

Appeal no. 09-057(A)/2014

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SPS to FAA

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

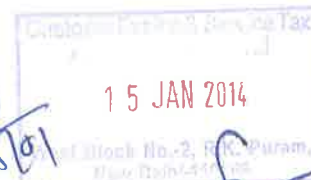
Ref. No. : RTI/P-537/(7337/13)/Appeal/6201

Dated : 10-01-2014

Dyno. 145/CR-14
15/1/14

To

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



A. Contact Details :

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

B. Details About RTI Request :

1.	Particulars of the CPIO against whose order appeal is preferred	(a) Name i) Shri Rajender Prasad, CPIO & Accounts Officer ii) Shri Mukesh Gupta Deemed CPIO, Asstt Registrar (Admn.) (b) Address CESTAT, West Block 2, R.K.Puram, New Delhi - 110066
2.	Date of submission of application (Copy of application attached)	17-10-2013
3.	Details of the order appealed against	CPIO's letter F.No.08-214/CESTAT/CPIO-ND/RP/2013 dated 1-1-2014
4.	Prayer or relief sought	See Prayer clause at the end
5.	Last date for filing the appeal	1-2-2014
6.	If appeal is being filed after 30 days, the reasons which prevented from filing appeal in time	Appeal in time
7.	Copies of documents relied upon by the applicant	(1) Copy of RTI application dated 17-10-2013. (Annexure-1) (2) Copy of letter dated 30-10-2013. (Annexure-2) (3) Copy of CPIO's letter dated 02-12-

15/FAA/AW/14
16/1/14

	<p>2013. (Annexure-3)</p> <p>Copy of Appellant's letter dated 9-12-2013 (Annexure-4)</p> <p>(4) Copy of CPIO's letter dated 1-1-2014. (Annexure-5)</p> <p>(5) Copy of deemed CPIO/AR (Admn)'s letter dated 12-12-2013 (Annexure 6)</p> <p>(6) Copy of deemed CPIO/AR (Admn)'s letter dated 29-11-2013 (Annexure 7)</p>
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BRIEF FACTS OF THE CASE

- (1) The appellant has filed an application dated 17-10-2013 (Annexure – 1) under Section 6 of the RTI Act, 2005 requesting for the following information:

- (A) Please provide details of the implementation of the direction issued in para 1.4.1 of the Guidelines enclosed with Office Memoranda No. 1/6/2011-IR , dated 15 April 2013 of the DOPT regarding proactive disclosure of RTI applications, appeals received and their responses on your website with search facility based on keyword.
- (B) Provide copy of the Action Taken Report submitted on the compliance of the Guidelines issued under Office Memoranda No. 1/6/2011-IR , dated 15 April 2013 of DOPT, as required under para 4.3 of the said Guidelines
- (C) Provide datewise details of the action taken by your public authority in relation to paragraph 4.1, 4.2, 4.4 and 4.7 of the aforesaid Guidelines of the DOPT and copies of all notesheets & correspondence
- (D) Please provide datewise details of the compliance of para 3.6 of the aforesaid Guidelines.
- (E) Please provide list of directions given in the aforesaid Guidelines which have not so far been implemented/operationalised by you till 17.10.2013 and expected date by which each one of them is expected to be implemented.

NOTE:- As per paragraph 4.1 of the aforesaid guidelines all public authorities, including CIC is to make the aforesaid guidelines

fully operationalised within a period of six-month, the said period of six-month has expired on 15th of October 2013, as the guidelines in question were issued on 15 April 2013.

- (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 the CPIO, Department of Revenue vide his letter dated 30-10-2013 (**Annexure 2**) transferred the RTI application to the CPIO, CESTAT, West Block No.2, R.K. Purma, New Delhi u/s 6 (3) of the RTI Act.
- (4) That the CPIO, CESTAT, Shri Rajendra Prasad after **32 days** of said communication of CPIO, Department of Revenue transferred the RTI application to the Assistant Registrar (Admn.), CESTAT (Shri Mukesh Gupta) under the provisions of section 6(3) and section 5(4) of the RTI Act vide his letter dated 02-12-2013 (**Annexure 3**)
- (5) That since the appellant did not receive the information even after the period of one-and-half month had elapsed, the appellant sent a reminder dated 09-12-2013 (**Annexure 4**) to the Assistant Registrar & deemed CPIO, Shri Mukesh Gupta requesting him to provide the information at the earliest.
- (6) That thereafter the CPIO, Shri Rajendra Prasad vide his letter dated 01-01-2014 (**Annexure 5**) forwarded a copy of reply dated 12-12-2013 (**Annexure 6**) of the deemed CPIO & Assistant Registrar (Admn), Shri Mukesh Gupta to the appellant.
- (7) That however even at this stage the CPIO, Shri Rajendra Prasad and the deemed CPIO Shri Mukesh Gupta have malafidely and knowingly not furnished the requisite information to the appellant, and instead have made a false statement that information has already been furnished vide letter dated 29-11-2013 (**Annexure 7**)
- (8) That being aggrieved by the above illegal and malafide acts of the CPIO,

Shri Rajendra Prasad and the deemed CPIO Shri Mukesh Gupta, the appellant is filing the present appeal before the First Appellate Authority.

GROUND OF APPEAL

- (1) That the order/reply in question of the CPIO, Shri Rajendra Prasad and the deemed CPIO, Shri Mukesh Gupta 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 and therefore, there was no valid cause or reason or ground for not providing the information.
- (3) That the CPIO, Shri Rajendra Prasad and the deemed CPIO, Shri Mukesh Gupta have deliberately and malafidely not provided 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/reply of them is liable to be set aside with direction to provide the information to the appellant within time bound frame.
- (4) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the CPIO.
- (5) That the statement made by the deemed CPIO, Shri Mukesh Gupta in his reply dated 12-12-2013 (Annexure 6) that information has already been given to the appellant by letter dated 29-11-2013 is incorrect and misleading. By his said letter dated 29-11-2013 the deemed CPIO, Shri Mukesh Gupta had only informed the appellant that DoPT OM has been forwarded to all DR/AR for necessary compliance, whereas the appellant had sought for information regarding implementation and action taken on said DoPT OM which had not been provided by said letter of the deemed CPIO. Thus the deemed CPIO has knowingly furnished incorrect and misleading information, and thereby caused obstruction to supply of information. Therefore the reply/order in question is liable to be set aside.
- (6) That the deemed CPIO, Shri Mukesh Gupta has failed to appreciate that

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the appellant had sought the action taken on DoPT OM in question by the public authority, and not by the Assistant Registrar (Admin). Therefore his reply that he had forwarded said OM to all DR/AR does not fulfill the disclosure requirement. In fact it amounts to denial of information and providing incorrect, incomplete and misleading information. Therefore, the reply of the deemed CPIO is incorrect and incomplete, and hence liable to be set aside.

- (7) That although the deemed CPIO, Shri Mukesh Gupta was admittedly aware of the fact that the information sought by the appellant is available with all DR/AR of CESTAT to whom he had forwarded DoPT OM, yet he has neither transferred the appellant's RTI application to them u/s 6(3) of the RTI Act, nor has he collected the information from them u/s 5(4) of the RTI Act. He has thus deliberately and malafidely not provided the information though the same was admittedly available with the public authority. By doing so, he has obstructed the supply of information to the appellant. Therefore, the order/reply in question is liable to be set aside.
- (8) That the CPIO, Shri Rajendra Prasad has also failed to provide correct information to the appellant. He has simply forwarded the reply of the deemed CPIO to the appellant without examining whether the said reply contains the information sought by the appellant or not. The CPIO Shri Rajendra Prasad being a quasi judicial authority under the statute should have passed a reasoned order, but he has just acted as post office and simply forwarded the reply he had received from deemed CPIO. Being a CPIO it was his duty to provide correct and complete information to the appellant.
- (9) That once the CPIO, Shri Rajendra Prasad became aware of the fact (though the reply of deemed CPIO) that the DoPT OM in question had been forwarded to all DR/AR, he should have immediately forwarded the RTI application to them and collected the information from them as time limit to provide information had already expired. But he willfully did not do so, thereby caused obstruction to information. Therefore his action and reply are also in contravention of the RTI Act and thus liable to be set

aside.

- (10) That it is thus clear that the information, though available with the public authority, has willfully and malafidely not been provided by the CPIO and the deemed CPIO. Therefore, it is requested that the order/reply in question be set aside and correct and complete information as requested in the RTI application be directed to be provided to the appellant without any further delay.
- (11) That it is also evident from the facts of the case that the deemed CPIO, Shri Mukesh Gupta and the CPIO Shri Rajendra Prasad have knowingly and malafidely not provided the information to the appellant. They have also caused unwarranted delay in transferring/replying to the RTI application. This warrants imposition of penalty u/s 20(1) of the RTI Act on both of them, besides recommendation of disciplinary action u/s 20(2) of the RTI Act. However, since the power to take such actions only lies with the CIC, the appellant shall file a separate complaint u/s 18 of the RTI Act before the CIC.
- (12) That the appellant is citizen of India and fulfilled all other requirements of the RTI Act and the Rules made thereunder and is entitled to the information in question.
- (13) 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.
- (14) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (15) 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 and he may be directed to provide the information in question within time bound frame.
- (c) That any other relief as the Appellate Authority deem fit and proper may also be ordered in favour of the appellant.
- (d) That a personal hearing may be granted to the appellant before deciding the appeal.

Signature of Appellant

Telephone No. : 9810077977

24651101

Fax No. 011-24635243

Place : New Delhi

Dated : 10-01-2014

0/c
Annexure 1

(8)

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

Ref. No. :RTI/P-265/7337/13

Dated : 17-10-2013

To

Shri S.Bhowmick,
CPIO & Under Secretary Ad-IC Section,
Ministry of Finance, Department of Revenue,
Room No.220A, North Block,
New Delhi - 110001

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 details of the implementation of the direction issued in para 1.4.1 of the Guidelines enclosed with Office Memoranda No. 1/6/2011-IR , dated 15 April 2013 of the DOPT regarding proactive disclosure of RTI applications, appeals received and their responses on your website with search facility based on keyword.</p> <p>(B) Provide copy of the Action Taken Report submitted on the compliance of the Guidelines issued under Office Memoranda No. 1/6/2011-IR , dated 15 April 2013 of DOPT, as required under para 4.3 of the said Guidelines</p> <p>(C) Provide datewise details of the action taken by your public authority in relation to paragraph 4.1, 4.2, 4.4 and 4.7 of the aforesaid Guidelines of the DOPT and copies of all notesheets & correspondence</p> <p>(D) Please provide datewise details of the compliance of para 3.6 of the aforesaid Guidelines.</p> <p>(E) Please provide list of directions given in the aforesaid Guidelines which have not so far been implemented/operationalised by you till 17.10.2013 and expected date by which each one of them is expected to be implemented.</p>


Handwritten signature and date: 18/10/13
Stamp: RTI Cell

	<p>NOTE:- As per paragraph 4.1 of the aforesaid guidelines all public authorities, including CIC is to make the aforesaid guidelines fully operationalised within a period of six-month, the said period of six-month has expired on 15th of October 2013, as the guidelines in question were issued on 15 April 2013.</p> <p>Note:-Please provide point-wise information/ response for each of above points.</p>
5.	I state that the information sought is covered under RTI Act and does not fall within the exemptions contained in sections 8 or 9 or any other provisions of the Right to Information Act, 2005 and to the best of my knowledge it pertains to your office. Information is being sought in larger public interest.
6.	A Postal Order No. 13F 808369 for Rs. 10 towards payment of fee is enclosed herewith. You are requested to filling the name in which the Postal Order is payable.
8.	As per Section 7 of the RTI Act, 2005 information is to be provided within 30 days of the Application.

Place : New Delhi

Encl. : as above

asn/—7337


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

Annex 2 (10)

New Delhi, dated 30.10.2013

To ✓
Shri R.K. Jain,
1512-B, Bhishm Pitamah Marg,
Wazir Nagar, Delhi- 110003

Subject: RTI Application No. RTI/P-265/7337/13 dated 17.10.2013- reg.

Sir,

I am to refer to your above referred RTI application dated 17.10.2013 and to say that the steps taken regarding proactive disclosure under Section 4 of the RTI Act, 2005 as per instructions circulated by the DOP&T can be informed by US(RTI), Department of Revenue. As such, the concerned authority was requested to provide you the information vide our letter F.No.20011/70/2013-Ad.IC (CESTAT) dated 18.10.2013 (copy enclosed for ready reference) in response to your identical RTI application No. RTI/P-265/7257/13 dated 08.10.2013 on the similar issues.

