

F. No. 12-74 / CESTAT/CPIO-ND/VPP/2017
Customs Excise and Service Tax Appellate Tribunal
West Block No 2, R.K. Puram, New Delhi-110 066

Dated:- 24/8/17

ID No. 12-74/17

Subject: Information sought under RTI Act, 2005.

Sir,

Please refer to RTI application No. 10509/2017 dated 23/8/17 of Shri /Smt. **R.K. Jain** under RTI Act 2005 (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. 10509/2017 dated 23/8/17 CPIO ID No. 12-74/17 is forwarded herewith to the you as deemed CPIO with the request to provide the correct and para wise information/inspection on or before 08/09/17 directly to the applicant and intimate the undersigned within the stipulated time failing which, you will be 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.

If the information is not with your section or you, please reply from where it may be retrieved, without delay.

Note:- RTI application's replies which are related to outer benches may be gathered form there by filing RTI applications there directly, for facilitation, CPIOs are nominated at all outer benches separately.

Encl: As above.

Copy of CIC orders (3)

(V.P. Pandey)

Central Public Information Officer

Copy to: DR I/C Computers.

1. DR I/C customs & S-T.

2. AR Expense

3. AR (S-M.)

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

24 AUG 2017

O/C

in at S. 20/17
28/8/17

299 2 / CR / 2017
23 / 08 / 2017
To

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

10-12-74/2017

Ref. No. :RTI/P-195/10500/17

Dated : 23-08-17

Shri V.P.Pandey
CPIO & Asst. Registrar
CESTAT, West Block 2, R.K.Puram,
New Delhi - 110066

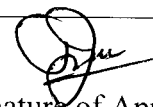
Customs Excise & Service Tax
Appellate Tribunal

West Block No. 2, R.K. Puram

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) The Hon'ble CIC by Order No.CIC/SB/C/2016/000353-BJ dated 12-6-2017 has recommended the respondent to make suo moto disclosure of information as sought by complainant in compliance with the Section 4 of the RTI Act to ensure transparency, objectivity and accountability in the functioning of the Public Authority. In this regard, please provide the following information <ul style="list-style-type: none">(i) Please provide detail of the date and diary no. under which the aforesaid order of the CIC was received in the CESTAT.(ii) Please provide the file no. in which the aforesaid advice of the CIC is dealt with in the CESTAT.(iii) Please provide the copies of the notesheets and correspondence pages of the said file relating to the aforesaid advice of the CIC.(iv) Please provide the current status of the action taken on the advice of the CIC. (B) Shri V.P. Pandey, CPIO and Assistant Registrar (Excise), CESTAT, New Delhi, during the hearing of Appeal No. CIC/CBECE/A/2016/299178, in the CIC on 21-8-2017, in relation to Order No.CIC/SB/C/2016/000141-BJ dated 28-2-2017, stated that the order dated 28-2-2017 has substantially been complied with, as the orders from 1-7-2014 have subsequently been uploaded on the website and for this purpose, each entry of the order register

		<p>have been checked with the date on the website and wherever the orders were not found on the CESTAT website, they have been uploaded on the CESTAT website and the PS and PA to the concerned Members have forwarded such orders to the concerned Registries for uploading the same on CESTAT website. As per applicant, the aforesaid CIC Order dated 28-2-2017 has not been complied with and the orders from 1-7-2014 have not been uploaded on the CESTAT website, hence, the CIC has been mis-informed. In this regard, please provide the following information:</p> <ul style="list-style-type: none">(i) The date and diary no. under which the Order No.CIC/SB/C/2016/000141-BJ dated 28-2-2017 was received in the CESTAT(ii) Please provide the file no. in which the aforesaid direction dated 28-2-2017 of the CIC is dealt with in the CESTAT.(iii) Please provide the copies of the notesheets and correspondence pages of the said file relating to the compliance of the aforesaid direction of the CIC and the current status of the matter.(iv) Please provide the number of un-uploaded orders from 1-7-2014 which have been uploaded in compliance to the order dated 28-2-2017 of the CIC.(v) Please provide the case nos. / order nos. / appeal nos. which have been uploaded on the CIC website.(vi) Please provide the copy of the requisition/communication given to the PA/PS of Members for supply of the digital data of un-uploaded orders.(vii) Please provide the copy of the communication and the data received from the PA/PS of the Members for the un-uploaded orders for uploading.(viii) Please provide the digital copies of the un-uploaded orders which are stated to have been forwarded by PS & PA for uploading in pursuance to the CIC order dated 28-2-2017.(ix) Please provide the name and designation of the officers, who have checked up the order register with the data on CESTAT website for uploading un-uploaded orders from 1-7-2014, for compliance of CIC Order dated 28-2-2017.
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	<p>(x) Please provide the date on which the CIC order dated 28-2-2017 was brought to the notice of Shri A. Mohan Kumar, Registrar. Please also provide copies of all the relevant documents in this respect and copies of the notesheets and correspondence pages.</p> <p>Note (1): The above information is also held by the Registrar CESTAT therefore this application may also be forwarded to the Registrar CESTAT.</p> <p>(2) Please provide pointwise information/ response for each of above points.</p>
5.	I state that the information sought is covered under RTI Act and does not fall within the exemptions contained in sections 8 or 9 or any other provisions of the RTI 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. 38F 220107 for Rs. 10 towards payment of fee is enclosed herewith.



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

Place : New Delhi

Encl. : as above

ash

F. No. 12-74, 12-80 & (10-174/2015)/ CESTAT/CPIO-ND/VPP/2017
Customs Excise and Service Tax Appellate Tribunal
West Block No 2, R.K. Puram, New Delhi-110 066

ID No: 12-74/2017, 12-80/2017 &
10-174/2015

Subject: Information under Right to Information Act 2005.

