

CENTRAL INFORMATION COMMISSION

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

Decision No. CIC/SS/C/2013/000070/SB

Dated 05.09.2016

- Appellant/Complainant** : Shri R.K. Jain,
1512-B, Bhishm Pitamah Marg,
Wazir Nagar,
New Delhi-110 003.
- Respondent** : Central Public Information Officer cum
Under Secretary (Custom IV Unit),
Central Board of Excise & Customs,
253A, North Block, New Delhi-110 001.
- Date of Hearing** : 17.05.2016/05.09.2016

ORDER

1. The Commission vide Order dated 05.04.2016 issued a Show Cause Notice under Section 20(1) of the RTI Act, 2005 against the then CPIO, Central Board of Excise & Customs (CBEC) for not providing information to the appellant. The CPIO was directed to appear before the Commission on 17.05.2016 at 1.15 p.m. along with his written explanation.

Hearing held on 17.05.2016:

2. The complainant Shri R.K. Jain and the respondent Shri Anil Kumar, CPIO, Custom-IV, CBEC were present in person.

Interim Decision:

3. The Commission adjourns the matter to 05.09.2016 at 1.00 p.m.
4. Copy of decision be given free of cost to the parties.

Hearing held on 05.09.2016:

5. The complainant Shri R.K. Jain and the respondent Dr. Shaifali G. Singh, Under Secretary cum CPIO, Cus.IV Section were present in person.

6. The complainant submitted that he has sought inspection of records, data documents, files etc. relating to the following orders issued under Notification No. 15/2002-Cus.(NT) appointing common Adjudicating Authority:-

- i) Order dated 1.8.2012 (case of Tirupati Microtek)
- ii) Order dated 9.10.2012 (case of Nitco Tiles)
- iii) Order dated 11.10.2012 (case of Akhil Bhartiya Samjhota Sansthan)

The complainant further submitted that inspection was allowed to him on 07.07.2012, however, on that day inspection could not take place as the complainant was informed that the Section Officer concerned was not present. Subsequently, the CPIO vide his letter dated 22.11.2012 informed the complainant that he can inspect the records on 14.12.2012. Accordingly, inspection was done and the complainant vide his letter dated 17.12.2012 requested to provide copies of records pertaining to files mentioned in the inspection note and for this he enclosed a postal Order of Rs.10/- and Pay Order of Rs.160/- towards the photo copying fee. However, copies of SCNs were not provided to him on the ground that the said SCNs contain certain findings of the department and certain allegations against the assessee. Consequently, the Postal Order of Rs.10/- and Pay Order of Rs. 160/- were returned on the ground that the information sought in earlier application and the present subject letter are one and the same and by the same person and hence, information sought was denied on the ground of resjudicata. The complainant further stated that the principle of resjudicata would not apply to proceedings under the RTI Act as under Section 6(2) of the Act, no reasons for seeking information are required to be given and moreover, every RTI application made on different date is a separate cause of action as there is

always a development in the Government records and file relating to the information sought. Therefore, the order of the CPIO is liable to be set aside.

7. The respondent submitted that she has recently joined as Under Secretary in the CBEC. In view of this, she requested the Commission to grant her some more time to make due submissions before the Commission.

8. The complainant submitted that Shri M.V. Vasudevan Additional Director, Directorate General of System & Data Management, Department of Revenue and the then CPIO was issued the show cause notice and last time he has sought adjournment and made an earnest request to the Commission that the case be concluded as early as possible.

Interim decision:

9. The Commission, after hearing the submissions of both the parties and perusing the records, considers the request of the respondent and adjourns the matter to **28.09.2016 at 10.30 a.m.**

10. Copy of interim decision be given free of cost to the parties.

(Sudhir Bhargava)
Information Commissioner

Authenticated true copy

(V.K. Sharma)
Designated Officer