OFFICE OF THE PRINCIPAL COMMISSIONER, CENTRAL EXCISE CUSTOMS AND SERVICE TAX, NAGPUR – I COMMISSIONERATE
TELENGKHEDI ROAD, CIVIL LINES, NAGPUR -440001.

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

ORDER-IN-APPEAL NO. 04/2016 *DATED 13 .01.2017*

आवेदन कर्ता का नाम	Shri V. S. Kumbhare, Assistant Commissioner (Retd.), Central Excise & Customs Plot No.2, Golibar Chowk, Nagpur -440018
केन्द्रीय लोक सुचना अधिकारी का नाम	केन्द्रीय लोक सूचना अधिकारी तथा सहायक आयुक्त, केन्द्रिय उत्पाद शुल्क, सीमा शुल्क् एवम सेवा कर, मुख्यालय, नागपुर.
सुचना अधिकार आवेदन पत्र तथा विनती पत्र दिनांक	29.10.2016
केन्द्रीय लोक सुचना अधिकारी का जवाब पत्र दिनांक	06.12.2016
प्रथम अपील पत्र दाखल दिनांक	08.12.2016

PREAMBLE

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

BRIEF FACTS OF THE CASE

1. Shri V.S. Kumbhare,Assistant Commissioner (Retd.) Central Excise & Customs, plot No.2, Golibar Chowk, Nagpur-440018 (MS) (hereinafter called as the appellant has filed this appeal dated 08.12.2016 on 13.12.2016 under Section 19 of the Right to information Act, 2005 (hereinafter called as the RTI Act.)

2. The said appeal has arisen out of the communication issued by the CPIO & Assistant Commissioner of Central Excise & Customs, hqrs. Nagpur vide F.No. I(22)66/RTI/NGP-I/2016/11399 dated 06.12.2016. Being not satisfied with the communication/order Appellant filed this appeal.

3. From the records it is seen that the appellant had filed an application VSK/PER/DE-EVA/2016 dated 29.10.2016 before the CPIO/Deputy Commissioner (RTI) O/o Commissioner Central Excise, Customs & Service Tax Nagpur-440 001 to provide the information as under being related to the departmental enquiry pending against the appellant.

    1. The copy of Order-In-Original pass by the disciplinary (Commissioner) against Shri V.K. Patki the then Superintendent C.Ex. Range Butibori, in the case of M/s Eva Tex Pvt. Ltd. Butibori & Shri O.P. Shirpurkar. the then Inspector S.O.
    2. The copy of Order-In-Appeal decided by the Appellate authority if any,
    3. The copy of opinion given by the Central Vigilance Commissioner, New Delhi/Directorate General of, vigilance New Delhi.
    4. The copy of Appeals filed by Shri V.K. Patki & O.P. Shirpurkar

4 In response to the Appellant's RTI application dated 29.10.2016 the CPIO/Assistant Commissioner (RTI) Central Excise & Customs Hqrs. Nagpur-I Commissionerate has informed the applicant vide letter F.No.I(22)66/RTI/NGP_I/2016/11399 dated 06.12.2016 as under:-

(i) No officer by name Shri V.K. Patki, Superintendent, was posted as in-charge Range Butibori. It is further reported that there is no officer having name Shri O.P. Shirpurkar, Inspector, in Nagpur-I Commissionerate.

(ii) It appears that the applicant has applied for information in respect of Shri V.K. Patki, Supdt. and Shri O.P. Shirpurkar, Inspector. It is reported that Order in Appeal have not been decided in favour or against the officers having names Shri V.K. Patki, Supdt, and name Shri O.P. Shirpurkar, Inspector, in this Commissionerate.

(iii) It appears that the applicant has applied for information in respect of Shri V.K. Patki , Supdt. and Shri O.P. Shirpurkar. It is reported that Central Vigilance Commission, has not gsiven any opinion in respect of officers having names Shri V.K. Patki, Supdt. and Shri O.P. Shirpurkar, Inspector, in this Commissionerate.

(iv) It appears that the applicant has applicant applied for information in respect of Shri V.K. Patki, Supdt. and Shri O.P. Shirpurkar, Inspecto. It is reported that no appeals have been filed by officers having name Shri V.K. Patki, Supdt. or officer having hame Shri O.P. Shirpurkar, Inspector, in this Commissionerate.

GROUNDS OF APPEAL

5. Being aggrieved with the CPIO's order/communication, the appellant filed an appeal dated 08.12.2016 under Section 19 of the RTI Act. The appellant has stated that the CPIO refused to give the information only on the ground that were no Officers having name V.K. Patki Superintendent and O.P. Shirpurkar Inspector.

6. The grounds of appeal as elaborated by the appellant in his appeal are as Under:-

(i) That the CPIO has falsely stated in the grounds mentioned in as much as the details of Appeals and opinions of CVO are mentioned in the said letter dated 06.12.2016. It reveals that these Officers were posted in C.Ex. Nagpur Commissionerate during the material time.

(ii) Further also, the Assistant Commissioner (P&V) C.Ex. Nagpur addressed a letter dated 25.11.2016 to Shri O.R. Shirpurkar mentioning therein the reference of RTI Application dated 29.10.2016 filed by the appellant. It reveals that the CPIO vide his letter dated 06.12.2016 has furnished the wrong information and deliberately refused to required information.

PERSONAL HEARING

7. With reference to the appeal filed by the appellant personal hearing was fixed on 06/01/2017 at 11.00AM and was requested to attend the Personal Hearing before the first appellate Authority of RTI. The appellant neither appeared for the hearing nor did he sought for any adjournments.