Sir/Madam,

Please refer to the above mentioned RTI applications, the information received from **AR(Excise)** containing **01 page** is enclosed herewith for your reference please.

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

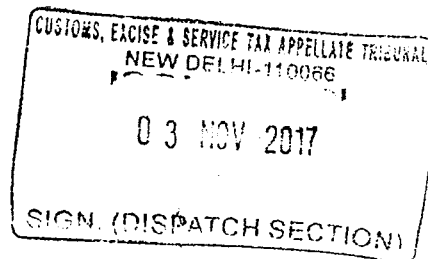
Note:- RTI application's replies which are related to outer benches may be gathered form there by filing RTI applications there directly, for facilitation, CPIOs are nominated at all outer benches separately.

To, *Material reply was already provided by the CPIO vide his letter dt 29.9.17*

MCE
CPIO
CESTAT New Delhi

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

OK




**Customs Excise and service Tax Appellate Tribunal
West Block No. 2 R.K. Puram, New Delhi-110066**

CPIO ID No.12-74/2017

Excise Division Bench

With reference to this RTI application this is to inform that the CPIO has already replied vide his letter dated 29/09/2017 to the appellant. It was 02 pages reply alongwith 55 pages enclosures which is connected to ID No. 12-74/2017 and 12-80/2017 and 10-174/2015.

This is a formal reply material reply has already been provided by the CPIO vide his letter dated 29/09/2017.


_____.27-10-17
**Assistant Registrar
Excise Division Bench**


27/11/17

F. No. 12-74 / CESTAT/CPIO-ND/VPP/2017
Customs Excise and Service Tax Appellate Tribunal
West Block No 2, R.K. Puram, New Delhi-110 066

Dated. 24/10/17

ID No. 12-74/17

To,

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

Subject: Information under Right to Information Act 2005.

Sir/Madam,

Please refer to your RTI application No. 10506/17 Dt. 23/8/17 and our ID No. 12-74/17 the information received from DR (Customs) containing 01 Page is enclosed herewith for your reference please.

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

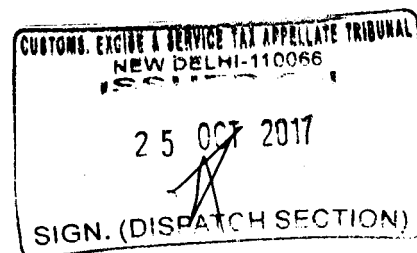
Note:- RTI application's replies which are related to outer benches may be gathered form there by filing RTI applications there directly, for facilitation, CPIOs are nominated at all outer benches separately.

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

o/c


(V.P. Pandey)

Central Public Information Officer



CUSTOMS, SERVICE TAX & ANTIDUMPING BRANCH

I.D.No.12-74/2017

Dated : 10/10/2017

Information Note

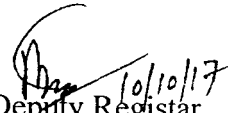
Subject :- R.T.I. application No..P-195/10500/17 dated 23.08.2017 filed by Sh. R.K.Jain.

Ref:- (CPIO ID NO. 12-74/2017 dated 24/08/2017).

With reference to the subject RTI application dated 23/08/2017(CPIO ID No. 12-74/2017 dated 24/08/2017, the parawise reply is as under.

Para. 4(A toB)) The Customs Appeal Branch does not possess the information .

CPIO is requested to inform the applicant accordingly.


10/10/17
Deputy Registrar
Customs Branch

Head Clerk

To
CPIO,CESTAT,
Delhi

Customs Excise and Service Tax Appellate Tribunal
West Block No 2, R.K. Puram, New Delhi-110 066
RTI SECTION

CPIO ID No: 12-74/2017

Date: 29.09.2017

Sir/Madam

With reference to your RTI Application No. RTI/P-195/10500/17 dated 23.08.2017. In this regard point wise replies are following:

Point 4 (A) (i): The Hon'ble CIC's order no. CIC/SB/C/2016/000353-BJ dated 12.06.2017, was received in the RTI Section on the date as mentioned by the staff at the corner of the copy of this order. (Copy enclosed)

(ii): It relates to RTI file ID No. 11-48/2016.

(iii): Inspection may be made and if required copies may be taken.

(iv): All officers and staff are complying with the order of the Hon'ble CIC.

Point (B): All Misc. order/S.O./I.O. and F.O. from 01.07.2014 have been uploaded, if any order is found not uploaded may please be informed immediately so it may also be uploaded. RTI section did not get any list of uploaded orders from any Registry at of Delhi. Copy of compliance report filed by the Ld. Registrar in compliance of the Hon'ble CIC order No. CIC/CBECE/A/2016/299178-BJ dated 21.08.2017 in RTI ID No. 10-174/2015 is being provided in reply to your RTI application registered in the office as 12-80/2017) on the uploading point. *(Computation + replies of various officers 39 + 16 = 55 pages)*

(B)(i): Order No. CIC/SB/C/2016/000141-BJ Dated 28.02.2017 was received in RTI Section as mentioned at the corner of the copy of the order (Copy enclosed).

(ii): It relates to in RTI File No. 10-174/2015.

(iii): Copy of note sheets enclosed.

(iv to viii): On these points it is to inform no such record is there this is a job done by the staff on software.

O/C

29/09/2017
[Signature]

(ix) This job of uploading is done by the SPS/PAs, Head Clerk, UDC and LDC etc.