2. Regarding action taken by the undersigned as CPIO, it is informed that CESTAT Section of the DoR is responsible for selection of Members (Judicial & Technical) in CESTAT and as such this section administers the Customs, Excise and Service Tax Appellate Tribunal Members (Recruitment and Conditions of Service) Rules, 1987, which is available on the department's website www.dor.gov.in. A copy of the DOP&T OM F.No.1/6/2011-IR dated 15.04.2013 alongwith its enclosures has also been forwarded to CESTAT for taking necessary action at their end. Accordingly, a copy of your RTI application is being forwarded to CPIO, CESTAT for providing you the requisite information relating to CESTAT.

3. In case, you are not satisfied with this reply, an appeal may be filed before Shri Ajay Kumar Nema, Director (HQ), First Appellate Authority, Room No. 48-A, Department of Revenue, North Block, New Delhi-01 within 30 days of receipt of this letter.

Encl: As above

Yours faithfully,

S. Bhowmick

(S. Bhowmick)

Under Secretary to the Govt. of India & CPIO

Tel. No. 2309 5367

Copy to: CPIO, CESTAT, West Block No.2, R.K. Puram, Delhi-110066; for necessary action.

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(11)

F.No.R-20011/70/2013-Ad.IC (CESTAT)
Government of India
Ministry of Finance
Department of Revenue

New Delhi, dated the 18th October, 2013

To

Under Secretary and CPIO (RTI Cell)
Department of Revenue
North Block, New Delhi

Subject: Transfer of RTI application u/s 6(3) of RTI Act-2005-reg.

Sir,

The undersigned has received the RTI application No.RTI/P-265/7257/13 dated 08.10.2013 from Shri R.K.Jain, 1512-B, Bhishm Pitamah Marg, Wazir Nagar, New Delhi forwarded by the RTI Cell of this department vide FTS.No.188680/2013-RTI Cell dated 11.10.2013. As the subject matter of the RTI application is more closely related to the function of RTI Cell, a copy of the same is transferred herewith to you under Section 6(3) of the RTI Act for providing the requisite details to the RTI applicant.

Yours faithfully,



(S.Bhowmick)

Under Secretary (CAT) and CPIO
Tel.No.2309 5367

Encl: RTI Application with annexure.

Copy to:

Shri R.K.Jain, Editor, 1512-B, Bhisham Pitamah Marg, Wazir Nagar, New Delhi w.r.t. the RTI application mentioned above.

O/C
J. S. S. in the encl.
18/10/13

Anneex 43

(12)

F.No....08-244..../CESTAT/CPIO-ND/RP/2013,
Customs, Excise and Service Tax, Appellate Tribunal,
West block No.2, R.K.Puram, New Delhi-110066.

Dated 2/12/13

ID No. 08/244

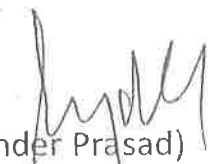
Subject: Information sought under RTI Act 2005.

Sir,

Please refer to RTI application of
Shri R.K. Jain (Transferred for M/W/S) of
Under RTI Act 2005 vide No. 7337/13 dated
17/10/13 (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. 7337/13 dated 17/10/13 CPIO ID No 08-244/13 is
forwarded herewith to the following officers as deemed CPIO with the
request to provide correct and para-wise information/inspection on or
before 13/12/13 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)

Copy to: 2 Registrar, CESTAT, New Delhi — for information,
2 Sh. R.K. Jain, 1512 B, Bhisham Pitamah Marg,
Wazir Nager, New Delhi - 110003.
— for information pl.

V-6962

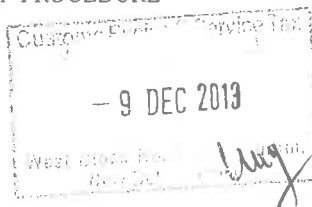
01/-
Annexure 6

(13)

R.K. JAIN M.Com., LL.B.
President, Excise and Customs Bar Association
Editor of
EXCISE LAW TIMES & SERVICE TAX REVIEW
and author of
CENTRAL EXCISE LAW GUIDE
CENTRAL EXCISE TARIFF, CUSTOMS TARIFF,
CENTRAL EXCISE MANUAL, CUSTOMS LAW MANUAL &
EXIM POLICY AND HANDBOOK OF PROCEDURE



1512-B, Bhishm Pitamah Marg,
Wazir Nagar
NEW DELHI - 110 003.
PH. : 24651101, 24693001 - 3004
MOBILE : 9810077977
Fax No.: 011-24635243



RTI/P-195/7337/13/R8466
09-12-2013

Assistant Registrar (Admn.),
Customs Excise & Service Tax Appellate Tribunal,
West Block 2, R.K.Puram,
New Delhi - 110066

Sub: My RTI Application No. RTI/7337/13, dated 17/10/2013

Dear Sir,

This refers to the letter F.No.08-214/CESTAT/CPIO-ND/RP/2013 dated 2-12-2013 of Mr. Rajender Prasad, CPIO & Accounts Officer, CESTAT, New Delhi - 110 066, transferring my aforesaid RTI application to you under section 6(3) of the RTI Act, 2005, for providing the information to me. You are requested to kindly provide the information at the earliest as under section 7(1) of the RTI Act, information is to be provided within 30 days of the RTI Application.

Thanking you,

Yours faithfully,

[R.K. Jain]

pk

Answer 5

(14)

F.No. 08-214...../CESTAT/CPIO-ND/RP/2013,
Customs, Excise and Service Tax, Appellate Tribunal,
West block No.2, R.K.Puram, New Delhi-110066.

Dated 01.01.2014

ID No. 08-214/13

To

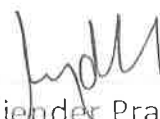
Shri R.K.Jain,
1512, Bhishma Pitamah Marg,
Wazir Nagar,
New delhi-110003.

Subject: information under Right to Information Act.2005.

Sir,

Please refer to your RTI application No. 7337/13 dated 17-10-13
and Tribunal's ID No. 08-214 the information received from AR (Admin)
containing 2 pages is endorsed herewith for your reference please.

You are therefore, requested to acknowledge the receipt of the same and
deposit Rs. @2/- per page to this Tribunal by cash or DD in favour of
Accounts Officer, CESTAT, New delhi.



(Rajender Prasad)
Accounts Officer/CPIO

V-73374

F. No ID No 33(205)RTI/Misc/CESTAT/ND/Admn-2013

ID No 08-214/2013

Dated : 12/12/2013

Subject: Information sought under RTI Act 2005 - reg

Sir,


With reference to your letter No F. No 08-214/CESTAT/CPIO-ND/RP/2013 dated 02/12/2013 ID No 08-214/2013.

In this connection it is submitted that the information as asked vide above mentioned RTI has already been forwarded to you vide our letter No 33(199)/RTI/Misc/CESTAT/ND/Admn- 2013 dated 29/11/2013 in response to CPIO ID No 08/205/2013 on the similar issue.

However a copy of our letter stated above is enclosed for your ready reference.


(Mukesh Gupta)
Assistant Registrar (Admn)

To, ✓
Shri Rajender Prasad
Account Officer /CPIO



27/12/2013

1604/CPIO
27/12/2013

F. No ID No 33(199)RTI/Misc/CESTAT/ND/Admn-2013

ID No 08-205/2013

Dated : 29/11/2013

Subject: Information sought under RTI Act 2005 - reg

Sir,

With reference to your letter No F. No 08-205/CESTAT/CPIO-ND/RP/2013 dated 23/10/2013 ID No 08-205/2013.


In this connection it is submitted that the Para wise information as asked by Sh RK Jain, vide his RTI application No 7338/13 dt 17/10/2013 and CPIO ID No 08/205/13 the Ministry of Personnel, Pubic Grievances & Pensions letter No 1/6/2011-IR and its guidelines received in this office on 25/10/2013 and the copy of the same has been forwarded to all DR/AR alongwith CPIO, New Delhi on 07.11.2013 for necessary compliance of the above OM.

This may please be inform to the Applicant.



(Mukesh Gupta)
Assistant Registrar (Admn)

To,

Shri Rajender Prasad
Account Officer /CPIO


2/12/13



ISSUED ON 02/12/13
SIGNATURE 

**IN THE CUSTOMS, EXCISE AND SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. I**

Date of Hearing/decision: 14.10.2014

**Appeal No.09-051(A)/CESTAT/FAA-RK/2014
CPIO, I.D. No. 08-214/CESTAT/CPIO-ND/RP/2013**

Sh. R.K.Jain

Appellant

Vs.

Sh. Rajender Prasad, CPIO

Respondent

ORDER -050/2014

Per Rakesh Kumar:-

The appellant vide RTI Application dt.17.10.2013 have sought the following information:-

- (A) Please provide details of the implementation of the direction issued in para 1.4.1 of the Guidelines enclosed with Office Memoranda No. 1/6/2-011-1R, dt. 15.04.2013 of the DOPT regarding proactive disclosure of RTI application, appeals received and their responses on your website with search facility based on keyword.
- (B) Please provide copy of the Action Taken Report submitted on the compliance of the Guidelines issued under Office Memoranda No. 1/6/2011-1R, dt. 15.04.2013 of DOPT, as required under para 4.3 of the said Guidelines.
- (C) Please provide details of the action taken by your public authority in relation to paragraph 4.1., 4.2, 4.4 and 4.7 of the aforesaid Guidelines of the DOPT and copies of all note sheets and correspondence.
- (D) Please provide datewise details of the compliance of para 3.6 of the aforesaid Guidelines.

98-10-14
ISSUED ON
SIGN. (DESPATCH SECTION)
CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
NEW DELHI-110056

1 _____

- (E) Please provide list of directions given in the aforesaid Guidelines which have not so far been implemented/operationalised by you till 17.10.2013 and expected date by which each one of them is expected to be implemented.

2. The information sought is about the implementation of the directions issued in para 1.4.1 of the Guidelines enclosed with Office Memoranda No. 1/6/2-011-1R, dt. 15.04.2013 of the DOPT regarding proactive disclosure of information about the RTI applications and appeals received and their responses on the website and also the Action Taken Report of compliance of the Guidelines.

3. Heard both the sides.

4. The CPIO is directed to furnish pointwise information about each point. The copies of the note sheets of the files in which the matter of implementation of DOPT Guidelines dt.15.04.2013 has been dealt with, may also be provided to the Applicant on payment of the applicable fee. The furnishing of information and the documents may be completed within three weeks time.


(Rakesh Kumar)
Member(Technical)

To

1. Sh. R.K.Jain, 1512, Bhishm Pitamah Marg
Wazir Nagar, New Delhi-110 003.
2. Copy to CPIO.
3. *closed file / OC*

Appeal no. 09-052/2014

①

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

Ref. No. : RTI/P-501/(4189/12)/Appeal/6239

Dated : 15-01-2014

To

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

17 JAN 2014

A. Contact Details :

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

B. Details About RTI Request :

1.	Particulars of the CPIO against whose order appeal is preferred	(a) Name Shri Rajender Prasad CPIO & Accounts Officer
		(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)	22-06-2012
3.	Details of the order appealed against	CPIO's letter F.No.07-100/CESTAT/CPIO-ND/NK/2012 dated 26-12-2013
4.	Prayer or relief sought	See Prayer clause at the end
5.	Last date for filing the appeal	26-1-2014
6.	Whether appeal in time	Yes
7.	Copies of documents relied upon by the applicant	(1) Copy of RTI application dated 22-6-2013 (Annexure-1) (2) Copy of 1st Appeal No. 5925 dated 10-10-2013 (Annexure-2) (3) Copy of CPIO's letter dated 19-10-2013 (Annexure-3) (4) Copy of CPIO's letter dated 30-10-2013 (Annexure-4) (5) Copy of Appellant's letter dated 6-11-2013 (Annexure-5) (6) Copy of CPIO's letter dated 20-11-2013 (Annexure-6) (7) Copy of Appellant's letter dated 21-11-2013 (Annexure-7) (8) Copy of CPIO's letter dated 26-12-

		2013 (Annexure-8)
		(9) , Delhi High Court decision in the case of union of India versus Vishwas bambukar (Annexure- 9)

BRIEF FACTS OF THE CASE

- (1) The appellant has filed an application dated 22-06-2012 (Annexure – 1) under Section 6 of the RTI Act, 2005 requesting for the following information:

(A) You are requested to provide the inspection of all files, records/ documents relating to DO (W.P.) No. 60706842/2012 dated 16 5-2012-AR. - High Court W.P. No. 11160 of 2011 and diarized at serial No. 437 of Daily Diary of the PS to the Hon'ble President.

