



कार्यालय आयुक्त, सीमा शुल्क, केंद्रीय उत्पाद शुल्क तथा सेवा कर
आयुक्तालय नागपुर I, तेलंगखेड़ी रोड सिविल लाइंस नागपुर.

**ORDER – IN - APPEAL PASSED UNDER SECTION 19 OF THE RIGHT TO
INFORMATION ACT, 2005**

ORDER-IN-APPEAL NO. 01/2015 DATED 18/08/2015

आवेदनकर्ताकानाम	श्री आर. के. जैन, 1512-B, भीष्म पितामह मार्ग, वज़ीर नगर, नई दिल्ली - 110003
केन्द्रीयलोकसूचनाअधिकारीकानाम	केन्द्रीय लोक सूचना अधिकारी तथा सहायक आयुक्त (विधि), केन्द्रीय उत्पाद शुल्क, सीमा शुल्क एवं सेवाकर, मुख्यालय, नागपुर-I आयुक्तालय नागपुर.
सूचनाअधिकारआवेदनपत्रदिनांक	03.06.2015
केन्द्रीयलोकसूचनाअधिकारीका जवाबपत्रदिनांक	23.06.2015
प्रथमअपीलपत्रदाखलदिनांक	27.07.2015 (प्राप्ति दिनांक 03.08.2015)

PREAMBLE

1. यह प्रतिलिपी आपके व्यैयक्तिक उपयोग हेतु बिना किसी भूगतान किये जारी है।
2. इस आदेश पत्र प्राप्ति से 90 दिन के भीतर केन्द्रीय सूचना आयोग, दूसरा माला, बि विंग,
क्रांति भवन, भीकाजी कामा प्लेस, नई दिल्ली - 110 066 को सूचना अधिकार अधिनियम
2005 केतहत अपील दायर कर सकते

Brief facts of the case:-

1. Shri R. K. Jain, 1512-B, Bhishm Pitamah Marg, Wazir Nagar, New Delhi-110003 (here in after referred to as the appellant) has filed this appeal under Sec. 19 (1) of the Right to Information Act, 2005 (hereinafter referred to as the RTI Act) on 27.07.2015. The said appeal arose out of the order issued by the CPIO, and Assistant Commissioner (LEGAL) Customs & Central Excise, Nagpur - I. The Appellant not satisfied with the order dated 23.06.2015 has filed this appeal. The same is taken up for disposal by this order.
2. From records it is seen that the Appellant had filed an application dated 27.07.2015 under the RTI Act before CPIO and Assistant Commissioner (LEGAL), Nagpur - I to provide the following information related to subject the matter.
 - a) To provide list of Central Excise, Customs and Service Tax cases of your jurisdiction or within the jurisdiction of Commissioners under you, which are pending before the Hon'ble Supreme Court, High Courts as on the date of providing information. This information be provided in relation to all the Commissionerates and officers under your jurisdiction, and to also indicate the amount involved in each case and the petition/case no.
 - b) To provide name and designation of the Nodal Officer appointed.
 - c) To provide list of cases in which Departmental Appeal/Petition of your jurisdiction has been dismissed by the High Courts on the ground of non-maintainability since such Appeals were in the jurisdiction of Supreme Court alone. This list may be provided for the Appeals dismissed by High Courts from 1-1-2012 till date of providing the information.
 - d) To provide date and appeal/ petition No. which has been filed before the Hon'ble Supreme Court in the cases dismissed by the High Courts on the ground of jurisdiction and as referred to in Point (C) above.
 - e) To provide list of cases in which Departmental Appeal/ Petition has been dismissed for non prosecution or absence of Departmental Advocate by the High Courts/Supreme Court from 1.1.2014 till date of providing the information and action taken in each such Case.
 - f) To provide the steps taken for monitoring the adjournments sought by the Government counsels on the corrective measures taken in this regard.
 - g) To provide the list of cases which have been dismissed by High Courts on the ground of maintenance as it related to value/rate of duty from 1.1.2013 and the action taken for filing appeal to S. C. in each such case and provide appeal /SLP No. of S.C.
 - h) To provide list of important cases (with revenue involved) which are monitored on weekly basis.
 - i) To provide copies of all communications, notices, orders (except copies of Petitions or copies of Appeal Memoranda) received from the Hon'ble Supreme Court and the High Courts by all Commissionerates or by their subordinates within your jurisdiction. These copies may be provided as received during 2012, 2013 and from 01.01.2015 till date of providing information.

