Pitamah Marg, Wazir Nagar, New Delhi-110003, w.r.t. letter No. RTI/10-102(A)/CESTAT/FAA-SKM/2015.
2. CPIO, CESTAT, New Delhi.
3. Office Copy