(B) You are also requested to provide inspection of all records, documents and files relating to the request for early hearing in the case Bhushan Steel and Strips and diarized at serial No. 450 of the Daily Diary of the PS to the Hon'ble President

- (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 Rajendra Prasad CPIO and Shri Manoj Gupta, deemed CPIO and assistant registrar had not provided complete and correct information despite order of the 1st Appellate Authority's. The appellant being aggrieved by the said order of the CPIO is filing the present appeal.

GROUND OF APPEAL

- (1) That the order in question of the learned 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 and therefore, there was no valid cause or reason or ground for not providing the information.
- (3) That the 1st appellate 30 by this order number 108/2013 dated 30 October

2013 (**Annexure 4**) directed the CPIO to provide the information within 2 weeks. Consequently, the CPIO by his letter dated 20th November 2013 asked the Assistant Registrar, Central Excise Branch and deemed CPIO to provide the information. The CPIO and deemed CPIO by their reply dated 20 November 2013 (**Annexure- 8**) is stated that the records are not traceable and as and when they are available. The appellant will be informed for inspection. However, in reply to point B, the CPIO offered inspection of the records and fixed 26 December 2013 as date for inspection. The CPIO and deemed CPIO are playing hot and cold with the appellant and in response to point A, devastated that the records are not traceable and appellant will be intimated for inspection when they are traced while in response to point B, they are offering the same records for inspection, which are stated to be missing with them. This this indicates that the records are not missing but are being withheld by the CPIO and deemed CPIO. 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.

- (4) That the CPIO and deemed CPIO during the proceedings before the 1st appellate authority has not taken the stand that the records in question are not traceable. It means that that is stage the records were available. The High Court decision in the case of Union of India versus Vishwas bhambokar (**Annexure- 9**) has held that when the records are not admitted to have been in the custody of the Department and then they are lost an inquiry is to be held and if still the records are not traced out, then the police complaint should be filed in the matter. In view of this Delhi High Court decision. It is prayed that a enquiry may be ordered and if the records are still not traceable then a police complaint may be ordered to be filed.
- (5) That the CPIO and deemed CPIO are not complying with the order of the 1st Appellate Authority, therefore, they are also liable for penal action as well as direction for compliance of the appellate order within time bound manner.
- (6) That the Ld. 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 the information to the appellant within time bound frame.

- (7) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (8) That as per proviso to Section 8(1) of the RTI Act, 2005, the information which can not be denied to the Parliament or the State Legislatures shall not be denied to any person. The information sought by the appellant in the subject application is the one which cannot be denied to the Parliament or the State Legislatures and hence it cannot be denied or refused to the appellant.
- (9) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (10) This is without prejudice to the right of the appellant to add, alter or modify any of the grounds of this appeal and adduce oral or written evidence at the time of hearing or till the appeal is disposed of.

PRAYER

Under the circumstances, the appellant prays as under:

- (a) That the Original Records may be summoned and perused.
- (b) That the order of the CPIO may be set aside and he may be directed to provide the information in question within time bound frame.
- (c) That any other relief as the Appellate Authority deem fit and proper may also be ordered in favour of the appellant.
- (d) That a personal hearing may be granted to the appellant before deciding the appeal.



Signature of Appellant
Telephone No. : 9810077977
24651101
Fax No. 011-24635243

Place : New Delhi
Dated : 15-01-2014

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

Ref. No. : RTI/P-195/4189/12

Dated : 22-6-2012

To

Shri Naresh Kumar
CPIO & Deputy Registrar
Customs Excise & Service Tax Appellate Tribunal
West Block 2 R.K.Puram
New Delhi - 110066



1.	Name of the Applicant	R.K. Jain
2.	Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003
	(b) Phone Nos.	09810077977, 011-24651101, 011-24690707
	(c) Fax No.	011-24635243
3.	Whether a Citizen of India	Yes
4.	Particulars of Information	
	Details of information required	<p>(A) You are requested to provide the inspection of all files, records/ documents relating to DO (W.P.) No. 60706842/2012 dated 16-05-2012-AR. - High Court W.P. No. 11160 of 2011 and diarized at serial No. 437 of Daily Diary of the PS to the Hon'ble President.</p> <p>(B) You are also requested to provide inspection of all records, documents and files relating to the request for early hearing in the case Bhushan Steel and Strips and diarized at serial No. 450 of the Daily Diary of the PS to the Hon'ble President.</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.	
6.	A Postal Order No. 05F 348295 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 Rule 4(a) of the Right to Information (Regulation of Fee and Cost) Rules, 2005, a fee of Rs. 2/- per page is payable. KINDLY INTIMATE THE AMOUNT PAYABLE AND THE NAME IN WHICH DD/POSTAL ORDER IS TO BE DRAWN	
8.	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

Date : as above

0/11
Annexure 2 (6)

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

11 OCT 2013

Ref. No. : RTI/P-537/(4189/12)/Appeal/5925
Dated : 10-10-2013

To

Shri Sahab Singh,
Hon'ble 1st Appellate Authority Under RTI Act, 2005,
Customs, Excise & Service Tax Appellate Tribunal,
West Block 2, R.K.Puram,
New Delhi - 110066

A. Contact Details :

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

B. Details About RTI Request :

1.	Particulars of the CPIO against whose order appeal is preferred	(a) Name	Shri Naresh Kumar CPIO & Deputy Registrar
		(b) Address	Customs Excise & Service Tax Appellate Tribunal West Block 2 R.K.Puram New Delhi - 110066
2.	Date of submission of application (Copy of application attached)	22-06-2012 and last reminder letter dated 03-09-2013 of appellant.	
3.	Details of the order appealed against	Appeal against deemed refusal	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	3-11-2013	
6.	If appeal is being filed after 30 days, the reasons which prevented from filing appeal in time	Appeal in time	
7.	Copies of documents relied upon by the applicant	(1) Copy of RTI application dated 22-6-2012. (Annexure-1) (2) Copy of CPIO's reply dated 02-07-2012. (Annexure-2)	

7

	<ul style="list-style-type: none">(3) Copy of inspection note dated 04-07-2012. (Annexure-3)(4) Copy of Appellant's letter dated 09-07-2012. (Annexure-4)(5) Copy of CPIO's reply dated 18-07-2012. (Annexure-5)(6) Copy of CPIO's reply dated 19-07-2012. (Annexure-6)(7) Copy of Appellant's letter dated 21-07-2012. (Annexure-7)(8) Copy of Appellant's letter dated 25-07-2012. (Annexure-8)(9) Copy of Appellant's final reminder letter dated 31-08-2012. (Annexure-9)(10) Copy of Appellant's letter dated 01-10-2012. (Annexure-10)(11) Copy of Appellant's letter dated 05-11-2012. (Annexure-11)(12) Copy of Appellant's letter dated 21-11-2012. (Annexure-12)(13) Copy of Appellant's final reminder letter dated 09-05-2013. (Annexure-13)(14) Copy of Appellant's final reminder letter dated 03-09-2013. (Annexure-14)
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BRIEF FACTS OF THE CASE

(1) The appellant has filed an application dated 22-06-2012 (Annexure – 1) under Section 6 of the RTI Act, 2005 requesting for the following information:

(A) *You are requested to provide the inspection of all files, records/ documents relating to DO (W.P.) No. 60706842/2012 dated 16.5-2012-AR. - High Court W.P. No. 11160 of 2011 and diarized at serial No. 437 of Daily Diary of the PS to the Hon'ble President.*

(B) *You are also requested to provide inspection of all records, documents and files relating to the request for early hearing in the case Bhushan Steel and Strips and diarized at serial No. 450 of the Daily Diary of the PS to the Hon'ble President*

- (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 the appellant has not received the desired information within the period of 30 days as stipulated under Section 7(1) of the RTI Act, 2005, inspite of his reminder letter dated 03-09-2013, therefore, as per Section 7(2) of the RTI Act, 2005, the request for information shall be deemed to have been refused. Thus being aggrieved by such refusal, this Appeal.

GROUND OF APPEAL

- (1) That the action of the learned CPIO and the deemed CPIO in not providing the information to the appellant is illegal and contrary to the provisions and spirit of the RTI Act, 2005.
- (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 and therefore, there was no valid cause or reason or ground for not providing the information.
- (3) That the inaction of the learned CPIO is in violation of Sections 7(1) and 7(2) of the RTI Act, 2005 and is therefore, illegal. Such inaction inspite of appellant's last reminder letter dated 03-09-2013, is deemed to be a refusal to the request of the appellant without any reasonable cause or ground hence is illegal.
- (4) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (5) That the appellant is citizen of India and fulfilled all other requirements of the RTI Act and the Rules made thereunder and is entitled to the information in question.
- (6) That as per proviso to Section 8(1) of the RTI Act, 2005, the information which can not be denied to the Parliament or the State Legislatures shall not be denied to any person. The information sought by the appellant in

the subject application is the one which cannot be denied to the Parliament or the State Legislatures and hence it cannot be denied or refused to the appellant.

- (7) 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.
- (8) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (9) 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 and he may be directed to provide the information in question within time bound frame.
- (c) That any other relief as the Appellate Authority deem fit and proper may also be ordered in favour of the appellant.
- (d) That a personal hearing may be granted to the appellant before deciding the appeal.



Signature of Appellant

Telephone No. : 9810077977

24651101

Fax No. 011-24635243

Place : New Delhi

Dated : 10-10-2013

Annexure 3 (10)

F.No.07-100/CESTAT/CPIO-ND/NK/2012,
Customs, Excise and Service Tax,
Appellate Tribunal,
West Block No.2, R.K.Puram,
New Delhi-110066.

Dated : 19-10-2013.
ID No.07-100/2012

To

The Asstt. Registrar(Excise)
CESTAT, New Delhi.

Subject: First Appeal order No.1082013.

Sir,

I am to refer to your reply dated 11-11-2013 in above mentioned ID No. and first appeal order No.108/2013, there in you have mentioned that "applicant may intimate the appeal number". In this connection, please find enclosed herewith two photocopies of diary register of O/o the Registrar, having the requisite information, to trace out the said appeal number.

You are requested to forward the complete information, immediately, for onward supply to the RTI applicant Sh. R K Jain.

Yours faithfully,


(Rajender Prasad)
Accounts Officer/CPIO

Copy to

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

Annexure 4 (11)

APPELLATE AUTHORITY RTI ACT
CUSTOMS EXCISE & SERVICE TAX APPELLATE TRIBUNAL
West Block No. 2, R.K. Puram, New Delhi

Date of Hearing : 30.10.2013

Appeal No. 08-101(A)/2013
CPIO ID No. 07-100/2012

Shri R.K. Jain

Appellant

Vs.

Shri Rajender Prasad, CPIO

Respondent

Order...10.8/2013.....

Heard Shri R.K. Jain, appellant in presence of CPIO Shri Rajender Prasad and Shri Kripa Shankar, A.R.

2. CPIO is directed to provide the information in respect of (A) and (B) within two weeks.


(Sahab Singh)

Appellate Authority under the RTI Act

To

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

2. Shri Rajender Prasad, AO/CPIO

3. bunnad file

4. office copy

R.K. JAIN M.Com., LL.B.
President, Excise and Customs Bar Association
Editor of
EXCISE LAW TIMES & SERVICE TAX REVIEW
and author of
CENTRAL EXCISE LAW GUIDE
CENTRAL EXCISE TARIFF, CUSTOMS TARIFF,
CENTRAL EXCISE MANUAL, CUSTOMS LAW MANUAL &
EXIM POLICY AND HANDBOOK OF PROCEDURE

o/c
Annex 5 (12)

06 NOV 2013

1512-B, Bhishm Pitamah Marg,
Wazir Nagar

NEW DELHI - 110 003.

PH. : 24651101, 24693001 - 3004

MOBILE : 9810077977

Fax No.: 011-24635243

RTI/P-195/4189/12/R8066

06-11-2013

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

Sub: My RTI Application No. RTI/4189/12, dated 22/6/2012

Dear Sir,

This refers to the Order No. 108/2013 dated 30-10-2013 of Shri Sahab Singh, Appellate Authority under the RTI Act. You are requested to comply with the aforesaid Order and provide the information within two weeks.

Thanking you,

Yours faithfully,



[R.K. Jain]

Annexure 56

(13)

F.No. 17-100...../CESTAT/CPIO-ND/NK/2012
Customs, Excise and Service Tax, Appellate Tribunal,
West block No.2, R.K.Puram, New Delhi-110066.