Discussion and Findings

3. In response to the Appellant's RTI application dated 27.07.2015 the C.P.I.O. and the Assistant Commissioner (RTI), Customs & Central Excise, Nagpur-I Commissionerate vide his letter C.No. IV (16)LC-1/02/09/Pt.-1/4361 dated 23.06.2015 informed the applicant and submitted information as under :-

- Para-A : Supplied list of the cases of Central Excise, and Service Tax (**Annexure-A**) pertains to Nagpur-I Commissionerate pending before the Hon'ble High Court.
- Para-B : No Nodal Officer being new Commissionerate.
- Para-C : No Central Excise Appeal or Writ Petition filed by the Department has been dismissed by Hon'ble Supreme Court/Hon'ble High Court on the ground of non maintainability from December, 2014 to May, 2015.
- Para-D : No case has been filed before Hon'ble Supreme Court in the cases dismissed by the High Court on the ground of Jurisdiction and as referred to in Point (C) above.
- Para-E : No Central Excise Appeal or Writ Petition filed by the Department has been dismissed by Hon'ble Supreme Court / Hon'ble High Court for non prosecution or absence of Department Advocate from December, 2014 to May, 2015.
- Para-F : Regarding the monitoring the adjournment sought by Govt. Counsel this office issued letter to all Govt. Counsels requesting to take adjournment only in the most deserving cases & for reasons that are sound & adequate.
- Para-G : No Central Excise Appeal or Writ Petition filed by the Department has been dismissed by Hon'ble High Court on the ground of maintenance as with related to value / rate of duty from December, 2014 to May, 2015.
- Para-H : Supplied List of the important cases with the regularly monitored on the weekly basis as per the instructions issued by CBEC vide letter dated 10.03.2015 (**Annexure-B**).
- Para-I : Also supplied the relevant information for the period from 01.01.2012 to 31.01.2015 has already been provided to the applicant vide this office letter even No. 1534 dated 23.02.2015. However the information for further period i.e. from Feb., 2015 to May, 2015. (**Annexure - C**).

The applicant was also informed that if he is not satisfied with the information given above, he may file an appeal within 30 days of receipt of this letter/information before the Appellate Authority & Additional Commissioner, Central Excise & Customs, Nagpur -I Commissionerate, P.O Box No. 81, Civil Lines, Telangkhedi Road, Nagpur-440001.

4. Being aggrieved with the CPIO's Order dated 23.06.2015, the appellant filed an appeal dated 27.07.2015, which was received in the office on 03.08.2015. In the said appeal, the appellant has stated that the order of the CPIO is incorrect and illegal and contrary to the provisions and the spirit of the RTI Act, 2005 and other grounds as elaborated in his grounds of Appeal as under.

- 4.1 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.
- 4.2 That the information sought by the appellant is not exempted under Section 8 or 9 of the RTI Act, 2005. Therefore there was no valid cause or reason or ground for not providing the information.
- 4.3 That the CPIO has deliberately and malafidely not provided the copies of the all communications, notices, orders, (except copies of petitions or copies of appeal memoranda) received from the Hon'ble Supreme Court of India and Hon'ble Gujarat High Court during 2012, 2013 and from 01.01.2015 till the date of providing the information, though

specifically sought in Point (I) of the RTI Application. He deliberately providing misleading and incorrect information so as to cause obstruction to the information without any reasonable cause.

