

कार्यालय आयुक्त केन्द्रीय वस्तु एवं सेवाकर,

(9)

117/7, सर्वोदय नगर, कानपुर

पत्र सं० 75/RTI/CEX/KNP/2017

दिनांक: 11-12-2017

आदेश संख्या: 81/आर.टी.आई./2017

दिनांक: : 11.12.2017

श्री राकेश गर्ग, 06/204, तिकोनिया बेलन गंज आगरा ने केन्द्रीय जनसूचना अधिकारी, केन्द्रीय वस्तु एवं सेवाकर CESTAT NEW DELHI को सूचना के अधिकार अधिनियम 2005 के अन्तर्गत सूचना प्राप्त करने हेतु प्रार्थना-पत्र दिनांक 15.11.2017 को प्रेषित किया है। जो कि इस कार्यालय में दिनांक 17.11.2017 को प्राप्त हुआ है।

उपरोक्त आवेदन-पत्र के प्राप्त होने पर, मैं आवेदनकर्ता को सूचना के अधिकार अधिनियम, 2005 की धारा 7(1) के अन्तर्गत आवेदन-पत्र के सम्बन्ध में निम्न जानकारी प्रदान करता हूँ।

Asstt. Registrar. CESTAT, Allahabad vide his letter C.No. 36(1) misc/judicial/CESTAT/Alld/2015 dated 23.08.2017 has informed that excise Appeal No. 3335 to 3343/2006-EX dated 19.03.2007 has already been decided vide Final Order No. 280-288/2008 and old records of the above appeal are not available with them. They further informed to approach CESTAT, New Delhi regarding copy of aforementioned final order of CESTAT, New Delhi. This office also approached to CESTAT, New Delhi to get copy of the said order vide this office letter even C.No. 3102-03 dated 10.08.2017 and letter C.No. 3918 dated 04.10. 2017 and letter C.No 4837 dated 26.10.2017 but their response is still awaited.

यदि आवेदक इस आदेश से असन्तुष्ट है तो वह सूचना अधिकार अधिनियम की धारा 19(1)के अन्तर्गत इस आदेश की प्राप्ति के 30 दिन के भीतर, संयुक्त आयुक्त प्रथम अपीलीय प्राधिकारी (सूचना अधिकार) केन्द्रीय वस्तु एवं सेवाकर, आयुक्तालय कानपुर 117/7, सर्वोदय नगर के समक्ष अपील कर सकता है। सेवा में,

श्री राकेश गर्ग
06/204, तिकोनिया
बेलन गंज,
आगरा

— Se —
(एम,एम,सक्सेना)

सहायक आयुक्त /केन्द्रीय जन सूचना अधिकारी,
केन्द्रीय उत्पाद शुल्क, कानपुर

5515
11.12.17

प्रतिलिपि- CPIO, CESTAT NEW DELHI को उनके पत्र सं० F.NO. 102/CESTAT/CPIO-ND/VPP/2017 दिनांक 17.11.2017 को प्राप्त हुआ है. के संज्ञा में सूचनार्थ प्रेषित की जा रही है।

②

F. No. 102/ 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. 12-102/2017

To,

The Public Information Officer,
Commissioner,
Central Goods and Service Tax (C.G.S.T),
117/7, Sarvoday Nagar,
Kanpur-208005

Sir/Madam,

This Office has received an RTI application on 08.11.2017 which is not addressed to this office, this is addressed to Public Information Officer, Commissioner, C.G.S.T, Kanpur.

Therefore, it is being transferred to the CPIO, Commissioner, Central Goods and Service Tax (C.G.S.T), Kanpur for further necessary action at his end.

This is for information please.

In relation to this office, the application is disposed of.

Date: 15.11.2017

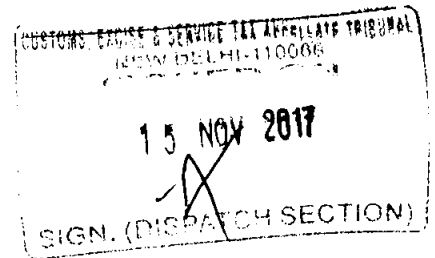

CPIO
CESTAT New Delhi

Encl:

1. RTI application

Copy to:

Sh. Rakesh Garg
6/204, Tikonia, Belanganj,
Near UCCO Bank,
Agra-282004



②
8/C

①
Raj
08/11/17

~~ID-120-~~

APPLICATION UNDER SECTION 6 OF THE RIGHT TO INFORMATION ACT, 2005

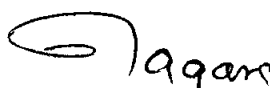
To

The Public Information Officer,
Commissioner,
C.G.S.T,
1177, Sarvodaya Nagar,
Kanpr-208005.