Dated 20/11/13

ID No. 07-100/2012

✓ To

Shri R.K.Jain,
1512, Bhishma Pitamah Marg,
Wazir Nagar,
New delhi-110003.

Subject: information under Right to Information Act.2005.

Sir,

In compliance of FAA's order no. 108/2013

Please refer to your RTI application No. 4189/12 dated 22/6/12
and Tribunal's ID No. 07-100/12 the information received from AR (Excise)
containing 01 pages is endorsed herewith for your reference please.

You are therefore, requested to acknowledge the receipt of the same and
deposit Rs. — @2/- per page to this Tribunal by cash or DD in favour of
Accounts Officer, CESTAT, New delhi.


(Rajender Prasad)

Accounts Officer/CPIO

EXCISE BRANCH

ID No. 07-100/2012

To


CPIO & Assistant Registrar,
CESTAT, West Block No-2,
R.K. Puram, New Delhi -110066

With reference to your letter No. ID/07-
100/2012 dated 19.11.2013.

In this reference to required information furnished as
under.

- 4.(A) Not traceable (we are looking for the matter
As and when it is trace out , will be intimated
For inspection).
(B) Applicant may inspect the record .(Date
Given below)

It is requested to CPIO to inform the applicant to
inspect the relevant files on 26.11.13.


Assistant Registrar
Excise Branch
20.11.2013

8/c
R.K. JAIN M.Com., LL.B.

President, Excise and Customs Bar Association

Editor of

EXCISE LAW TIMES & SERVICE TAX REVIEW

and author of

CENTRAL EXCISE LAW GUIDE

CENTRAL EXCISE TARIFF, CUSTOMS TARIFF,

CENTRAL EXCISE MANUAL, CUSTOMS LAW MANUAL &

EXIM POLICY AND HANDBOOK OF PROCEDURE

TIME BOUND

RTI

Amenu B 7

22 NOV 2013

1512-B, Bhishm Pitamah Marg,
Wazir Nagar

NEW DELHI - 110 003.

PH. : 24651101, 24693001 3004

MOBILE : 9810077977

Fax No.: 011-24635243

RTI/P-195/4189/12/R8208

21-11-2013

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

Sub: My RTI Application No. RTI/4189/12, dated 22/6/2012

Dear Sir,

This refers to your letter F.No.07-100CESTAT/CPIO-ND/NK/2012 dated 20-11-2013 alongwith the report of the Deemed CPIO Shri Manoj Gupta. As per the report, the records relating to point (A) are not traceable while he has offered inspection of the records relating to point (B) only. In these circumstances, I would prefer to take inspection of both the records together. Kindly take appropriate steps for expeditious tracing of missing records.

Thanking you,

Yours faithfully,



[R.K. Jain]

Annexure 8

(16)

F.No. 07-100 / CESTAT/CPIO-ND/^{NK}RP/2012
Customs, Excise and Service Tax, Appellate Tribunal,
West block No.2, R.K.Puram, New Delhi-110066.

Dated 26/12/12

ID No. 07-100/2012

To

✓ Shri R.K.Jain,
1512, Bhishma Pitamah Marg,
Wazir Nagar,
New delhi-110003.

Subject: information under Right to Information Act.2005.

Sir,

Please refer to your RTI application No. 4189/12 dated 22.6.12
and Tribunal's ID No. 07-100/12 the information received from AR Excise
containing one pages is endorsed herewith for your reference please.

You are therefore, requested to acknowledge the receipt of the same and
deposit Rs. — @2/- per page to this Tribunal by cash or DD in favour of
Accounts Officer, CESTAT, New delhi.


(Rajender Prasad)
Accounts Officer/CPIO

Copy for information to :-

~~just~~ AR Excise CESTAT, New Delhi

(Date of Inspection 31.12.12)

Pl. make available document for inspection
on said date)

16-7254

EXCISE BRANCH

ID No. 07-100/2012

To

CPIO & Assistant Registrar,
CESTAT, West Block No-2,
R.K. Puram, New Delhi -110066

With reference to your letter No. ID/07-
100/2012 dated 17.12.2013.

In this reference to required information furnished as
under.

4.(A) Not traceable (we are looking for the matter
As and when it is trace out , will be intimated
For inspection).

(B) Applicant may inspect the record .(Date
Given below)

It is requested to CPIO to inform the applicant to
inspect the relevant files on 26/12/2013. *

P1. inspection

* 31-12-2013

[Signature] 23/12/13

Assistant Registrar
Excise Branch
23.12.2013

1579/CPIO
23/12/2013

18

*

Date of Decision: 13.09.2013

+

..... Petitioner

Through:

Chandra and Mr. Ravjyot Singh, Advs.

..... Respondent

Through:

HON'BLE MR. JUSTICE V.K.JAIN

HON'BLE MR. JUSTICE V.K.JAIN

JUDGMENT

V.K.JAIN, J. (ORAL)

The respondent filed an application on 14.5.2011 with the PIO in the Ministry of Tourism, PSW Division, seeking an authenticated photocopy along with the file notings of the Project Report for Development of Ayurvedic Health Resort and Herbal Garden at Vagamon, which was submitted by the Department of Tourism, Government of Kerala in December, 2005 and was bearing file number 426/D(CN) dated 20.02.2006.

2. In his reply, the PIO stated that the said project report had not been received in the Ministry of Tourism. Being dissatisfied with the reply furnished by the PIO,

the respondent preferred an appeal before the First Appellate Authority. The following was the order passed by the First Appellate Authority:

“The noting initials on the cover page of the Project Report produced by Shri Bhamburkar suggest that the Report was received in MOT. However, since it is only a photocopy, its authenticity cannot be taken for granted. CPIO & Asstt. DG (PSW) is directed to make a thorough search for the said Project Report and records pertaining to its receipt and movement in the Ministry. If the Report is traced, its authenticated copy will be supplied by the CPIO to the applicant. If the Report is not traceable, but records are found which confirm that the Report was received in the MOT, a report may be lodged with Police regarding the missing documents. An intimation to this effect may then be conveyed to the applicant by the CPIO. In case neither the Project Report nor any records of its receipt in Ministry are available, the applicant may be so informed by the CPIO. Action has to be taken within 15 days”.

3. Being still dissatisfied, the respondent preferred a second appeal before the Central Information Commission. During the course of hearing before the Commission, the appellant produced a photocopy of a report purporting to be signed by Department of Tourism, Government of Kerala in December, 2005. The aforesaid report purported to be signed by various officials. The PIO confirmed that the signatures of the then Joint Secretary Mr. Amitabh Kant and Director Mrs. Leena Nandan. She, however, stated that there was no trace of the said Report in the Ministry nor any other relevant papers were available to indicate the presence of such a report. The Commission, therefore, directed Secretary, Ministry of Tourism to inquire into the matter and send his report to the appellant and the Commission. In this regard, the Commission observed that either the PIO or some other officer could be hiding the information or the report being submitted could be forged or it could be a conspiracy by which the report and all associated papers

were taken away from the Government. Being aggrieved from the order of the Commission, the Union of India is before this Court by way of this writ petition.

4. Vide an interim order, this Court directed the petitioner to place on record the fact finding report of the Ministry of Tourism, Government of India and also directed that copy of the report be provided to the respondent. A perusal of the said report would show that the officer who conducted the said inquiry reported that there was no documentary record in the Ministry to show that the original report was received in the year 2006. He concluded beyond reasonable doubt that the original project documents on the subject matter was not available in the Ministry of Tourism. However, the said report does not indicate that any attempt was made to contact the then Joint Secretary (T) and Director (T) whose signatures on the photocopy of the report were admitted by the PIO before the Commission, to find out when, where, and in what circumstances they had signed the documents photocopy of which was produced before the Commission. In my view, it was incumbent upon the officer who conducted the inquiry into the matter to contact the above referred officers and inquire from them about the aforesaid report, before taking the final view in the matter. There is no explanation at this stage as to why no such attempt was made. The impression which I get in these circumstances is that the petitioner somehow wants to avoid a proper inquiry in terms of the directions given by the Commission.

5. The learned counsel for the petitioner assailed the order of the Commission primarily on the ground that the Right to Information Act does not authorize the Commission to direct an inquiry of this nature by the department concern, though the Commission itself can make such an inquiry as it deems appropriate. Reference in this regard is made to the provisions contained in Section 19(8) of the Act. A careful perusal of sub section (8) of Section 19 would show that the Commission has the power to require the public authority to take any such steps as may be

necessary to secure compliance with the provisions of the Act. Such steps could include the steps specified in clause (i) to (iv) but the sub-section does not exclude any other step which the Commission may deem necessary to secure compliance with the provisions of the Act. In other words, the steps enumerated in clause (i) to (iv) are inclusive and not exhaustive of the powers of the Commission in this regard.

6. The Right to Information Act is a progressive legislation aimed at providing, to the citizens, access to the information which before the said Act came into force could not be claimed as a matter of right. The intent behind enactment of the Act is to disclose the information to the maximum extent possible subject of course to certain safeguards and exemptions. Therefore, while interpreting the provisions of the Act, the Court needs to take a view which would advance the objectives behind enactment of the Act, instead of taking a restrictive and hyper-technical approach which would obstruct the flow of information to the citizens.

7. This can hardly be disputed that if certain information is available with a public authority, that information must necessarily be shared with the applicant under the Act unless such information is exempted from disclosure under one or more provisions of the Act. It is not uncommon in the government departments to evade disclosure of the information taking the standard plea that the information sought by the applicant is not available. Ordinarily, the information which at some point of time or the other was available in the records of the government, should continue to be available with the concerned department unless it has been destroyed in accordance with the rules framed by that department for destruction of old record. Therefore, whenever an information is sought and it is not readily available, a thorough attempt needs to be made to search and locate the information wherever it may be available. It is only in a case where despite a thorough search and inquiry made by the responsible officer, it is concluded that the information

sought by the applicant cannot be traced or was never available with the government or has been destroyed in accordance with the rules of the concerned department that the CPIO/PIO would be justified in expressing his inability to provide the desired information. Even in the case where it is found that the desired information though available in the record of the government at some point of time, cannot be traced despite best efforts made in this regard, the department concerned must necessarily fix the responsibility for the loss of the record and take appropriate departmental action against the officers/ officials responsible for loss of the record. Unless such a course of action is adopted, it would be possible for any department/ office, to deny the information which otherwise is not exempted from disclosure, wherever the said department/ office finds it inconvenient to bring such information into public domain, and that in turn, would necessarily defeat the very objective behind enactment of the Right to Information Act.

8. Since the Commission has the power to direct disclosure of information provided, it is not exempted from such disclosure, it would also have the jurisdiction to direct an inquiry into the matter wherever it is claimed by the PIO/CPIO that the information sought by the applicant is not traceable/ readily traceable/ currently traceable. Even in a case where the PIO/CPIO takes a plea that the information sought by the applicant was never available with the government but, the Commission on the basis of the material available to it forms a prima facie opinion that the said information was in fact available with the government, it would be justified in directing an inquiry by a responsible officer of the department/ office concerned, to again look into the matter rather deeply and verify whether such an information was actually available in the records of the government at some point of time or not. After all, it is quite possible that the required information may be located if a thorough search is made in which event, it could be possible to supply it to the applicant. Fear of disciplinary action, against

the person responsible for loss of the information, will also work as a deterrence against the willful suppression of the information, by vested interests. It would also be open to the Commission, to make an inquiry itself instead of directing an inquiry by the department/ office concerned. Whether in a particular case, an inquiry ought to be made by the Commission or by the officer of the department/ office concerned is a matter to be decided by the Commission in the facts and circumstances of each such case.

9. In the case before this Court, as noted earlier, the PIO, who appeared before the Commission and admitted that the photocopy of the report made available to the Commission was signed by the concerned Joint Secretary and Director at the relevant time. Prima facie, they would have signed the documents only if they had received either the original report or its copy. The endorsement made on the cover of the documents would show that the report/ copy on which endorsement was made was signed by the Secretary, Tourism, Government of Kerala. Had a thorough inquiry been made by inquiring from the concerned officer to find out as to where, when and in what circumstances they had signed the documents, it could have been possible to locate the report in the records of the government.

10. For the reasons stated hereinabove, I find no merit in the writ petition and the same is hereby dismissed. The interim order dated 1.6.2012 stands vacated. In my view, the inquiry conducted by the petitioner in compliance of the order passed by the Commission on 17.4.2012 was not at all satisfactory. It is, therefore, directed that a thorough and meaningful inquiry in terms of the provisions of the directions of the Commission be carried out by an officer not below the rank of a Joint Secretary to the Government within eight weeks from today and a copy each of the said report shall be provided to the Commission as well as to the respondent before this Court.