(x): On this point, this is to inform that this order was sent to DR(I/C) Customs Branch, AR(Excise), AR (S.M.) for compliance of this order, and in this order 06 months time was given from the date of receipt of the order. **In this order complainant was also directed to cooperate and provide details of orders which have not been uploaded, if any.**

But, till dated the complainant did not inform the details of any un-uploaded orders to the officers concerned.

However, the CESTAT, officials have complied with the orders of Hon'ble CIC. As the complainant did not inform any order stating un-uploaded, which shows there is no such order which is not uploaded.

Reply received from Asstt. Registrar Computer Section who is also the Asst. Registrar, Single Member Branch Registry enclosed.

If aggrieved, you may file an appeal under section 19 of RTI Act within thirty days before the Ld. First Appellate Authority (RTI), CESTAT New Delhi.

Note: This is also requested to file RTI application as per rules of the RTI Act, DOP & T, and ~~not to be in question-answer form or voluminous~~, thus, it should not be in question-answer form or voluminous.


CPIO

CESTAT New Delhi

To,

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

CENTRAL INFORMATION COMMISSION

2nd Floor, August Kranti Bhawan, Bhikaji Cama Place
New Delhi-110066, website:cic.gov.in

11-48

16/6/17

Complaint No.:-CIC/SB/C/2016/000353-BJ

Complainant : Mr. R K Jain
1512-B, Bhishm Pitamah Marg
Wazir Nagar, New Delhi-110003
M:9810077977

Respondent : i) CPIO & Asstt. Registrar
Customs Excise and Service Tax, Appellate
Tribunal, West Block No. 2, R K Puram
New Delhi-110066

ii) Registrar & Deemed CPIO
Customs Excise and Service Tax, Appellate
Tribunal, West Block No. 2, R K Puram
New Delhi-110066

16.6.17

Date of Hearing : 12.06.2017
Date of Decision : 12.06.2017

Date of filing of RTI applications	31.03.2016
CPIO's response	01.04.2016(RTI Trf.) 12.04.2016 18.05.2016
Date of filing the First appeal	27.05.2016
First Appellate Authority's response	Not on Record
Date of diarised receipt of complaint by the Commission	30.06.2016

ORDER

FACTS:

The Complainant vide his RTI application sought information on 03 points (A to C) regarding the copy of the daily orders on the website of the CESTAT in compliance with Section 4 of the RTI Act, 2005, copy of daily orders passed by the various benches of the CESTAT, Delhi, inspection of such orders passed by various benches of CESTAT, Delhi from 01.01.2015 to 29.02.2016, name and designation of the officer who was responsible for the delay in launching of the new website and issues related thereto.

The CPIO vide its letter dated 01.04.2016 transferred the RTI application to SPS to Hon'ble Member, Registrar, Computer Section, DR, Customs/ST/AD, AR(Excise) and AR(SM Branch) under Section 5(4), 5(5) and 6(3) of the RTI Act,2005 to provide information on or before 12.04.2016. Thereafter, the CPIO vide its letter dated 12.04.2016 and 18.05.2016 enclosed a copy of 01 page and 05 pages respectively. Dissatisfied by the response of the CPIO, the

The Appellant drew the attention of the Commission to the order passed by the Hon'ble High Court of Delhi in Dinkar Khindria vs. Union of India CUS A.C Nos. 8-9 of 2006, decided on 23.09.2008 wherein the High Court had observed difference between final order issued by the Tribunal and the Handwritten order in the order Sheet and therefore a strong stricture was passed by the Hon'ble High Court seeking Respondent Public Authority to ensure that such unsavoury incident should not occur in the course of their conduct of all judicial proceedings.

The Complainant informed the Commission that the information on Point C had been provided on 05.06.2017, only after the notice of hearing was issued by the Commission and that the FAA had not decided over the First Appeal within the stipulated time period as per the provisions of the RTI Act,2005. The Complainant vide his Complaint before the Commission had prayed for imposition of penalty against the Respondent under Section 20(1) of the RTI Act,2005 for causing obstruction of information and violating the provisions of the RTI Act,2005

The Respondent submitted that orders pertaining to adjournment were not of the nature of daily orders and therefore no order was dictated by the Quasi judicial Authority in such matter. The Respondent further explained that around 100-150 cases were heard every single day by the Tribunal and if orders in all such cases were prepared on daily basis, it would cause disproportionate diversion of resources. Furthermore, the Commission was informed that the total sanctioned strength of the Tribunal was 407 where in only 256 was the Working Staff and at present, around 90,000 appeals were pending for disposal before the Tribunal. The Respondent contested that the matter regarding the mechanism for uploading of orders was an internal policy decision of the Respondent Public Authority and the Complainant could not question on the manner in which ordinary orders of adjournment were uploaded by the Tribunal.

The Commission observed that a voluntary disclosure of all information that ought to be displayed in the public domain should be the rule and members of public who *having to seek* information should be an exception. An open government, which is the cherished objective of the RTI Act, can be realised only if all public offices comply with proactive disclosure norms. Section 4(2) of the RTI Act, 2005 mandates every public authority to provide as much information *suo-motu* to the public at regular intervals through various means of communications, including the Internet, so that the public need not resort to the use of RTI Act, 2005.

In this Context, the Commission referred to the decision of The Hon'ble Supreme Court of India in SLP(C) NO. 7526/2009 (CBSE & Anr. Vs. Aditya Bandopadhyay & Ors) wherein it had observed as under:

"37. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under Clause (b) of Section 4(1) of the Act which relates to securing

Civil Writ Petition No.6504 of 2009 Date of decision: 04.03.2010 State of Punjab and others vs. State Information Commissioner, Punjab and another, it was held as under:

"3. The penalty provisions under Section 20 is only to sensitize the public authorities that they should act with all due alacrity and not hold up information which a person seeks to obtain. It is not every delay that should be visited with penalty. If there is a delay and it is explained, the question will only revolve on whether the explanation is acceptable or not. If there had been a delay of a year and if there was a Superintendent, who was prodding the Public Information Officer to act, that itself should be seen a circumstance where the government authorities seemed reasonably aware of the compulsions of time and the imperatives of providing information without any delay. The 2 nd respondent has got what he has wanted and if there was a delay, the delay was for reasons explained above which I accept as justified."

