Dated, the 26th February, 2007.

Appellant : Shri Shatmanyu Sharma, Flat No.703, 17/B, Mhada Complex, Customs Colony, A.S. Marg, Powai, Mumbai-76.

Respondents : Shri N.Sasidharan, Commissioner of Customs (General) & CPIO, Mumbai Customs, New Custom House, Ballard Estate, Mumbai-400 001.

Shri K.M. Tiwari, Chief Commissioner of Customs, Mumbai Customs Zone-I, New Custom House, Ballard Estate, Mumbai-400 001.

The appellant, Shri Shatmanyu Sharma has filed two second appeals against the orders dated 07.09.2006 and 04.10.2006 passed by the Appellate Authority (AA), Shri K.M. Tiwari, Chief Commissioner of Customs, Mumbai Customs Zone-I in respect of his RTI-requests dated 12.7.2006 and 21.8.2006 respectively. The two appeals are numbered as CIC/AT/A/2006/00653 and CIC/AT/A/2006/00654 in the Commission.

2. Parties were called for a hearing on 9.02.2007 in both the above cases. The appellant was represented by Shri Rakesh Nautiyal & Shri Atul Kumar while the respondents were represented by Shri Alok Jha, Joint Commissioner of Customs and Shri B.P. Sharma, Appraiser, Mumbai Customs.

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3. The appellant had made a series of queries to the CPIO through his RTI-request dated 12.7.2006. The CPIO declined to divulge this information citing the exemption under Section 8(1)(j) of the RTI Act. The AA upheld the CPIO’s order.

4. The CPIO and the AA are right in holding that the appellant had no right to access personal information about third parties. This information could not be disclosed without the consent of the third parties and a proper determination of whether these objections are valid. However, a blanket ban on disclosure of such information on grounds of it being personal or involving third parties may, in certain cases, lead to miscarriage of justice and even give protection to indefensible acts. A balance needs to be struck between the two extremes of options.

5. In the present case, ends of justice would have been met had the information requested by the appellant been considered for disclosure after considering the third parties’ objections, if any, and examining whether the information could be disclosed excising from it names and identities of persons as per Section 10(1) of the RTI Act.
6. This determination is best done at the level of the AA. The matter is, therefore, remitted back to the AA for de-novo consideration, after giving the appellant a chance to present his case, within 1 month from the date of the receipt of this order.

7. The appeal is disposed of with the above direction.

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8. The request of the appellant as contained in his RTI-request dated 21.8.2006 is as follows:–

“A. I may be given complete information on the following details mentioned herein-below at Serial no.1 to 5.

1. Whether any departmental inquiry under the CCS (CCA) Rules 1965 was pending against the following officers earlier working as Appraisers in New Custom House, Ballard Estate, Mumbai, on the date of their promotion from Appraiser to the grade of Assistant Commissioner of Customs and Central Excise:

   Shri S.S. Ahmed.
   Shri D.K. Bangard.
   Shri V.V. Pandit.
   Shri A.S. Sundar.
   Shri D.M. Durando.
   Shri Amarjit Singh, now Deputy Commissioner of Customs and Central Excise

2. Whether first stage advice had been received by the Commissioner of Customs (General), Mumbai, against the officers mentioned above, from the Director General of Vigilance, Customs and Central Excise, New Delhi / Central Vigilance Commission for initiating regular departmental inquiry under CCS (CCA) Rules 1965 on or before the date of promotion of these officers to the grade of Assistant Commissioners of Customs and Central Excise.

3. Date of receipt of the First Stage Advice as mentioned in Serial no.2 above, by Commissioner of Customs (General) Mumbai, for the officers mentioned in serial no.1

4. Date of the relieving of the above-mentioned officers in serial no.1 subsequent to promotion to the grade of Assistant Commissioner.

5. Status of Departmental inquiry /inquiries pending against officers mentioned at Serial No.1 above, on the date of their promotion, as well as on the date of their relieving subsequent to promotion order.

B. I may be given certified copy of the following documents mentioned at Serial no.1 to 3 as mentioned below:-

1. Copy of the first stage advice received by the Commissioner of Customs (General), Mumbai, against the officers mentioned at Serial no.1 above, either from the Director General of Vigilance, Customs and Central
Excise, New Delhi or the Central Vigilance Commission, New Delhi, for initiating regular departmental inquiry under CCS(CCA) Rules, 1965.

2. Copy of relieving order of the officers mentioned in Serial no.1 in caption “A” on the annexure.

3. Copy of note sheets of the files, wherein decision had been taken by the Commissioner of Customs (General), to issue charge memo to the officers mentioned at S.No.1 in caption “A”, under the CCS(CCA) Rules 1965, after the receipt of first stage advice as mentioned at S.No.2 in caption “A” above.”

9. It is noted that the response of the CPIO and the AA are not exactly corresponding to the queries made by the appellant. It would have been better if the points made by the appellant were replied to precisely in respect of each of its parts.

10. The matter is remitted back to the AA for de-novo determination of disclosure obligation in respect of each aspect of the appellant’s RTI-request. This may be finalized within 1 month from the date of the receipt of this order, after giving an opportunity to the appellant to present his side of the case.

11. The appeal is disposed of with the above directions.

Sd/-
(A.N. TIWARI)
INFORMATION COMMISSIONER

Authenticated by –
Sd/-
( NISHA SINGH )
Joint Secretary & Additional Registrar

Address of parties:

1. Shri Shatmanyu Sharma, Flat No.703, 17/B, Mhada Complex, Customs Colony, A.S. Marg, Powai, Mumbai-76.

2. Shri N.Sasidharan, Commissioner of Customs (General) & CPIO, Mumbai Customs, New Custom House, Ballard Estate, Mumbai-400 001.