11. The petitioners are directed to circulate a copy of this order to all the CPIOs/PIOs of the Government of India and other Public Authorities, within four weeks for information and guidance.

There shall be no orders as to costs.

V.K. JAIN, J

SEPTEMBER 13, 2013/*rd*

**IN THE CUSTOMS, EXCISE AND SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. I**

Date of Hearing/decision: 14.10.2014

**Appeal No.09-052(A)/CESTAT/FAA-RK/2014
CPIO, I.D. No. 07-100/CESTAT/CPIO-ND/NK/2012**

Sh. R.K.Jain

Appellant

Vs.

Sh. Rajender Prasad, CPIO

Respondent

ORDER - 051/2014

Per Rakesh Kumar:-

The appellant vide RTI Application dt.22.06.2012 has sought inspection of certain files, documents and records as under:-

- (A) You are requested to provide the inspection of all files, records/documents relating to DO(W.P.) No.60706842/2012 dt. 16.05.2012-AR – High Court W.P.No.11160 of 2011 and diarized at serial No. 437 of Daily Diary of the PS to the Hon'ble President.
- (B) You are also requested to provide inspection of all records, documents and files relating to the request for early hearing in the case Bhushan Steel and Strips and diarized at Serial No. 450 of the Daily Diary of the PS to the Hon'ble President.

2. In this regard the concerned Assistant Registrar has reported the files referred to in point 'A' above as non-traceable. The inspection of the records/file mentioned in point 'A' had been sought earlier also and First Appellate Authority vide order dt.

30.10.2013 had directed the CPIO to provide the information within two weeks time.

3. Heard both the sides.

4. Inspection of the files referred to point 'A' and 'B' above may be provided to the application as per the Appellate Authority as earlier order. If any file is reported as non-traceable/missing, information about the efforts made for retrieval/tracing of the file and also enquiry conducted in this regard may be intimated to the Applicant. This information is to be furnished within two weeks time.


(Rakesh Kumar)
Member(Technical)

To

1. Sh. R.K.Jain, 1512, Bhishm Pitamah Marg
Wazir Nagar, New Delhi-110 003.
2. Copy to CPIO.
3. *Guard file / OC*

Dyno-253/cr-14
21/7/14

Appeal No. 09-53(A)/2014

①

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

Ref. No. : RTI/P-537/(8411/14)/Appeal/15317

Dated : 18-07-2014

To

SPS to
FAA

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



A. Contact Details :

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

B. Details About RTI Request :

1.	Particulars of the CPIO against whose order appeal is preferred	(a) Name	Shri Rajender Prasad CPIO & Accounts Officer
		(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)	09-06-2014	
3.	Details of the order appealed against	Deemed Refusal	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	09-08-2014	
6.	If appeal is being filed after 30 days, the reasons which prevented from filing appeal in time	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 9-6-2014. (Annexure-1) 2. Copy of CPIO's letter dated 10-6-2014. (Annexure-2) 3. Copy of Appellant's Reminder letter dated 16-6-2014. (Annexure-3)	

46/RK(AAA)/14
22/07

BRIEF FACTS OF THE CASE

(1) That the appellant has filed an application dated 09-06-2014 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:

(A) *Please provide the following information in relation to (i) Appeal No .ST/841/2010 - Galileo India, (ii) ST/934/2010 - Amadeus India Limited, (iii) ST/824/2010 - Amadeus India Limited and (iv) ST/946/2010 - Galileo India :-*

- (i) *Copies of all Orders, Order Sheets / Record of Proceedings.*
- (ii) *Copies of all the notes put up by the registry with orders thereon.*
- (iii) *Copies of any order/directions for out of turn listing of the matter*
- (iv) *Details of the date on which the aforesaid matter was mentioned. Please also provide copies of the mention memo and directions thereon.*
- (v) *Copies of all the After Court Cause Lists and copy of relevant daily diary of the Court Master in Form XXXVI and daily diary of AR in Form XXXVII or diary maintained in any other format by the Court Master and AR.*
- (vi) *Copies of all notice of hearing issued to parties and first four pages of each Appeal.*
- (vii) *Copies of all Vakalatnamas and no objections filed in case of change of lawyer. Please also intimate the date of filing of each Vakalatnama.*

(B) *After providing the above information, please provide inspection of all records, documents, note-sheets and files relating to the information as referred to in point (A) above. Please provide inspection of complete file(s) even if they contain part of the information. Please note that I will undertake the inspection only if it is necessary in view of incorrect and incomplete information provided by you.*

(C) *Please provide list of files from which the information as sought above is provided by you.*

(D) *Please provide copies of all note sheets and correspondence pages of the RTI file in which this application has been dealt with, till the date of*

providing the information. In case of correspondence emanating from me, only copy of first page of each document may be provided.

- (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 the appellant received letter dated 10-06-2014 (**Annexure-2**) of Shri Rajender Prasad, CPIO & Accounts Officer, CESTAT, New Delhi. The Appellant vide dated 16-06-2014 (**Annexure-3**) requested the said authority to provide the desired information within the period of 30 days as stipulated under Section 7(1) of the RTI Act, 2005. The Appellant has neither received any information nor any response from the said authority therefore, as per Section 7(2) of the RTI Act, 2005, the request for information shall be deemed to have been refused. Thus being aggrieved by such refusal, this Appeal.

GROUND OF APPEAL

- (1) That the action of the learned CPIO and the deemed CPIO in not providing the information to the appellant is illegal and contrary to the provisions and spirit of the RTI Act, 2005.
- (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 and therefore, there was no valid cause or reason or ground for not providing the information.
- (3) That the inaction of Shri Rajender Prasad, CPIO & Accounts Officer, CESTAT, New Delhi is in violation of Sections 7(1) and 7(2) of the RTI Act, 2005 and is therefore, illegal. Such inaction is deemed to be a refusal to the request of the appellant without any reasonable cause or ground hence is illegal.
- (4) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (5) That the appellant is citizen of India and fulfilled all other requirements of

the RTI Act and the Rules made thereunder and is entitled to the information in question.

- (6) That as per proviso to Section 8(1) of the RTI Act, 2005, the Information which can not be denied to the Parliament or the State Legislatures shall not be denied to any person. The information sought by the appellant in the subject application is the one which cannot be denied to the Parliament or the State Legislatures and hence it cannot be denied or refused to the appellant.
- (7) 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.
- (8) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (9) 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 CPIO may be directed to provide the information in question within a time bound frame.
- (c) That any other relief as the Appellate Authority deem fit and proper may also be ordered in favour of the appellant.
- (d) That a personal hearing may be granted to the appellant before deciding the appeal.



Signature of Appellant

Telephone No. : 9810077977

24651101

Fax No. 011-24635243

Place : New Delhi

Dated : 18-07-2014

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

5

Ref. No. :RTI/P-195/8411/14

Dated : 9-6-2014

To

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

1.	Name of the Applicant	R.K. Jain
2.	Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003
	(b) Phone Nos.	09810077977, 011-24651101, 011-24690707
	(c) Fax No.	011-24635243
3.	Whether a Citizen of India	Yes
4.	Particulars of Information	
	Details of information required	<p>(A) Please provide the following information in relation to (i) Appeal No .ST/841/2010 - Galileo India, (ii) ST/934/2010 - Amadeus India Limited, (iii) ST/824/2010 - Amadeus India Limited and (iv) ST/946/2010 - Galileo India :-</p> <p>(i) Copies of all Orders, Order Sheets / Record of Proceedings.</p> <p>(ii) Copies of all the notes put up by the registry with orders thereon.</p> <p>(iii) Copies of any order/directions for out of turn listing of the matter</p> <p>(iv) Details of the date on which the aforesaid mater was mentioned. Please also provide copies of the mention memo and directions thereon.</p> <p>(v) Copies of all the After Court Cause Lists and copy of relevant daily diary of the Court Master in Form XXXVI and daily diary of AR in Form XXXVII or diary maintained in any other format by the Court Master and AR.</p> <p>(vi) Copies of all notice of hearing issued to parties and first four pages of each Appeal.</p> <p>(vii) Copies of all Vakalatnamas and no objections filed in case of change of lawyer. Please also intimate the date of filing of each Vakalatnama.</p>

		<p>(B) After providing the above information, please provide inspection of all records, documents, note-sheets and files relating to the information as referred to in point (A) above. Please provide inspection of complete file(s) even if they contain part of the information. Please note that I will undertake the inspection only if it is necessary in view of incorrect and incomplete information provided by you.</p> <p>(C) Please provide list of files from which the information as sought above is provided by you</p> <p>(D) Please provide copies of all note sheets and correspondence pages of the RTI file in which this application has been dealt with, till the date of providing the information. In case of correspondence emanating from me, only copy of first page of each document may be provided</p> <p>Note:-Please provide point-wise information/ response for each of above points.</p>
5.	I state that the information sought is covered under RTI Act and does not fall within the exemptions contained in sections 8 or 9 or any other provisions of the Right to Information Act, 2005 and to the best of my knowledge it pertains to your office. Information is being sought in larger public interest.	
6.	A Postal Order No. 23F 433842 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
mn8411

(7)

F.No. 09-109/CESTAT/CPIO-ND/RP/2013,
 Customs, Excise and Service Tax, Appellate Tribunal,
 West block No.2, R.K.Puram, New Delhi-110066.

Dated 10/6/14ID No. 09-109/14

Subject: Information sought under RTI Act 2005.

Sir,

Please refer to RTI application of
 Shri R.K. Jain
 Under RTI Act 2005 vide No. 8411/14 dated
09/06/14 (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. 8411/14 dated 09/06/14 CPIO ID No 09-109/14 is forwarded herewith to the following officers as deemed CPIO with the request to provide correct and para-wise information/inspection on or before 23-6-2014 directly to the applicant and intimate the undersigned within the stipulated time, failing which you are personally responsible for delay and penalty if any, under section 20 of RTI Act. You are, further requested to follow OM No.12/31/2013-IR dated 12-02-2013 circulated on 23-05-2013

Encl: as above


 (Rajender Prasad)
 Accounts Officer/CPIO

To

1 AO Customs/IT.

2 _____

3 _____

✓ Copy for information to:-

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

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

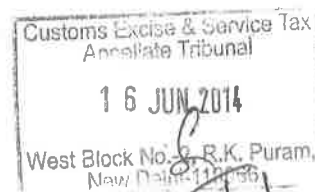
President, Excise and Customs Bar Association

Editor of

EXCISE LAW TIMES & SERVICE TAX REVIEW

and author of

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



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

RTI/P-195/8411/14/R11292
 16-06-2014

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

Sub: My RTI Application No. RTI/8411/14, dated 9/6/2014

Dear Sir,

This refers to the letter F.No.09-109/CESTAT/CPIO-ND/RP/2014 dated 10-06-2014 of Mr. Rajender Prasad, Accounts Officer/CPIO, CESTAT, New Delhi transferring my aforesaid RTI application to you under section 6(3) and section 5(4) read with section 5(5) of the RTI Act, 2005, for providing the information to me. As a Deemed CPIO, you are requested to kindly provide the information at the earliest as under section 7(1) of the RTI Act, information is to be provided within 30 days of the RTI Application.

Thanking you,

Yours faithfully,

[R.K. Jain]

**IN THE CUSTOMS, EXCISE AND SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. I**

Date of Hearing/decision: 14.10.2014

**Appeal No.09-053(A)/CESTAT/FAA-RK/2014
CPIO, I.D. No. 09-109/CESTAT/CPIO-ND/RP/2014**

Sh. R.K.Jain

Appellant

Vs.

Sh. Rajender Prasad, CPIO

Respondent


ORDER 052/2014

Per Rakesh Kumar:-

1. This appeal is against non-furnishing of information in respect of RTI application dt. 09.06.2014 filed by the appellant. Treating the absence of response from the CPIO within 30 days as deemed refusal, this appeal has been filed.

3. Heard both the sides.

4. At the time of hearing it was found that the information has been sent by the CPIO and the same has been received by the appellant and he is satisfied with the same. Accordingly the appeal is dismissed as not pressed.



