

Perd
25/07/18

**FIRST APPELLATE AUTHORITY
UNDER RIGHT TO INFORMATION ACT, 2005
CUSTOMS, EXCISE AND SERVICE TAX
APPELLATE TRIBUNAL
WEST BLOCK-2 R.K. PURAM, NEW DELHI-110066**

Date of decision: 17.05.2018

**Appeal No. Appeal No.11-87(A)/2016
CPIO, ID No. 11-141/2016**

Sh. R.K. Jain

Appellant- Present

Vs.

Sh. V.P. Pandey, CPIO /Asst. Registrar

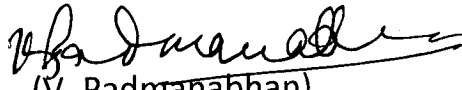
Respondent- Present

ORDER 12/2018

Heard both sides and perused the record and found that whatever information was available on record has already been provided to the appellant.

Besides this, an enquiry also made by the undersigned on this issue on direction of the Ld. Information Commission which's report has also been forwarded to the Ld. Information Commission in this month of May 2018.

Hence, no further order is required here.


(V. Padmanabhan)
First Appellate Authority
(RTI)
Member (T)
CESTAT, New Delhi

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

2. Shri V. P. Pandey, CPIO, CESTAT, New Delhi.

3. Guard file/office copy

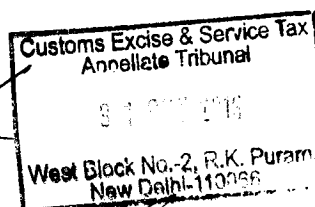


11-87(A)/2016

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

Ref. No. : RTI/P-537/(10172/16)/Appeal/16604
Dated : 29-10-2016

Shri V. Padmanabhan
Hon'ble 1st Appellate Authority & Member (T)
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 V.P. Pandey CPIO & Assistant 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)	14-09-2016	
3.	Details of the order appealed against	Letter ID No. <u>11-141/2016</u> dated 24-10-2016	
4.	Prayer or relief sought	See Prayer clause at the end	
5.	Last date for filing the appeal	24-11-2016	
6.	Whether Appeal in Time.	Appeal in time	
7.	Copies of documents relied upon by the applicant	1. Copy of RTI Application dated 14-9-2016. (Annexure-1) 2. Copy of CPIO letter dated 14-9-2016. (Annexure-2) 3. Copy of CPIO letter dated 24-10-2016. (Annexure-3)	

33/FAA
02/11/16

BRIEF FACTS OF THE CASE

- (1) That the appellant has filed an application dated 14-09-2016 (**Annexure – 1**) under Section 6 of the RTI Act, 2005 requesting for the information as specified in para 4 thereof.
- (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 V.P. Pandey, CPIO has failed to provide complete and correct information as sought by the appellant within the specified period. 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 CPIO and the Deemed CPIO have wrongly denied the information by claiming that the information sought is not maintained, whereas the information sought by the appellant is as such which is required to be maintained in view of various office orders and procedures of the CESTAT Judicial Manual. The Bombay High Court in case of *V.V. Kulkarni v. The State of Maharashtra and Ors.*; W.P. No. 6961 of 2012 dated 27th February 2015, has held that if prescribed information is not maintained, it amounts to refusal of information for the purpose of the RTI Act. Therefore, the order of the CPIO is liable to be set aside with direction to provide point-wise information to the appellant within time bound frame.
- (3) That the CPIO has erred in not providing the complete and correct information to the appellant though as per the provisions of the RTI Act, the appellant is entitled to information as sought by him. Therefore, the order of the CPIO is liable to be set aside with direction to provide point-

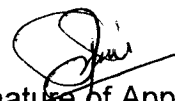
wise information to the appellant within time bound frame.

- (4) That as per proviso to Section 8(1) of the RTI Act, 2005, the information which cannot 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.
- (5) That a personal hearing may be granted to the appellant before deciding the present appeal.
- (6) 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 : 29-10-2016