The Complainant could not establish or justify the malafide denial of information by the Respondent or for withholding it without any reasonable cause.

DECISION:

Keeping in view the facts of the case and submission made by both the parties, no further intervention of the Commission is warranted in this matter.

The Commission however advises the Respondent to suo motu disclose the information sought by the Complainant in compliance with Section-4 of the RTI Act, 2005 to ensure transparency, objectivity and accountability in the functioning of the Public Authority.

The Complaint stands disposed accordingly.



Bm 12/6/17
(Bimal Julka)

Information Commissioner

Authenticated True Copy:

(Signature)

(K.L.Das)
Deputy Registrar

10-174/15

DRS & ARS of all 6/3/17

to upload all orders on website from 01-7-2014 within 06 months. Complaint also to cooperate

CENTRAL INFORMATION COMMISSION

2nd Floor, C-Wing, August Kranti Bhawan,
Bhikaji Cama Place, New Delhi - 110066.

Tel: 011 - 26182597, 26182598

Email: kl.das@nic.in

Complaint No.:-CIC/SB/C/2016/000141-BJ

Complainant : Mr. R K Jain
1512-B, Bhishm Pitamah Marg
Wazir Nagar, New Delhi-110003
M. 9810077977

Respondent : I. CPIO & Accounts Officer
Customs Excise & Service Tax
Appellate Tribunal, West Block No. 2,
R K Puram, New Delhi-110066

II. CPIO & Assistant Registrar
Customs Excise & Service Tax
Appellate Tribunal, West Block No. 2,
R K Puram, New Delhi-110066

Date of Hearing : 28.02.2017
Date of Decision : 28.02.2017

Date of filing of RTI applications	21.09.2015
CPIO's response	28.09.2015, 09.10.2015, 16.11.2015, 19.11.2015 & 02.03.2016
Date of filing the First appeal	14.10.2015
First Appellate Authority's response	Not on Record
Date of diarised receipt of complaint by the Commission	08.03.2016

ORDER

FACTS:

The complainant, vide his RTI application sought information on 2 points (A and B) regarding date from which orders of different benches of CESTAT had been uploaded on CESTAT website together with list of orders so far listed in relation to benches in Delhi, list of orders not uploaded from 01.01.2011 till date of providing information with separate list for benches at Delhi,

months time period for uploading all the orders of the CESTAT till date. Moreover, the respondent requested the complainant to cooperate and provide details of the orders which have not been uploaded by the CESTAT, till date. The Commission was informed that CESTAT had taken an initiative for modifying existing software module and efforts are being made to digitize the records.

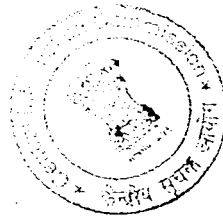
DECISION:

Keeping in mind the facts of the case and submissions made by both the parties and the request by the complainant to provide information instead of pursuing a complaint under Section 18 of the RTI Act, 2005, the Commission directs the respondent to upload the orders from the period of 01.07.2014 till date on the website of the CESTAT, New Delhi within a period of six months as agreed, from the date of receipt of the order.

The complaint stands disposed with above direction.

Bimal Julka
(Bimal Julka)

Information Commissioner



Authenticated True Copy:

K.L. Das
(K.L. Das)

Deputy Registrar

-/-

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE
TRIBUNAL
WEST BLOCK-2 R.K.PURAM, New Delhi-110066
RTI SECTION**

**CIC Decision No: CIC/CBECE/A/2016/000178-SB
CPIO ID No. 10-174/2015**

In this matter there was a hearing in the CIC before Hon'ble Information Commissioner Mr. Bimal Julka. The matter was heard at length, during hearing the complainant Sh. R.K. Jain cited the circular dated 13.01.2017 issued by learned Registrar CESTAT, New Delhi in which at **serial no. 3 there is reference of daily order which are to be uploaded by SPS/Stenos**. He also submitted before the Authority of the CIC that at serial no. 2 of this circular there is reference of Final Orders which are being uploaded by the SPS/Stenos, but compliance of Serial no. 3, uploading of **daily orders** is not being made. Besides this the complainant also cited the main page of CESTAT website, in which there is a heading case management service and under heading there is also reference of **daily order** at serial no. 4 and **Final Order** at serial no. 5 and also cited **website of the "CAT"** and Hon'ble High Court etc. and requested the CIC to direct the CESTAT for uploading the daily orders in compliance of his own circular dated 13.01.2017, issued by the learned Registrar.

As respondent I argued a lot making distinction between substantial and non-substantial order which are simply adjournment orders, it was also informed to the CIC that dates of adjournment are being uploaded, and also requested for one more opportunity for further clarification.

Order is awaited from Hon'ble CIC.

But Sh. R.K. Jain Complainant has filed an unsigned copy of the CIC's order dated 21.08.2017 in which there is directed that:

mitted to Hon'ble President

The CIC vide order dated 21.8.17, against an appeal filed by Shri R.K. Jain dated 17.8.16 before the CIC, directed inter alia as under :

"The Commission therefore, instructs the Respondent Public Authority that in the larger public interest and in the light of the aforesaid decisions of the Hon'ble Courts, the Respondent Public Authority should post the daily orders on its website to facilitate dissemination of information to the public at large. Thus, suo moto disclosure of all such information in compliance with Section-4 of the RTI Act, 2005 should be made to ensure transparency, objectivity and accountability in the functioning of the Public Authority. Compliance of the above directive should be submitted to the Commission within a period of 20 days from the date of receipt of this order."