- 4.4 That the CPIO has erred in not providing the information to the appellant though as per the provisions of the RTI Act, the appellant is entitled to information as sought by him. Therefore, the order of the CPIO is liable to be set aside with direction to provide the information to the appellant within time bound frame.
- 4.5 That the information sought is neither voluminous nor relate to older and larger period, thus could have easily been provided by the learned CPIO.
- 4.6 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.
- 4.7 That the present appeal may be disposed of on merits on the basis of available record and material as the appellant does not wish to be heard in person. However, if the CPIO files any written submissions/ reply, kindly provide a copy thereof so that the appellant may file a Replication.
- 4.8 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.


The appellant therefore prayed that:-

- (1) That the Original Records may be summoned and perused.
- (2) 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.
- (3) That imposition of penalty may also be recommended against the CPIO for not providing the complete and correct information.
- (4) That any other relief as the Appellate Authority deem fit and proper may be ordered in favour of the appellant.
- (5) That the present appeal may be disposed of on merits on the basis of available record and material as the appellant does not wish to be heard in person. However, if CPIO files any written submissions/reply, kindly provide a copy thereof so that the appellant may file a Replication.

5. I have carefully gone through the appellant's appeal dated 27.07.2015 the CPIO's Order dated 23.06.2015, and have also gone through the case records.

6. I observe that in the order dated 23.06.2015, the C.P.I.O. has categorically replied to all the points raised by the applicant, except to the extent of providing copies of all communications, notices, orders received from the Hon'ble Supreme Court and the High Courts as requested by the applicant vide point (I) of his application dated 03.06.2015. It appears that the CPIO has not provided the hard copies of the communications, notices, orders received from the Hon'ble Supreme Court and the High Courts, probably taking into consideration that, the same being public document are very much available on their respective website/public domain.

7. I have also observed that the appellant has not expressed any discontent over other points, in his Grounds of Appeal, except the fact that the C.P.I.O. has failed to provide the hard copies of the Commissionerates, notices, orders received from the Hon'ble Supreme Court/High Courts.
8. In view of the above discussion the Order-in-Original dated 23.06.2015 issued by the CPIO vide F. No. IV (22)63/RTI/NGP-I/2015/ 4875 dated 23.06.2015 is upheld. I also find that the C.P.I.O. has failed to supply information as sought by the appellant in his Point No. (3) of Grounds of Appeal (Point No. (I) of the application) The CPIO is therefore directed to provide all the copies of communications, notices, orders received from the Hon'ble Supreme Court and the High Courts available with him to the appellant within Ten days of the receipt of this order. The hard copies may be provide to the appellant after they discharge payment of addition fees as prescribed in the Rules.
9. The appeal is disposed off accordingly. However, it is made clear that the dismissal of this appeal does not affect the right of the appellant to file an appeal before the proper appellate authority against this order. Accordingly the appeal is disposed off.


(S. B. AKASHI)
Appellate Authority &
Additional Commissioner
Customs & Central Excise, Nagpur

F. No. I(22)01/Appeal/RTI/NGP-I/2157 to 2159

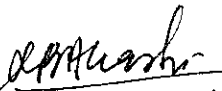
Nagpur, Dated 18.08.2015
18

SPEED POST/स्पीड पोस्ट

सेवा मे,
श्री आर. के. जैन,
1512-B, भीष्म पितामह मार्ग,
वज़ीर नगर, नई दिल्ली - 110003

प्रतिलिपि :

1. केन्द्रीय सूचना आयोग, दूसरा माला, बि विंग, क्रांति भवन, भीकाजी कामा प्लेस, नई दिल्ली - 110 066 को सूचनार्थ प्रस्तुत।
2. केन्द्रीय लोक सूचना अधिकारी तथा सहायक आयुक्त (विधि), केन्द्रिय उत्पाद शुल्क, सीमा शुल्क एवं सेवाकर, मुख्यालय, नागपुर - I आयुक्तालय नागपुर को सूचनार्थ एवं आवश्यक कार्रवाई हेतु।


(S. B. AKASHI)
Appellate Authority &
Additional Commissioner
Customs & Central Excise, Nagpur