(Rakesh Kumar)
Member(Technical)

To

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

2. Copy to CPIO.

3. Enclad file / oe

28-10-14
ISSUED ON

SIGN. (DESIGN SECTION)
CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
NEW DELHI-110058

DINO. 2693/CR-14

Appeal No. 09-054(A)/2014

53/RIC-114
07.8.14 (1)**First Appeal under Section 19 of the Right to Information Act, 2005
against Deemed Refusal**

Ref. No. : RTI/P-537/(8416/14)/Appeal/15339

Dated : 05-08-2014

To

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

**A. Contact Details :**

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

B. Details About RTI Request :

1.	Particulars of the CPIO against whose order appeal is preferred	(a) Name Shri Rajender Prasad CPIO & Accounts Officer
		(b) Address Customs Excise & Service Tax Appellate Tribunal, West Block 2, R.K.Puram, New Delhi - 110066
2.	Date of submission of application (Copy of application attached)	12-06-2014
3.	Details of the order appealed against	Deemed Refusal
4.	Prayer or relief sought	See Prayer clause at the end
5.	Last date for filing the appeal	12-08-2014
6.	If appeal is being filed after 30 days, the reasons which prevented from filing appeal in time	Appeal in time
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 12-6-2014. (Annexure-1) 2. Copy of CPIO's letter dated 13-6-2014. (Annexure-2) 3. Copy of Appellant's Reminder letter dated 16-6-2014. (Annexure-3)

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Hottle

CPIG

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8/8/14

BRIEF FACTS OF THE CASE

- (1) That the appellant has filed an application dated 12-06-2014 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:
- (A) *Please provide the date and Diary Number under which the order dated 05-05-2014 in Service Tax Appeal No. 58658 of 2013 was dispatched to the Appellants and their Advocates/Consultants.*
 - (B) *Please provide the mode of dispatch and the certified copies of the Dispatch Diary and the Postal Receipt. In case, the order was delivered by hand, kindly provide the copy of the acknowledgement of the same.*
 - (C) *Please provide the date and Diary Number under which the order dated 05-05-2014 in Service Tax Appeal No. 58658 of 2013 was dispatched to the Respondents and their Representatives.*
 - (D) *Please provide the mode of dispatch and the certified copies of the Dispatch Diary and the Postal Receipt. In case, the order was delivered by hand, kindly provide the copy of the acknowledgement of the same.*
 - (E) *Please provide the copies of all the applications filed by Appellants/Respondents in the aforesaid matter after 15-05-2014.*
 - (F) *Please provide list of files from which the information as sought above is provided by you.*
 - (G) *Please provide copies of all note sheets and correspondence pages of the RTI file in which this application has been dealt with, till the date of providing the information. In case of correspondence emanating from me, only copy of first page of each document may be provided.*
- (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 the appellant received letter dated 13-6-2014 (**Annexure-2**) of Shri Rajender Prasad, CPIO & Accounts Officer, CESTAT, New Delhi to Assistant Registrar Customs/ST, CESTAT, New Delhi. The Appellant vide letter dated 16-6-2014 (**Annexure-3**) requested the said authority to provide the desired information within the period of 30 days as stipulated under Section 7(1) of the RTI Act, 2005. The Appellant has neither received any information nor any response from the said authority therefore, as per Section 7(2) of the RTI Act, 2005, the request for information shall be deemed to have been refused. Thus being aggrieved by such refusal, this Appeal.

GROUND OF APPEAL

- (1) That the action of the learned CPIO and the deemed CPIO in not providing the information to the appellant is illegal and contrary to the provisions and spirit of the RTI Act, 2005.
- (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 and therefore, there was no valid cause or reason or ground for not providing the information.
- (3) That the inaction of Shri Rajender Prasad, CPIO & Accounts Officer, CESTAT, New Delhi is in violation of Sections 7(1) and 7(2) of the RTI Act, 2005 and is therefore, illegal. Such inaction is deemed to be a refusal to the request of the appellant without any reasonable cause or ground hence is illegal.
- (4) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (5) That the appellant is citizen of India and fulfilled all other requirements of the RTI Act and the Rules made thereunder and is entitled to the information in question.
- (6) That as per proviso to Section 8(1) of the RTI Act, 2005, the information which can not be denied to the Parliament or the State Legislatures shall not be denied to any person. The information sought by the appellant in

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the subject application is the one which cannot be denied to the Parliament or the State Legislatures and hence it cannot be denied or refused to the appellant.

- (7) 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.
- (8) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (9) 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 CPIO may be directed to provide the information in question within a time bound frame.
- (c) That any other relief as the Appellate Authority deem fit and proper may also be ordered in favour of the appellant.
- (d) That a personal hearing may be granted to the appellant before deciding the appeal.

Signature of Appellant
Telephone No. : 9810077977
24651101
Fax No. 011-24635243

Place : New Delhi
Dated : 05-08-2014

C/C

(5)

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

Ref. No. : RTI/P-195/8416/14

Dated : 12-6-2014

To

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

14/6/14

1.	Name of the Applicant	R.K. Jain
2.	Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003
	(b) Phone Nos.	09810077977, 011-24651101, 011-24690707
	(c) Fax No.	011-24635243
3.	Whether a Citizen of India	Yes
4.	Particulars of Information	
	Details of information required	(A) Please provide the date and Diary Number under which the order dated 05-05-2014 in Service Tax Appeal No. 58658 of 2013 was dispatched to the Appellants and their Advocates/Consultants (B) Please provide the mode of dispatch and the certified copies of the Dispatch Diary and the Postal Receipt. In case, the order was delivered by hand, kindly provide the copy of the acknowledgement of the same. (C) Please provide the date and Diary Number under which the order dated 05-05-2014 in Service Tax Appeal No. 58658 of 2013 was dispatched to the Respondents and their Representatives (D) Please provide the mode of dispatch and the certified copies of the Dispatch Diary and the Postal Receipt. In case, the order was delivered by hand, kindly provide the copy of the acknowledgement of the same. (E) Please provide the copies of all the applications filed by Appellants/Respondents in the aforesaid matter after 15-05-2014. (F) Please provide list of files from which the information as sought above is provided by you.

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		(G) Please provide copies of all note sheets and correspondence pages of the RTI file in which this application has been dealt with, till the date of providing the information. In case of correspondence emanating from me, only copy of first page of each document may be provided. Note:-Please provide point-wise 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. 23F 432781 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

mn8416

(7)

F.No. 09-116 /CESTAT/CPIO-ND/RP/2013,
 Customs, Excise and Service Tax, Appellate Tribunal,
 West block No.2, R.K.Puram, New Delhi-110066.

Dated 13/06/14ID No. 09-116/14


Subject: Information sought under RTI Act 2005.

Sir,

Please refer to RTI application of
 Shri R.K. Jain
 Under RTI Act 2005 vide No. 8416/14 dated
12/06/14 (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. 8416/14 dated 12.6.14 CPIO ID No 09-116/14 is
 forwarded herewith to the following officers as deemed CPIO with the
 request to provide correct and para-wise information/inspection on or
 before 24/6/2014 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 AD Customs / ST

2 _____

3 _____

✓ Copy for information to:-

Sh R.K. Jain,
 1512-B BHISHAM PITAMAH MARG,
 WAZIR NAGAR
 NEW DELHI - 110003.

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

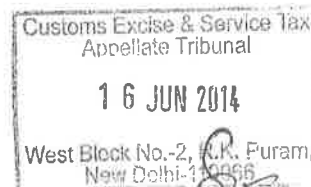
President, Excise and Customs Bar Association

Editor of

EXCISE LAW TIMES & SERVICE TAX REVIEW

and author of

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



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

RTI/P-195/8416/14/R11293
 16-06-2014

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

Sub: My RTI Application No. RTI/8416/14, dated 12/6/2014

Dear Sir,

This refers to the letter F.No.09-116/CESTAT/CPIO-ND/RP/2014 dated 13-06-2014 of Mr. Rajender Prasad, Accounts Officer/CPIO, CESTAT New Delhi transferring my aforesaid RTI application to you under section 6(3) and section 5(4) read with section 5(5) of the RTI Act, 2005, for providing the information to me. As a Deemed CPIO, you are requested to kindly provide the information at the earliest as under section 7(1) of the RTI Act, information is to be provided within 30 days of the RTI Application.

Thanking you,

Yours faithfully,

[R.K. Jain]

**IN THE CUSTOMS, EXCISE AND SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. I**

Date of Hearing/decision:14.10.2014

**Appeal No.09-054(A)/CESTAT/FAA-RK/2014
CPIO, I.D. No. 09-116/CESTAT/CPIO-ND/RP/2014**

Sh. R.K.Jain

Appellant

Vs.

Sh. Rajender Prasad, CPIO

Respondent

ORDER 053/2014

Per Rakesh Kumar:-

1. This appeal has been filed against deemed refusal to furnishing the information in respect of RTI application dt. 12.06.2014 filed by the appellant. In as much as required information was not received within 30 days time.



3. Heard both the sides.

4. At the time of hearing it was found that the information has been furnished by the CPIO and the same has been received by the appellant and he is satisfied with the same. Accordingly the appeal is dismissed as not pressed.


(Rakesh Kumar)
Member(Technical)

To

1. Sh. R.K.Jain, 1512, Bhishm Pitamah Marg
Wazir Nagar, New Delhi-110 003.
2. Copy to CPIO.
3. Guard file/oc

28-10-14

ISSUED ON

SIGN (DESPATCH SECTION)
CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
NEW DELHI-110063

Appeal No. 09-55(A)/2014
54/RK/14
07.8.14 (1)

DY NO. 2694/CR-14
7/8/14
SPS to Honble PAA

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

Ref. No. : RTI/P-537/(8445/14)/Appeal/15337

Dated : 04-08-2014

To

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



A. Contact Details :

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

B. Details About RTI Request :

1.	Particulars of the CPIO against whose order appeal is preferred	(a) Name	Shri Rajender Prasad CPIO & Accounts Officer
		(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)	19-06-2014	
3.	Details of the order appealed against	Deemed Refusal	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	19-08-2014	
6.	If appeal is being filed after 30 days, the reasons which prevented from filing appeal in time	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 19-6-2014. (Annexure-1) 2. Copy of CPIO's letter dated 23-6-2014. (Annexure-2) 3. Copy of Appellant's Reminder letter dated 26-6-2014. (Annexure-3)	

BRIEF FACTS OF THE CASE

(1) That the appellant has filed an application dated 19-06-2014 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the following information:

(A) Please provide copy of the report submitted by the Registrar in pursuance to the interim order No.371/2014 dated 24.04.2014 in Appeal No.C/620/2008/CUS

(B) Please provide the date on which the report referred to in Point (A) was submitted

(C) Please provide the date on which the aforesaid report referred to in Point (A) was placed before the Hon'ble Bench/Presiding Members

(D) Please provide copy of the report submitted by the Registrar in pursuance to the interim order No.51629/2014 dated 29.04.2014 in Appeal No.C/60232/2013-CU/DB

(E) Please provide the date on which the report referred to in Point (B) was submitted

(F) Please provide the date on which the aforesaid report referred to in Point (B) was placed before the Hon'ble Bench/Presiding Members

(G) Please provide list of files from which the information as sought above is provided by you

(H) Please provide copies of all note sheets and correspondence pages of the RTI file in which this application has been dealt with, till the date of providing the information. In case of correspondence emanating from me, only copy of first page of each document may be provided.

(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 the appellant received letter dated 23-6-2014 (**Annexure-2**) of Shri Rajender Prasad, CPIO & Accounts Officer, CESTAT, New Delhi to Asstt. Registrar (Customs), CESTAT, New Delhi. The Appellant vide letter dated

26-6-2014 (**Annexure-3**) requested the said authority to provide the desired information within the period of 30 days as stipulated under Section 7(1) of the RTI Act, 2005. The Appellant has neither received any information nor any response from the said authority therefore, as per Section 7(2) of the RTI Act, 2005, the request for information shall be deemed to have been refused. Thus being aggrieved by such refusal, this Appeal.

GROUND OF APPEAL

- (1) That the action of the learned CPIO and the deemed CPIO in not providing the information to the appellant is illegal and contrary to the provisions and spirit of the RTI Act, 2005.
- (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 and therefore, there was no valid cause or reason or ground for not providing the information.
- (3) That the inaction of Shri Rajender Prasad, CPIO & Accounts Officer, CESTAT, New Delhi is in violation of Sections 7(1) and 7(2) of the RTI Act, 2005 and is therefore, illegal. Such inaction is deemed to be a refusal to the request of the appellant without any reasonable cause or ground hence is illegal.
- (4) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (5) That the appellant is citizen of India and fulfilled all other requirements of the RTI Act and the Rules made thereunder and is entitled to the information in question.
- (6) That as per proviso to Section 8(1) of the RTI Act, 2005, the information which can not be denied to the Parliament or the State Legislatures shall not be denied to any person. The information sought by the appellant in the subject application is the one which cannot be denied to the Parliament or the State Legislatures and hence it cannot be denied or refused to the appellant.
- (7) This is without prejudice to the right of the appellant to add, alter or modify

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any of the grounds of this appeal and adduce oral or written evidence at the time of hearing.