The order of CIC is placed for reference please.(Annexure 'A'). An RTI application was filed by Shri R.K. Jain dated 21.9.15 for information as to :

- (A) As per Chapter XXIV of the CESTAT Judicial Manual all the orders passed by the CESTAT benches are to be uploaded on the website and it shall be the duty and responsibility of each SPS and PA to verify that every order typed by him is uploaded on the CESTAT website. It is observed that large no. of orders passed by the CESTAT Benches are not being uploaded on CESTAT website and other informations.

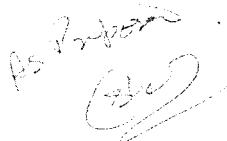
Not satisfied with the reply he filed appeal before the First Appellate Authority and vide order dated 9.11.2015 directed the appellant to provide specific order numbers reference to the CPIO, who in turn, shall take steps in uploading the orders within two weeks from the receipt of the reference from the appellant".(Annexure 'B'). However, the applicant Shri R.K. Jain insisted for uploading daily orders, proceedings and Misc/ Final orders, if any, on day to day basis under section 4 of RTI, 2005 and insisted for suo-moto disclosure by the public authority.

It is pertinent to mention that in furtherance of the oral direction by the CIC during the hearing of another complaint on the same subject, a circular dated 13.1.2017 was issued to the concerned officers/ staff (Annexure - 'C') and thereby assigned the responsibility of officers with the nature of orders to be uploaded.

It is pertinent to mention that after the introduction of Dynamic Website at the HeadQuarters, the Misc orders, Final orders and the proceedings, if any, were being uploaded. However the grievance of the complainant and the direction of the CIC is that CESTAT should post the daily orders on its website to facilitate dissemination of information to the public at large. Thus, suo moto disclosure of all such information in compliance with Section-4 of the RTI Act, 2005 should be made to ensure transparency, objectivity and accountability in the functioning of the Public Authority and a compliance report in this regard to be submitted within 20 days of receipt of the order.

As per circular dated 13.1.2017 uploading daily proceedings are assigned with SPS/ Steno, who attend the courts. Therefore, if approved, a circular be issued to make it mandatory for the SPS/ PA to upload the daily orders and any lapse on their part be viewed seriously and action be initiated against them for such lapse. Also, the same be supervised on day to day basis by the concerned DR/ AR of the bench Registry. Similar uploadings are also being done by the High Courts, CAT etc.

Submitted for further orders/ approval please.

AS



Registrar 24/8

Hon'ble President

F.NO.32(33) MISC/RTI-SM/2017
CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
West Block No.2, R.K.Puram, New Delhi.
SM APPEAL BRANCH.

INFORMATION NOTE

Dated: 14/09/2017

Subject: Information sought under RTI Act 2005- RTI
No. P-195/10500/2017 dated 23/08/2017
filed by Sh. R.K. Jain. -reg.

Ref : CPIO ID NO.12-74/CESTAT/CPIO-
ND/VPP/2017 dated 24/08/2017.

Please refer to CPIO note dated 24/08/2017 of CPIO issued under I.D. No.12-74/2017 on the captioned subject. The Para wise reply is as under:-

4(A to B) The Single Member Branch does not possess the information.

The applicant may be informed accordingly.

Date: 14/09/2017.

To,

The Assistant Registrar/
CPIO, New Delhi.


19/9/17
Assistant Registrar
Single Member Branch
15/9

Note

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

Refer: 12-74/CESTAT/CPIO-ND/VPP/2017

Dated 24/08/2017

Please refer to note dated 24/08/2017 of CPIO issued vide F.No. 12-74/CESTAT/CPIO-ND/VPP/2017 on the captioned subject. The point wise information related to computer section is furnished below.

A (iv) All the orders transferred to this section prior to 2017 were uploaded as and when received. As per the CIC direction order/judgments are uploaded in pdf form on the dynamic module i.e cestatnew.gov.in by respective SPS/PA to Hon'ble Member.

B (i) to (x) As stated above, as and when orders were received from the Bench Registry, the same were immediately uploaded on the website. Since January, 2017 i.e after coming into effect of dynamic module of CESTAT, uploading of all orders is done by the respective SPS/PA. As regards compliance of CIC orders for dissemination of information, the same is disclosed time to time by this section. Applicant is requested to have inspection on any working day to obtain information as sought in his application.



(Y.J. Chauhan)

**Assistant Registrar
Computer Section**

To

**V.P.Pandey
CPIO/CESTAT, Delhi**

5/9/17

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

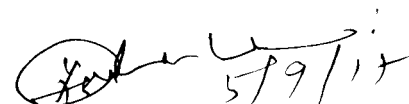
Dated: 05.09.2017

Note

**Sub: RTI Application No. RTI/10500/17 dated
31/08/2017-reg.**

Refer: RTI ID No. 12-74/2017 dated 24/08/2017

With reference to letter no. RTI/P-195/10500/17/R22007 dated 31/08/2017, it is to inform you that the required information sought by the applicant has already been transmitted to you vide Note F.No. 7(3)/CESTAT/RTI/CompSec/2015 dated 30/08/2017 (copy enclosed herewith for your ready reference) which may be further transmitted to the applicant at the earliest.

 5/9/17

(Y.J. Chauhan)

Assistant Registrar(Comp.)