DISCUSSION AND FINDINGS

I have carefully gone through the appellant's appeal dated 08.12.2016 against CPIO's order/communication dated 06.12.2016 and also gone through the case records.

(a) At the outset, it must be mentioned that the RTI Act sets out the practical regime of right to information for citizens to secure access to information under the control of public authorities in order to promote transparency and accountability in the working of such authority. The Supreme Court of India has recognised the right to information as a fundamental right of the citizens of India under the article 19 of the Constitution of India. The RTI Act codifies this fundamental right. Section 3 of the RTI Act clearly confers such right on a citizen in as much as it stipulates that – " subject to the provisions of this Act, all citizens shall have the right to information"

(b) The appellant has called for information related to the departmental enquiry pending against appellant vide RTI application dated 29.10.2016 to provide

1. The copy of Order-In-Original pass by the disciplinary (Commissioner) against Shri V.K. Patki the then Superintendent C.Ex. Range Butibori, in the case of M/s Eva Tex Pvt. Ltd. Butibori & Shri O.P. Shirpurkar the then Inspector S.O.
2. The copy of Order-In-Appeal decided by the Appellate authority if any,
3. The copy of opinion given by the Central Vigilance Commissioner, New Delhi/Directorate General of, vigilance New Delhi.
4. The copy of Appeals filed by Shri V.K. Patki & O.P. Shirpurkar

(c) The CPIO/Assistant Commissioner Central Excise & Customs, Hqrs., Nagpur-I, with reference to the information sought for by the appellant has informed that no officer by name Shri V.K. Patki, Superintendent was posted as incharge Range Butibori and so also there is no officer having name Shri O.P. Shirpurakr , Inspector, in the Commissionerate. Accordingly, since no copy of O-In-O , O-IN-Appeal and the opinion given by the Central vigilance Commission is available on record, the same could not be furnished to the appellant.

(d) However, in his appeal the appellant has submitted that the CPIO has refused to give the information only on the ground that there were no Officers having name V.K. Patki Superintendent and O.P. Shirpurkar Inspector and requested to direct the concerned CPIO to provide correct information with required documents and that the concerned CPIO may be penalised for providing wrong information and refused to give correct required information on the grounds as under:

(i) That the CPIO has falsely stated in the grounds mentioned in as much as the details of Appeals and opinions of CVO are mentioned in the said letter dated 06.12.2016. It reveals that these Officers were posted in C.Ex. Nagpur Commissionerate during the material time.

(ii) Further also, the Assistant Commissioner (P&V) C.Ex. Nagpur addressed a letter dated 25.11.2016 to Shri O.R. Shirpurkar mentioning therein the reference of RTI Application dated 29.10.2016 filed by the appellant. It reveals that the CPIO vide his letter dated 06.12.2016 has furnished the wrong information and deliberately refused to required information.

(e) On going through the RTI application and Communication/order given by the CPIO and the appeal of the appellant and the information sought and the case records brought before the contention of the appellant that the officers were posted in C.Ex. Nagpur Commissionerate during the material time is incorrect in view of the fact that the appellant has now applied afresh for similar information correcting the name of officers as V.P Patki Superintendent and O.R. Shirpurkar and therefore it has aptly been cleared that CPIO vide communication dated 06.12.2016 has rightly refused to give the information to the appellant on the basis that there is no officer by name Shri V.K. Patki, Superintendent was posted as in charge Range Butibori and so also there is no officer having name Shri O.P. Shirpurakr, Inspector, in their Commissionerate and therefore no copy of O-In-O,O-IN-Appeal and the opinion given by the Central vigilance Commission is available on record against the said names.

Secondly the appellant has sought for information in his RTI application dated 29.10.2016 and appeal dated 08.12.2016 in respect of Shri V.K. Patki Supdt and O.P Shirpurkar Inspector, whereas the Assistant Commissioner (P&V) C.Ex. Nagpur's letter dated 25.11.2016 is addressed to Shri O.R. Shirpurkar and not O.P. Shirpurkar. Moreover the appellant has not produced a copy of said letter dated 25.11.2016 before the appellate authority.

Therefore appellant's contentions that the CPIO vide his letter dated 06.12.2016 has furnished wrong information and deliberately refused to required information is not based on the facts on records, as the appellant has given the CPIO names of officers wrongly in his original RTI application which is proved by the fact that the said names have been rectified in his fresh RTI application dated 08.12.2016 for which reply dated 09.01.2017 has been furnished by this office. As CPIO has rightly rejected the RTI application dated 29.10.2016 based on facts of the case, I hold that no penalty whatsoever is imposable on the CPIO in this case.

(f) Therefore I reject the appeal filed by the appellant and upheld the order/Communication passed by CPIO/Assistant Commissioner C.Ex. Hqrs. Nagpur and pass the order as under:-

ORDER

Accordingly the appeal is rejected. No penalty is imposable on the CPIO.

Sd/-
(A.J. Verma)
Additional Commissioner
First Appellatle Authority
Customs, Central Excise & Service Tax
Nagpur-I Commissionerate

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To,
Shri V.S. Kumbhare,
Assistant C ommissioner (Retd.),
Central Excisse & Customs,
Plot No.2, Golibar Chowk,
Nagpur-440018 (M.S.)

Copy to:-

1. Central Inormation Commission second floor B-wing kranti Bhawan Bhikaji Kama place, New Delhi.
2. CPIO/Deputy Commissioner, Central Excisse, Customs and Service Tax, Headquarters, Nagpur-ICommissionerate, Nagpur for information.

(A.J. Verma) 13/1/17
Additional Commissioner
First Appellatle Authority
Customs, Central Excise & Service Tax
Nagpur-I Commissionerate