- (8) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (9) 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 CPIO may be directed to provide the information in question within a time bound frame.
- (c) That any other relief as the Appellate Authority deem fit and proper may also be ordered in favour of the appellant.
- (d) That a personal hearing may be granted to the appellant before deciding the appeal.



Signature of Appellant
Telephone No. : 9810077977
24651101
Fax No. 011-24635243

Place : New Delhi
Dated : 04-08-2014

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

Ref. No. :RTI/P-195/8445/14

Dated : 19-6-2014

To

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



1.	Name of the Applicant	R.K. Jain
2.	Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003
	(b) Phone Nos.	09810077977, 011-24651101, 011-24690707
	(c) Fax No.	011-24635243
3.	Whether a Citizen of India	Yes
4.	Particulars of Information	
	Details of information required	<p>(A) Please provide copy of the report submitted by the Registrar in pursuance to the interim order No.371/2014 dated 24.04.2014 in Appeal No.C/620/2008/CUS</p> <p>(B) Please provide the date on which the report referred to in Point (A) was submitted</p> <p>(C) Please provide the date on which the aforesaid report referred to in Point (A) was placed before the Hon'ble Bench/Presiding Members</p> <p>(D) Please provide copy of the report submitted by the Registrar in pursuance to the interim order No.51629/2014 dated 29.04.2014 in Appeal No.C/60232/2013-CU/DB</p> <p>(E) Please provide the date on which the report referred to in Point (B) was submitted</p> <p>(F) Please provide the date on which the aforesaid report referred to in Point (B) was placed before the Hon'ble Bench/Presiding Members</p> <p>(G) Please provide list of files from which the information as sought above is provided by you.</p> <p>(H) Please provide copies of all note sheets and correspondence pages of the RTI file in which this application has been dealt with, till the date of providing the information. In case of correspondence emanating from me, only copy of first page of each document may be provided.</p> <p>Note:-Please provide point-wise information/ response for each of above points.</p>

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5.	I state that the information sought is covered under RTI Act and does not fall within the exemptions contained in sections 8 or 9 or any other provisions of the Right to Information Act, 2005 and to the best of my knowledge it pertains to your office. Information is being sought in larger public interest.
6.	A Postal Order No. 23F 433881 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

mn8445

(7)

F.No. 09-125.../CESTAT/CPIO-ND/RP/2014,
Customs, Excise and Service Tax, Appellate Tribunal,
West block No.2, R.K.Puram, New Delhi-110066.

Dated 23-06-2014ID No. 09-125/2014

Subject: Information sought under RTI Act 2005.

Sir,

Please refer to RTI application of
Shri R. K. Jain
Under RTI Act 2005 vide No. 8445/14 dated
19-06-2014 (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. 8445/14 dated 19-06-2014 CPIO ID No 09-125/14 is
forwarded herewith to the following officers as deemed CPIO with the
request to provide correct and para-wise information/inspection on or
before 03/7/2014 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 Asstt. Registrar (Customs)

2 _____

3 _____

✓ Copy for information to:-

Sh R. K. Jain

1519-B BHISHAM PITAMAH MARG,
LAXMI NAGAR

11-10210
Gated File

RTI

26 JUN 2014

West Block 2, R.K. Puram,

26/6/14

8

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

President, Excise and Customs Bar Association

Editor of

EXCISE LAW TIMES & SERVICE TAX REVIEW

and author of

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

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

RTI/P-195/8445/14/R11428
 26-06-2014

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

Sub: My RTI Application No. RTI/8445/14, dated 19/6/2014

Dear Sir,

This refers to the letter F.No.09-125/CESTAT/CPIO-ND/RP/2014 dated 23.06.2014 of Shri Rajender Prasad, Accounts Officer & CPIO, CESTAT, New Delhi transferring my aforesaid RTI application to you under section 6(3) and section 5(4) read with section 5(5) of the RTI Act, 2005, for providing the information to me. As a Deemed CPIO, you are requested to kindly provide the information at the earliest as under section 7(1) of the RTI Act, information is to be provided within 30 days of the RTI Application.

Thanking you,

Yours faithfully,



[R.K. Jain]

**IN THE CUSTOMS, EXCISE AND SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. I**

Date of Hearing/decision: 14.10.2014

**Appeal No.09-055(A)/CESTAT/FAA-RK/2014
CPIO, I.D. No. 09-125/CESTAT/CPIO-ND/RP/2014**

Sh. R.K.Jain

Appellant

Vs.

Sh. Rajender Prasad, CPIO

Respondent

ORDER 054/2014

Per Rakesh Kumar:-

1. The appellant vide RTI Application dt. 19.06.2014 have sought the following information:-


- (A) Please provide copy of the report submitted by the Registrar in pursuance to the interim order No.371/2014 dt. 24.04.2014 in Appeal No. C/620/2008/CUS.
- (B) Please provide the date on which the report referred to in point 'A' was submitted.
- (C) Please provide the date on which the aforesaid report referred to in point 'A' was placed before the Hon'ble Bench/Presiding Members.
- (D) Please provide copy of the report submitted by the Registrar in pursuance to the interim order No.51629/2014 dt.29.04.2014 in Appeal No. C/60232/2013-CU[DB].
- (E) Please provide the date on which the report referred to in point 'B' was submitted.
- (F) Please provide the date on which the aforesaid report referred to in point 'B' was placed before the Hon'ble Bench/Presiding Members.
- (G) Please provide list of files from which the information as sought above is provided by you.
- (H) Please provide copies of all note sheets and correspondence pages of the RTI file in which this application has been dealt with, till the date of providing the information. In case of correspondence emanating

98/10/14
ISSUED ON
SIGN. (DEPUTY SECTION)
CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
NEW DELHI-110058

Rakesh Kumar

from me, only copy of first page of each document may be provided.

2. Since the required information was not received by the appellant. Treating as deemed refusal, this appeal has been filed.
3. Heard both the sides.
4. The CPIO says that required information is to be received from the Registrar and shall be furnished, as soon as the same is received. The CPIO is directed to furnish the information to the appellant within the two weeks time and in this regard the Registrar is also requested to furnish the required information to the CPIO.


(Rakesh Kumar)
Member(Technical)

To

1. Sh. R.K.Jain, 1512, Bhishm Pitamah Marg
Wazir Nagar, New Delhi-110 003.
2. Copy to CPIO.
3. *Copy to file / OK*

Appeal No. 09-056(A)/2014

①

D-140-2735/2-19
12/8/14

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

Ref. No. : RTI/P-537/(8469/14)/Appeal/15341

Dated : 09-08-2014

To

Shri Rakesh Kumar, Member (T)
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 Rajender Prasad CPIO & Accounts Officer (2) Shri A. Mohan Kumar, Registrar & 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)	10-07-2014	
3.	Details of the order appealed against	Letter F. No. 09-133/CESTAT/CPIO-ND/ RP/2014 dated 04-08-2014	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	04-09-2014	
6.	Whether Appeal in Time.	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 10-7-2014. (Annexure-1) 2. Copy of CPIO' letter dated 16-7-2014. (Annexure-2) 3. Copy of Appellant's 6 Reminder letter	

SPS to
Honble FAA

S/RK/FAA/14
13/8/14

CPIO
13/8/14

		dated 21-7-2014. (Annexure-3) 4. Copy of CPIO' letter dated 4-8-2014. (Annexure-4)
--	--	--

BRIEF FACTS OF THE CASE

(1) That the appellant has filed an application dated 10-07-2014 (Annexure – 1) under Section 6 of the RTI Act, 2005 requesting for the following information:

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

(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 Rajender Prasad, CPIO, CESTAT New Delhi, and Shri A. Mohan Kumar, Registrar and Deemed CPIO have deliberately and malafidely provided incomplete and incorrect information despite point-wise specific information sought by the Appellant. The appellant being aggrieved by the said order of the CPIO is filing the present appeal.

GROUND OF APPEAL

- (1) That the order in question of the CPIO is incorrect and illegal and contrary to the provisions and spirit of the RTI Act, 2005 hence liable to be set aside.
- (2) That the information sought by the appellant is not exempted under Section 8 or 9 or any other provisions of the RTI Act, 2005, therefore, there was no valid cause or reason or ground for not providing the information.
- (3) That Shri Rajender Prasad, CPIO, CESTAT New Delhi and Shri A. Mohan Kumar, Registrar and Deemed CPIO have deliberately and malafidely provided incomplete, incorrect and misleading information. The appellant sought point-wise information in relation to point (A) to (F) and added a specific note requesting for providing point-wise information, despite this, point-wise information has not been provided.
- (4) That Shri A. Mohan Kumar, Registrar and Deemed CPIO just listed some appeal Nos. without indicating what for these numbers stand, nor he has provided copies of the information, though specifically sought in the RTI application in question. Therefore, the order of the CPIO in this respect is incorrect and illegal and liable to be set aside and the CPIO be directed to provide the information in time bound frame.
- (5) That Shri Rajender Prasad, CPIO, CESTAT New Delhi and Shri A. Mohan Kumar, Registrar and Deemed CPIO have erred in not providing the information to the appellant though as per the provisions of the RTI Act, the appellant is entitled to information as sought by him. Therefore, the order of the CPIO is liable to be set aside with direction to provide the information to the appellant within time bound frame.

- (6) That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- (7) 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.
- (8) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (9) 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 : 09-08-2014

5/C

ANUPAMA 1

(5)

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

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

Dated : 10-7-2014

To

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



1.	Name of the Applicant	R.K. Jain
2.	Address	1512-B, Bhishm Pitamah Marg Wazir Nagar New Delhi-110003
	(b) Phone Nos.	09810077977, 011-24651101, 011-24690707
	(c) Fax No.	011-24635243
3.	Whether a Citizen of India	Yes
4.	Particulars of Information	
	Details of information required	<p>(A) Please provide the copies of all orders, notes put up by the Hon'ble Members and by the CESTAT Registry for seeking pronouncement of orders beyond the period of 4 months and beyond the period of six months from the date of final hearing from 01.04.2013 till the date of providing the information. The information in this respect may also be provided in relation to the Appeals shown in the enclosed list.</p> <p>(B) Please provide list of cases in which the permission sought in relation to the cases covered under point (A) above has been granted by the President and name of the members who made such request.</p> <p>(C) Please provide list of cases in which the permission sought in relation to the cases covered under point (A) above has been rejected by the President and name of the members who made such request.</p> <p>(D) Please provide details of the actual date when the order was ultimately pronounced in relation to the cases referred to in point (A) above.</p> <p>(E) Please provide list of files from which the information as sought above is provided by you.</p> <p>(F) Please provide copies of all note sheets and correspondence pages of the RTI file in which this application has been dealt with, till the date of providing the information. In case of correspondence emanating from me, only copy of first page of each document may be provided.</p> <p>Note:-Please provide point-wise information/ response for each of above points.</p>

6

5.	I state that the information sought is covered under RTI Act and does not fall within the exemptions contained in sections 8 or 9 or any other provisions of the Right to Information Act, 2005 and to the best of my knowledge it pertains to your office. Information is being sought in larger public interest.
6.	A Postal Order No. 23F 426187 for Rs. 10 towards payment of fee is enclosed herewith. You are requested to filling the name in which the Postal Order is payable.
7.	As per Section 7 of the RTI Act, 2005 information is to be provided 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
mn8469

With reference to RTI No 09-110/14, please find enclosed.
herewith requisite information.

Appeal No
Gujrat maritime
E/430/12
C/740-744, 770-774/08
C/681/06
Oracle India and DHL Enterprises
C/S/419/12 in C/670/12
E/3648/2006-ExDB, E/2758/07-Ex, E/334/08-Ex
E/56/2009-Ex DB
E/989/2005-Ex DB
C/18/2009 Cu
C/Stay/3801/11 in C/639/11-Cu
C/Stay/58925/2013 in C/58264/13 Cu
C/Stay/59749 & 59750/13 in C/59071-59072/13 Cu
C/1324 & 1325/06 and C/14/2007
E/541-543, 971-974/06 Ex
E/1112, 1113, 1114/06 SM
E/1519/2010
E/3590/05-Ex
C/464-466/08
E/541/2007, E/2786/07, E/2652/08 & E/488/10
E/2268-2269/05E/2257/06 & E/2268-2271/05
E/Stay/59735/2013 in E/58737/2013-Ex DB
E/1698/2011-SM
E/1862/2005 & E/1863/2005 Ex-DB
E/1862/2005 & E/1863/2005 Ex-DB


Registrar 5/12

CPIO, CESTAT
New Delhi

1520/CPIO
New Delhi

(8)

F.No./CESTAT/CPIO-ND/RP/2014 ,
 Customs, Excise and Service Tax, Appellate Tribunal,
 West block No.2, R.K.Puram, New Delhi-110066.