To

CPIO/CESTAT, Delhi

3147/CR/2017
02/09/2017

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

TIME BOUND
RTI

359
01/9/17 Comp

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

Customs Excise & Service Tax
Appellate Tribunal
0112000
West Block No. 2, Wazir Nagar
New Delhi - 110072

RTI/P-195/10500/17/R22007
31-08-2017

DR I/C Computers
Customs Excise & Service Tax Appellate Tribunal,
West Block 2, R.K.Puram,
New Delhi - 110066

Sub: My RTI Application No. RTI/10500/17, dated 23/08/17

Dear Sir,

This refers to the letter ID No.12-74/2017 dated 24-8-2017 of Shri V.P.Pandey, CPIO, Cestat, New Delhi, transferring my aforesaid RTI application to you under section 6(3) and section 5(4) read with section 5(5) of the RTI Act, 2005, for providing the information to me.

You are requested to kindly provide the information at the earliest as under section 7(1) of the RTI Act, information is to be provided within 30 days of the RTI Application.

Thanking you,

Yours faithfully,



[R.K. Jain]

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

Dated: 30.08.2017

Note

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

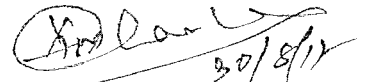
Refer: 12-74/CESTAT/CPIO-ND/VPP/2017

Dated 24/08/2017

Please refer to note dated 24/08/2017 of CPIO issued vide F.No. 12-74/CESTAT/CPIO-ND/VPP/2017 on the captioned subject. The point wise information related to computer section is furnished below.

A (iv) All the orders transferred to this section prior to 2017 were uploaded as and when received. As per the CIC direction order/judgments are uploaded in pdf form on the dynamic module i.e cestatnew.gov.in by respective SPS/PA to Hon'ble Member.


B (i) to (x) As stated above, as and when orders were received from the Bench Registry, the same were immediately uploaded on the website. List of orders not uploaded may be obtained from relevant registry. Since January, 2017 i.e after coming into effect of dynamic module of CESTAT, uploading of all orders is done by the respective SPS/PA. As regards compliance of CIC orders for dissemination of information, the same is disclosed time to time by this section. Applicant is requested to have inspection on any working day to obtain information as sought in his application.


30/8/17

(Y.J. Chauhan)
Assistant Registrar
Computer Section

To

V.P. Pandey
CPIO/CESTAT, Delhi


30/8/17

10-174

CENTRAL INFORMATION COMMISSION

2nd Floor, August Kranti Bhawan
Bhikaji Cama Place, New Delhi-110066
website:cic.gov.in

Appeal No.: -CIC/CBECE/A/2016/299178-BJ

Appellant : Shri R.K. Jain

Respondent : 1. CPIO & Accounts Officer,
Customs Excise and Service Tax Appellate
Tribunal, New Delhi

2. Registrar & Deemed CPIO,
Customs Excise and Service Tax Appellate
Tribunal, New Delhi

Date of Hearing : 21.08.2017

Date of Decision : 21.08.2017

Date of filing of RTI applications	21.09.2015
CPIO's response	28.09.2015(Transfer) 09.10.2015
Date of filing the First appeal	14.10.2015
First Appellate Authority's response	09.11.2015
Date of diarised receipt of second appeal by the Commission	17.08.2016

ORDER

FACTS:

The Appellant vide his RTI application sought information on 02 points (A and B) regarding date from which the orders of the different benches of CESTAT had been uploaded on the CESTAT website, list of orders so far listed in relation to benches at Delhi, list of orders not uploaded from 01.01.2011 till date of providing information with separate list in relation to benches in Delhi, etc.

The CPIO and Accounts Officer, CESTAT, New Delhi, vide its letter dated 28.09.2015 transferred the RTI application under Section 6 (3) and Section 5 (4) read with Section 5 (5) of the RTI Act, 2005 to the AR to Computer Section, CESTAT, new Delhi to provide correct and para wise information/ inspection on or before 12/10.2015. Subsequently, the CPIO and Asst. Registrar, CESTAT, New Delhi vide its letter dated 09.10.2015, provided a response received from Technical Officer, CESTAT, New Delhi dated 07.10.2015 wherein a point wise response was provided. Dissatisfied by the response of the CPIO, the Appellant approached the FAA. The FAA, vide its order dated 09.11.2015, directed the Appellant to provide specific order number reference to the CPIO, who in turn was directed to take steps for uploading the orders within two weeks from the receipt of the reference from the Appellant.

In its reply, the Respondent clarified that the orders passed by different benches were being uploaded on their website and the reply of the Technical Officer had been provided to the Appellant. It was also clarified that the Appellant was registered with CESTAT as a subscriber and was getting each and every order on a regular basis. The Appellant however contested and submitted that the contention of the Respondent was incorrect and misleading and he produced a list of cases that had not been uploaded and emphasized that the CESTAT, Delhi had been furnishing only selective information on its website for reasons best known to them. The Respondent nonetheless, attempted to make a distinction between substantive and non-substantive orders and explained that in accordance with the decision of the Competent Authority, a particular practice was being followed in their office and any deviation would require approval of the competent authority. To a query from the Commission on whether the afore-mentioned procedure had been notified by them on their website or not, no satisfactory response was provided by the Respondent. The Respondent however, submitted that being a policy decision, an opportunity should be provided to furnish additional written submission clarifying their position on the practice adopted in not uploading non-substantive orders on their website.