ID-12-102/2017

1	Name of the Applicant	Rakesh Garg,
2	(a) Address	6/204, Tikonia, Belanganj, Agra.
	(b) Phone No.	9837055870
	(c) Fax No.	-
3	Whether a Citizen of India	Yes
4	Particulars of Information	<p>(i) It is to inform you that Asstt. Commissioner/CPIO, Central Excise, Kanpur vide RTI Order No. 75/RTI/2017 Dated 26/10/2017 informed to the applicant, as regards to the latest position of Appeal No.3335 to 3343/2006-EX dated 19/03/2007, which has already been decided by the Tribunal, New Delhi vide 280-288/2008. That this case is related to the offence case booked by DGCEI, Kanpur on 04/11/1996, against M/s Prestige Paints, Kanpur and others, which was adjudicated by the Commissioner, Central Excise, Kanpur vide OIO No. 07/Commr/MP/2006 Dated 31/03/2006.</p> <p>(ii) That the above information provided by the CPIO, Central Excise, Kanpur, is based on the information provided by the applicant to the CPIO, Kanpur, as the same is provided to the applicant, by the Asstt. Registrar Central Excise, Appeal, New Delhi vide his letter ID No.12-44/2017[F.No.R-44/CESTAT/CPIO-NSD/VPP/2017 Dated 07/07/2017(copy enclosed herewith for ready reference.</p> <p>(iii) However CPIO, Central Excise Commissionerate, Kanpur in the above referred letter, had further informed that the above referred CESTAT Appeal Order was not received by them so far and they have approached CESTAT, New Delhi vide their letter C.No.75/RTI/CEX/KNP/2017/3102-03 Dated 10/08/2017 and even C.No.3918</p>

		<p>Dated 04/10/2017 to provide a copy the same for further action by the Commissionerate, Kanpur.</p> <p>(iv) That as per records available in the EXCUS library, the aforementioned appeal was disposed by the CESTAT, New Delhi vide 31/03/2008(copy enclosed herewith for ready reference). That as per this order, the case was remanded by the CESTAT, New Delhi to Commissioner, Central Excise, Kanpur for denovo decision.</p>
	(1)Details of information required.	<p>It is requested to kindly provide the copy of the CESTAT, order No.280-288/2008- in Appeal No.3335 to 3343/2006-EX dated 19/03/2007, if possible, <u>which has already been decided by the Tribunal, to the undersigned and also to the Central Excise, Commissionerate, Kanpur, in reference to their letter dated 10/08/2017 & reminder of even C.No.3918 Dated 04/10/2017, so that early decision may be taken by the Commissioner, Central Excise, Kanpur, on the case remanded by the CESTAT, New Delhi to Commissioner, Central Excise, Kanpur, as the revenue relating to the above referred case is locked since long and it is naturally loss to the Government Revenue. Copy of the above referred CESTAT, NEW DELHI IS ENCLOSED HEREWITH FOR READY REFERENCE PLEASE.</u></p>
5	I state that the information sought does not fall within the exemption contained in Sections 8 & 9 of the Right to information Act,2005 and to the best of my knowledge it pertains to your office.	
6	A Postal Order No. 23F-196745 for Rs.10/- towards payment of fee is enclosed herewith. You are requested to filing the name in which the Postal Oder 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.	


 (Rakesh Garg) 6/11/17
 Signature of Applicant.
 Mobile No. 9837055870.
 Place:- AGRA.
 Encl:- As above.