Dated 16/7/14

ID No. 09/133/2014

Subject: Information sought under RTI Act 2005.

Sir,

Please refer to RTI application of
 Shri R.K. Jain
 Under RTI Act 2005 vide No. 8469/14 dated
10/7/14 (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. 8469/14 dated 16/7/14 CPIO ID No 09-133/2014 is
 forwarded herewith to the following officers as deemed CPIO with the
 request to provide correct and para-wise information/inspection on or
 before 28/7/2014 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. Registrar, CESTAT, New Delhi
 2. AR, Excise A.Bm
 3. AR, Customs A.Bm
 4. AR, SM, A.Bm
 5. SPS/PA to Hon'ble M(T) & M(T)

Copy for information to:-

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

V-10706
 End Note

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

President, Excise and Customs Bar Association

Editor of

EXCISE LAW TIMES & SERVICE TAX REVIEW

and author of

Central Excise Law Guide; Central Excise Tariff of India;
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 & Clarifications; Excise & Customs Case Referencer;
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 Services; Valuation under Central Excise; Hand-
 book of Foreign Trade Policy & Procedures

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

Registrar

Customs Excise & Service Tax Appellate Tribunal,

West Block 2,

R.K. Puram,

New Delhi - 110066

Sub: My RTI Application No. RTI/8469/14, dated 10/7/2014

Dear Sir,

This refers to the letter F.No.09-133/CESTAT/CPIO-ND/RP/2014 dated 16.07.2014 of Shri Rajendra Prasad, Accounts Officer/CPIO, CESTAT, New Delhi, transferring my aforesaid RTI application to you under section 6(3) and section 5(4) read with section 5(5) of the RTI Act, 2005, for providing the information to me. As a Deemed CPIO, you are requested to kindly provide the information at the earliest as under section 7(1) of the RTI Act, information is to be provided within 30 days of the RTI Application.

Thanking you,

Yours faithfully,

[R.K. Jain]

o/c
TIME BOUND

RTI

10

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

President, Excise and Customs Bar Association

Editor of

EXCISE LAW TIMES & SERVICE TAX REVIEW

and author of

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1512-B, Bhishm Pitamah Marg,

Wazir Nagar,

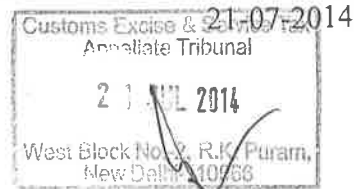
NEW DELHI - 110 003.

PHONE : 24693001-3004

MOBILE : 9810077977

Fax No. 011-24635243

RTI/P-195/8469/14/R11722



SPS/PA to Hon'ble Member (J)
Customs Excise & Service Tax Appellate Tribunal,
West Block 2,
R.K. Puram,
New Delhi - 110066

Sub: My RTI Application No. RTI/8469/14, dated 10/7/2014

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Thanking you,

Yours faithfully,

[R.K. Jain]

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

President, Excise and Customs Bar Association

Editor of

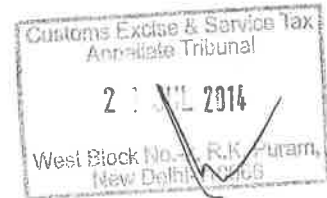
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and author of

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

RTI/P-195/8469/14/R11717
 21-07-2014



SPS/PA to Hon'ble Member (T)
 Customs Excise & Service Tax Appellate Tribunal,
 West Block 2,
 R.K. Puram,
 New Delhi - 110066

Sub: My RTI Application No. RTI/8469/14, dated 10/7/2014

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Thanking you,

Yours faithfully,


 [R.K. Jain]

o/c

TIME BOUND

RTI

12

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

President, Excise and Customs Bar Association

Editor of

EXCISE LAW TIMES & SERVICE TAX REVIEW

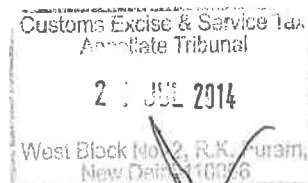
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Wazir Nagar,
NEW DELHI - 110 003.
PHONE : 24693001-3004
MOBILE : 9810077977
Fax No. 011-24635243**

RTI/P-195/8469/14/R11721
21-07-2014

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



Sub: My RTI Application No. RTI/8469/14, dated 10/7/2014

Dear Sir,

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Thanking you,

Yours faithfully,


[R.K. Jain]

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

President, Excise and Customs Bar Association

Editor of

EXCISE LAW TIMES & SERVICE TAX REVIEW

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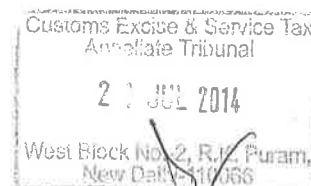
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Wazir Nagar,
NEW DELHI - 110 003.
PHONE : 24693001-3004
MOBILE : 9810077977
Fax No. 011-24635243**

RTI/P-195/8469/14/R11720

21-07-2014

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



Sub: My RTI Application No. RTI/8469/14, dated 10/7/2014

Dear Sir,

This refers to the letter F.No.09-133/CESTAT/CPIO-ND/RP/2014 dated 16.07.2014 of Shri Rajendra Prasad, Accounts Officer/CPIO, CESTAT, New Delhi, transferring my aforesaid RTI application to you under section 6(3) and section 5(4) read with section 5(5) of the RTI Act, 2005, for providing the information to me. As a Deemed CPIO, you are requested to kindly provide the information at the earliest as under section 7(1) of the RTI Act, information is to be provided within 30 days of the RTI Application.

Thanking you,

Yours faithfully,


[R.K. Jain]

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PHONE : 24693001-3004
MOBILE : 9810077977
Fax No. 011-24635243

RTI/P-195/8469/14/R11718

21-07-2014



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

Sub: My RTI Application No. RTI/8469/14, dated 10/7/2014

Dear Sir,

This refers to the letter F.No.09-133/CESTAT/CPIO-ND/RP/2014 dated 16.07.2014 of Shri Rajendra Prasad, Accounts Officer/CPIO, CESTAT, New Delhi, transferring my aforesaid RTI application to you under section 6(3) and section 5(4) read with section 5(5) of the RTI Act, 2005, for providing the information to me. As a Deemed CPIO, you are requested to kindly provide the information at the earliest as under section 7(1) of the RTI Act, information is to be provided within 30 days of the RTI Application.

Thanking you,

Yours faithfully,


[R.K. Jain]

F.No. 09/133/CESTAT/CPIO-ND/RP/2014
Customs Excise and Service Tax Appellate Tribunal
West Block No 2, R.K.Puram, New Delhi-110 066

Dated---4/8/14---

ID No. 09/133/2014

To,

Shri R.K. Jain,
1512-B, Bhisham Pitamah marg,
Wazir Nagar, New Delhi-110003.

Subject: Information under Right to Information Act 2005.

Sir,

Please refer to your RTI application No-8469/14 Dt-20/7/14
and our ID No. 09/133/14 the information received from SPS/PS to President
containing 04 pages is enclosed herewith for your reference (MT) & MO;
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.

(Rajender Prasad)
Accounts Officer/CPIO

Dated:25.07.2014

16

Sub.: Information sought under letter ID No.09-133/2014
dated 16.07.2014.

Sir,

With reference to your letter No.09-133/CESTAT/CPIO-ND/RP/2014 dated 16.07.2014, seeking to provide the information as per the points framed in the RTI application No.RTI/P-195/8469/14 dated 10.07.2014 in para- 4(a) to (f), it is submitted that the information sought in respect of para 4(a), the same is not maintained by us and may be available from the office of Registrar.

2. Regarding the information sought in 4(b), no information is maintained in respect of seeking information from the Hon'ble President. The permission sought moves along with the case record. Therefore, at SPS level no information is maintained and not available.

3. In view of the answers (a) and (b) above, no such readymade information is available in respect of the details called under para 4 (c) to (f).



(Chander Kanta)
SPS to Shri Rakesh Kumar,
Member (Technical)

82. v/c
hdy
25/7/14
CPIO, CESTAT, New Delhi.

1956/CPIO
31/07/2014

Subject: Information sought under RTI Act, 2005 in Application No.8469/2014 dated 10.07.2014 of Shri R.K.Jain. CPIO ID No.09-133/14- regarding.

Please refer to your letter dated 16.07.2014 which is in respect Application No. No.8469/2014 dated 10.07.2014 of Shri R.K.Jain. CPIO ID No.09-133/14 Para-wise information required by Shri R.K.Jain as per column 4(A) to 4 (F) of his application are given below:-

(i)The information called in respect of 4(A) is not maintained at the level of Sr.PS separately for which that may be available in the concerned file in the concerned Registry.

(ii)Regarding 4(B), no separate record is maintained in respect of seeking permission from the Hon'ble President as and when the permission sought moves alongwith the case file and sends to Registry for doing needful. Therefore, at Sr.PS level no information is maintained and same is not available.

(iii)In view of answers 4(A) and 4(B) above, no such readymade information is available in respect of the details called under para 4(C) to 4(F).

Necessary action may be taken in this regard.



(Mahesh Kumar)

Sr.PS
Dt.25.7.14

To,
CPIO, CESTAT, New Delhi

Sh. VRC
hpdh
25/7/14

1957/CPIO
31/07/2014

(18)

The CPIO,
CESTAT,
New Delhi

Sub: Information sought under RTI Act, 2005.

Sir,

Please refer to your letter No.09-133/CESTAT/CPIO-ND/RP/2014, dated 16-07-2014.

2. In answer to the information called for under Para-4 of the RTI Application dated 16.07.2014 forwarded by the CPIO, the answers in respect of Para 4(a) to (f) are as under:-

(i) The information called in respect of 4(a) is not maintained at the level of SPS for which that may be availed from the Registry.

(ii) Regarding 4(b), no information is recorded in respect of seeking permission from the Hon'ble President. The permission sought moves along with the case record. Therefore, at SPS level no information is maintained and not available.

(iii) In view of the answers (a) and (b) above, no such readymade information is available in respect of the details called under para 4(c) to (f).

Thanking you,

Yours faithfully,


(S. Senthil Kumaran)
Sr. P.S. to Member (J)

23 Jul 14

Sl. VPC
mdm
23/7/14

1350/CESD
23/07/2014

(19)

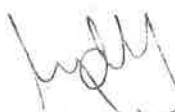
CESTAT, New Delhi

Dated: 21.7.2014

In pursuance of the letter F.No.09-133/CESTAT/CPIO-ND/RP/2014 dated 16.7.2014 seeking to provide copies of all orders, notes put up by Hon'ble Members and by the CESTAT Registry seeking pronouncement of orders beyond the period of 4 months and beyond the period of six months from the date of final hearing from 1.4.2013 till the date of providing the information, as also the points framed at (B), (C), (D), (E) and (F) in the RTI application No.RTI/P-195/8469/14 dated 10.7.2014 filed by Shri R.K. Jain, it is submitted that the relevant information may be available from the office of Registrar. As and when the notes are put up by the Hon'ble Members, the same are instantly handed over to the Registrar from the office of Hon'ble President, as directed.


(S.C. Das) 21/7/14
Sr.P.S. to Hon'ble President

CPIO, CESTAT, New Delhi.


21/7/14

**IN THE CUSTOMS, EXCISE AND SERVICE TAX
APPELLATE TRIBUNAL, NEW DELHI
PRINCIPAL BENCH, COURT NO. I**

Date of Hearing/decision: 14.10.2014

**Appeal No.09-056(A)/CESTAT/FAA-RK/2014
CPIO, I.D. No. 09-133/CESTAT/CPIO-ND/RP/2014**

Sh. R.K.Jain

Appellant

Vs.


Sh. Rajender Prasad, CPIO

Respondent

ORDER 05/10/2014

Per Rakesh Kumar:-

1. Heard both the sides.
2. The information sought by the appellant vide RTI application dt. 10.07.2014 has been received by him and he is satisfied with the same. Accordingly the appeal is dismissed as not pressed

98-10-14
ISSUED ON

SIGN (DEPUTY COMMISSIONER)
CUSTOMS, EXCISE & SERVICE TAX
APPELLATE TRIBUNAL
NEW DELHI-110068


(Rakesh Kumar)
Member(Technical)

To

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