Hearing both the parties and on perusal of records, the Commission felt that very pertinent issues were raised by the Appellant regarding non-uploading of daily orders by the Respondent Public Authority on their website which concerns the public at large since suo motu disclosure of such information would render more transparency and accountability in the functioning of the Public Authority. It was also observed that voluntary disclosure of all the information that ought to be displayed in the public domain should be the rule and members of the public who *having to seek* information should be an exception. An open government, which is the cherished objective of the RTI Act, can be realised only if all public offices comply with proactive disclosure norms. Section 4(2) of the RTI Act, 2005 mandates every public authority to provide as much information *suo-motu* to the public at regular intervals through various means of communications, including the Internet, so that the public need not resort to the use of RTI Act, 2005.

In this context, the Commission referred to the decision of The Hon'ble Supreme Court of India in SLP(C) NO. 7526/2009 (CBSE & Anr. Vs. Aditya Bandopadhyay & Ors) wherein it had observed as under:

"37. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under Clause (b) of Section 4(1) of the Act which relates to securing transparency and accountability in the working of public authorities and in discouraging corruption"

The Commission also observed that the Hon'ble Delhi High Court ruling in WP (C) 12714/2009 Delhi Development Authority v. Central Information Commission and Another (delivered on: 21.05.2010), held as under:

public policy and fosters accountability in Government. It creates a condition for 'open governance' which is a foundation of democracy."

The Commission further observed that in a Complaint heard in Complaint No.: -CIC/SB/C/2016/000353-BJ dated 12.06.2017, the Commission had advised the Respondent to suo motu disclose the information sought by the Complainant in compliance with Section-4 of the RTI Act, 2005 to ensure transparency, objectivity and accountability in the functioning of the Public Authority.

DECISION:

In the light of the submissions made by both the parties, it is evident that the information as sought by the Appellant had not been satisfactorily answered. It was noted with concern that the essential aspects of bringing in clarity and transparency in the functioning of the Public Authority was being consistently sidelined and ignored which was viewed adversely.

The Commission therefore, instructs the Respondent Public Authority that in the larger public interest and in the light of the aforesaid decisions of the Hon'ble Courts, the Respondent Public Authority should post the daily orders on its website to facilitate dissemination of information to the public at large. Thus, *suo moto* disclosure of all such information in compliance with Section-4 of the RTI Act, 2005 should be made to ensure transparency, objectivity and accountability in the functioning of the Public Authority. Compliance of the above directive should be submitted to the Commission within a period of 20 days from the date of receipt of this order.

The Appeal stands disposed with the above direction.

(Bimal Julka)
Information Commissioner

Authenticated True Copy:

(K.L.Das)
Deputy Registrar

CENTRAL INFORMATION COMMISSION

2nd Floor, August Kranti Bhawan, Bhikaji Cama Place
New Delhi-110066, website:cic.gov.in

Complaint No.:-CIC/SB/C/2016/000353-BJ

Complainant : Mr. R K Jain
1512-B, Bhishm Pitamah Marg
Wazir Nagar, New Delhi-110003
M:9810077977

Respondent : i) CPIO & Asstt. Registrar
Customs Excise and Service Tax, Appellate
Tribunal, West Block No. 2, R K Puram
New Delhi-110066

ii) Registrar & Deemed CPIO
Customs Excise and Service Tax, Appellate
Tribunal, West Block No. 2, R K Puram
New Delhi-110066

Date of Hearing : 12.06.2017
Date of Decision : 12.06.2017

Date of filing of RTI applications	31.03.2016
CPIO's response	01.04.2016(RTI Trf.) 12.04.2016 18.05.2016
Date of filing the First appeal	27.05.2016
First Appellate Authority's response	Not on Record
Date of diarised receipt of complaint by the Commission	30.06.2016

ORDER

FACTS:

The Complainant vide his RTI application sought information on 03 points (A to C) regarding the copy of the daily orders on the website of the CESTAT in compliance with Section 4 of the RTI Act, 2005, copy of daily orders passed by the various benches of the CESTAT, Delhi, inspection of such orders passed by various benches of CESTAT, Delhi from 01.01.2015 to 29.02.2016, name and designation of the officer who was responsible for the delay in launching of the new website and issues related thereto.

The CPIO vide its letter dated 01.04.2016 transferred the RTI application to SPS to Hon'ble Member, Registrar, Computer Section, DR, Customs/ST/AD, AR(Excise) and AR(SM Branch) under Section 5(4), 5(5) and 6(3) of the RTI Act,2005 to provide information on or before 12.04.2016. Thereafter, the CPIO vide its letter dated 12.04.2016 and 18.05.2016 enclosed a copy of 01 page and 05 pages respectively. Dissatisfied by the response of the CPIO, the

The Appellant drew the attention of the Commission to the order passed by the Hon'ble High Court of Delhi in *Dinkar Khindria vs. Union of India* CUS A.C Nos. 8-9 of 2006, decided on 23.09.2008 wherein the High Court had observed difference between final order issued by the Tribunal and the Handwritten order in the order Sheet and therefore a strong stricture was passed by the Hon'ble High Court seeking Respondent Public Authority to ensure that such unsavoury incident should not occur in the course of their conduct of all judicial proceedings.

The Complainant informed the Commission that the information on Point C had been provided on 05.06.2017, only after the notice of hearing was issued by the Commission and that the FAA had not decided over the First Appeal within the stipulated time period as per the provisions of the RTI Act, 2005. The Complainant vide his Complaint before the Commission had prayed for imposition of penalty against the Respondent under Section 20(1) of the RTI Act, 2005 for causing obstruction of information and violating the provisions of the RTI Act, 2005.