कार्यालय आयुक्त केन्द्रीय वस्तु एवं सेवाकर,
117/7, सर्वोदय नगर, कानपुर

पत्र सं० 75/RTI/CEX/KNP/2017 | 4837

दिनांक: 26-10-2017

आदेश संख्या: 70/आर.टी.आई./2017

दिनांक: : 26.10.2017

श्री राकेश गर्ग, 06/204, तिकोनिया बेलन गंज आगरा ने केन्द्रीय जनसूचना अधिकारी, केन्द्रीय वस्तु एवं सेवाकर आयुक्तालय, कानपुर के समक्ष सूचना प्राप्त करने हेतु प्रार्थना-पत्र दिनांक 28.09.2017 एवं दिनांक 10.10.2017 के जो कि सूचना के अधिकार अधिनियम, 2005 के अन्तर्गत हैं, प्रेषित किये हैं। आवेदनकर्ता ने निर्धारित शुल्क के रूप में दस रू0 मूल्य का भारतीय पोस्टल आर्डर सं0 37F 196744 संलग्न किया है। उक्त पत्र इस कार्यालय में दिनांक 10.10.2017 को प्राप्त हुआ है।

उपरोक्त आवेदन-पत्र के प्राप्त होने पर, मैं आवेदनकर्ता को सूचना के अधिकार अधिनियम, 2005 की धारा 7(1) के अन्तर्गत आवेदन-पत्र के सम्बन्ध में निम्न जानकारी प्रदान करता हूँ।

Asstt. Registrar. CESTAT, Allahabad vide his letter C.No. 36(1) misc/judicial/CESTAT/Alld/2015 dated 23.08.2017 has informed that excise Appeal No. 3335 to 3343/2006-EX dated 19.03.2007 has already been decided vide Final Order No. 280-288/2008 and old records of the above appeal are not available with them. They further informed to approach CESTAT, New Delhi regarding copy of aforementioned final order of CESTAT, New Delhi. This office also approached to CESTAT, New Delhi to get copy of the said order vide this office letter even C.No. 3102-03 dated 10.08.2017 and letter C.No. 3918 dated 04.10. 2017 but their response is still awaited.

यदि आवेदक इस आदेश से असन्तुष्ट है तो वह सूचना अधिकार अधिनियम की धारा 19(1)के अन्तर्गत इस आदेश की प्राप्ति के 30 दिन के भीतर, संयुक्त आयुक्त प्रथम अपीलीय प्राधिकारी (सूचना अधिकार) केन्द्रीय वस्तु एवं सेवाकर, आयुक्तालय कानपुर 117/7, सर्वोदय नगर के समक्ष अपील कर सकता है।

सेवा में,

श्री राकेश गर्ग
 06/204, तिकोनिया
 बेलन गंज,
 आगरा - 202004

24/10/17

26/10/17
 (एम,एम,सक्सेना)

सहायक आयुक्त / केन्द्रीय जन सूचना अधिकारी,

4

F. No. 1244 / CESTAT/CPIO-ND/VPP/2017
Customs Excise and Service Tax Appellate Tribunal
West Block No 2, R.K. Puram, New Delhi-110 066

Dated. 7/7/17
ID No. 12-44/17

To,
Sh. Rakesh Singh
6/204, Tekonia
Balaramaj, Near UCLOBANK
Agaa - 282 004

Subject: Information under Right to Information Act 2005.

Sir,

Please refer to your RTI application No. _____ Dt. 17/4/17 and our ID No. 12-44/17 the information received from AR/Excise containing _____ is enclosed herewith for your reference please. 01 Page

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.

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.

V.P. Pandey
(V.P. Pandey)
Central Public Information Officer

Recd.
12/7/17

13

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

ID No.12-44/2017

Excise Division Bench

Point:4 Appeal No. E/3335-3343/2006 is already decided vide Final order No. 280-288/2008. As per record of software. However, for confirmation inspection of record may be made as per the CESTAT procedure rules.

COPY To



Assistant Registrar
Excise Appeal Branch

C.P.I.O.

Shri K.K. Anand & Shri Prem Ranjan Advocates for the appellants,

Shri V. Choudhary, SDR Departmental Representative, for the Revenue

Coram:

Hon^lble Mr. S.S. Kang, Vice President,

Hon^lble Mr. Rakesh Kumar, Member (Technical)

Date of Hearing: 31st March, 2008

FINAL ORDER NO. _____ dated _____

Per S.S. Kang:

Heard both sides.