The Respondent submitted that orders pertaining to adjournment were not of the nature of daily orders and therefore no order was dictated by the Quasi judicial Authority in such matter. The Respondent further explained that around 100-150 cases were heard every single day by the Tribunal and if orders in all such cases were prepared on daily basis, it would cause disproportionate diversion of resources. Furthermore, the Commission was informed that the total sanctioned strength of the Tribunal was 407 where in only 256 was the Working Staff and at present, around 90,000 appeals were pending for disposal before the Tribunal. The Respondent contested that the matter regarding the mechanism for uploading of orders was an internal policy decision of the Respondent Public Authority and the Complainant could not question on the manner in which ordinary orders of adjournment were uploaded by the Tribunal.

The Commission observed that a voluntary disclosure of all information that ought to be displayed in the public domain should be the rule and members of public who *having to seek* information should be an exception. An open government, which is the cherished objective of the RTI Act, can be realised only if all public offices comply with proactive disclosure norms. Section 4(2) of the RTI Act, 2005 mandates every public authority to provide as much information *suo-motu* to the public at regular intervals through various means of communications, including the Internet, so that the public need not resort to the use of RTI Act, 2005.

In this Context, the Commission referred to the decision of The Hon'ble Supreme Court of India in SLP(C) NO. 7526/2009 (*CBSE & Anr. Vs. Aditya Bandopadhyay & Ors*) wherein it had observed as under:

"37. The right to information is a cherished right. Information and right to information are intended to be formidable tools in the hands of responsible citizens to fight corruption and to bring in transparency and accountability. The provisions of RTI Act should be enforced strictly and all efforts should be made to bring to light the necessary information under Clause (b) of Section 4(1) of the Act which relates to securing

Civil Writ Petition No.6504 of 2009 Date of decision: 04.03.2010 State of Punjab and others vs. State Information Commissioner, Punjab and another, it was held as under:

"3. The penalty provisions under Section 20 is only to sensitize the public authorities that they should act with all due alacrity and not hold up information which a person seeks to obtain. It is not every delay that should be visited with penalty. If there is a delay and it is explained, the question will only revolve on whether the explanation is acceptable or not. If there had been a delay of a year and if there was a Superintendent, who was prodding the Public Information Officer to act, that itself should be seen a circumstance where the government authorities seemed reasonably aware of the compulsions of time and the imperatives of providing information without any delay. The 2 nd respondent has got what he has wanted and if there was a delay, the delay was for reasons explained above which I accept as justified."

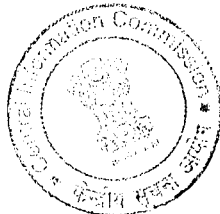
The Complainant could not establish or justify the malafide denial of information by the Respondent or for withholding it without any reasonable cause.

DECISION:

Keeping in view the facts of the case and submission made by both the parties, no further intervention of the Commission is warranted in this matter.

The Commission however advises the Respondent to suo motu disclose the information sought by the Complainant in compliance with Section-4 of the RTI Act, 2005 to ensure transparency, objectivity and accountability in the functioning of the Public Authority.

The Complaint stands disposed accordingly.



Ban 12/6/17
(Bimal Julka)
Information Commissioner

Authenticated True Copy:


(K.L. Das)
Deputy Registrar

0
10-1-14/15

DRS &
ARS of all
6/3/17
to upload all
CIC cases in
website
01-7-2017
CGM
08-03-2016

CENTRAL INFORMATION COMMISSION

2nd Floor, C-Wing, August Kranti Bhawan,
Bhikaji Cama Place, New Delhi -110066.
Tel: 011 - 26182597, 26182598
Email: kl.das@nic.in

Complaint No.: -CIC/SB/C/2016/000141-BJ

Complainant : Mr. R K Jain
1512-B, Bhishm Pitamah Marg
Wazir Nagar, New Delhi-110003
M. 9810077977

Respondent : I. CPIO & Accounts Officer
Customs Excise & Service Tax
Appellate Tribunal, West Block No. 2,
R K Puram, New Delhi-110066

II. CPIO & Assistant Registrar
Customs Excise & Service Tax
Appellate Tribunal, West Block No. 2,
R K Puram, New Delhi-110066

Date of Hearing : 28.02.2017
Date of Decision : 28.02.2017

Date of filing of RTI applications	21.09.2015
CPIO's response	28.09.2015, 09.10.2015, 16.11.2015, 19.11.2015 & 02.03.2016
Date of filing the First appeal	14.10.2015
First Appellate Authority's response	Not on Record
Date of diarised receipt of complaint by the Commission	08.03.2016

ORDER

FACTS:

The complainant, vide his RTI application sought information on 2 points (A and B) regarding date from which orders of different benches of CESTAT had been uploaded on CESTAT website together with list of orders so far listed in relation to benches in Delhi, list of orders not uploaded from 01.01.2011 till date of providing information with separate list for benches at Delhi,

ans.

months time period for uploading all the orders of the CESTAT till date. Moreover, the respondent requested the complainant to cooperate and provide details of the orders which have not been uploaded by the CESTAT, till date. The Commission was informed that CESTAT had taken an initiative for modifying existing software module and efforts are being made to digitize the records.

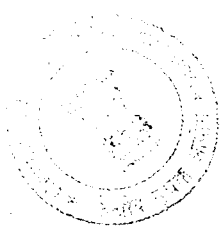
DECISION:

Keeping in mind the facts of the case and submissions made by both the parties and the request by the complainant to provide information instead of pursuing a complaint under Section 18 of the RTI Act, 2005, the Commission directs the respondent to upload the orders from the period of 01.07.2014 till date on the website of the CESTAT, New Delhi within a period of six months as agreed, from the date of receipt of the order.

The complaint stands disposed with above direction.

Bimal Julka
(Bimal Julka)

Information Commissioner



Authenticated True Copy:

K.L. Das
(K.L. Das)
Deputy Registrar