2. The applicants filed these stay applications for waiver of pre-deposit of duty of Rs. 1,74,71,910/- and penalties.
3. Demand is against M/s. Prestige Paints. The Counsel appearing on behalf of M/s. Prestige Paints submitted that the impugned order is passed ex-parte. Contention is that when the show cause notice was received they filed an application before the Settlement Commission and also filed a declaration admitting their liability to the extent of approximately Rs. 21 lakhs and the said amount has already been deposited by them. Contention is that the Settlement Commission rejected their application and against rejection of their application they filed a writ petition in the Hon^lble Allahabad High Court. During the pendency of writ petition the adjudicating authority fixed date of hearing on 26.7.2006 and the applicants made a request for adjournment on the ground that writ petition against order passed by the Settlement Commission is pending. Hon^lble High Court dismissed the writ petition with observation that the applicants can seek remedy of review. In pursuance of the order of High Court the applicants filed application for review before the Settlement Commission and the same was again rejected. The applicants also submitted that the impugned order was passed in violation of principle of natural justice as cross-examination of witnesses whose statements were relied upon by the adjudicating authority for confirmation of demand was disallowed.
4. Contention is that trading firms are also dealing with the goods of other manufacturers. Case of the Revenue is that all paints & varnishes cleared under invoices of dealers are manufactured by appellants. Ground of demand is also that other manufacturers like Overseas Paints and Presting Alkydes are not independent manufacturers of paints and varnishes. Case of the Revenue is that Prestige Paints are procuring raw material in the name of these two firms, manufacturing the goods and clearing the same under invoices of these manufacturers. Contention is that out of the same investigation show cause notice was issued to Prestige Paints for confiscation of varnishes which were alleged to be cleared without payment of duty. Commissioner (Appeals) vide order dated 27.3.2002 set aside the adjudication order in respect of confiscation of goods in the case of Overseas Paints Pvt. Ltd. Contention is that as the Revenue is considering Overseas Paints as independent manufacturer and separate proceedings which is part of the same investigation, now

the revenue alleged that goods were actually manufactured by Prestige Paints but are shown to be manufactured by Overseas Paints Pvt. Ltd.. Therefore, demand is not sustainable.

5. Contention of the Revenue is that the case was fixed for hearing on various dates but on each and every date the applicants asked for adjournment and ultimately case was adjudicated on the evidence on record. In respect of cross-examination contention is that the applicants in most of the cases asked for cross-examination of co-noticees. Co-noticees are the firms either manufacturer or traders which are controlled by the proprietor of Prestige Paints Shri G.K. Agarwal. In these circumstances request for cross examination was rightly denied.

6. Revenue also submitted that before Settlement Commission the applicants had taken different stands at different stages regarding their liabilities.

7. In reply the applicants submitted that there are some dealers which are not related to Shri G.K. Agarwal, proprietor of Prestige Paints. Contention is that M/s. Raj Ram Vinod Kumar, and M/s. Sethi Paints, Kanpur are not related to Shri G.K. Agarwal, proprietor of Prestige Paints but their cross examination was also declined.

8. In this case the adjudicating order was ex-parte. The applicants during pendency of the adjudicating proceedings approached the Settlement Commission and admitted their liability to the extent of approximately Rs. 21 lakh. Settlement Commission rejected their application and applicants filed writ petition in Allahabad High Court. During pendency of the writ petition adjudicating authority fixed the date of hearing but the applicants asked for adjournment on the ground that the matter is pending before the High Court. Hon^{ble} Allahabad Court vide order dated 30.4.2003 dismissed the writ petition with the observation that the applicants may seek remedy of review. Thereafter, the applicants approached the Settlement Commission and the Settlement Commissioner rejected their application. In these circumstances we find that it is a fit case for reconsideration by the adjudicating authority. The amount already deposited is sufficient for hearing of the appeal. Accordingly, we waive the condition of pre-deposit of remaining amount of duty and penalty and set aside the impugned order. The matter is remanded to the adjudicating authority to decide the same after affording reasonable opportunity of hearing to the appellants and to re-consider the request of the appellants for cross-examination. Appeals are disposed of by way of remand.

(Dictated & pronounced in the Open Court.)

(S.S. KANG)

VICE PRESIDENT

(RAKESH KUMAR)

MEMBER (TECHNICAL)

Dated 31st March, 2008-05-05

RK