



Central Information Commission

Room No. 305, 2nd Floor, 'B' Wing, August Kranti Bhavan,

Bhikaji Cama Place, New Delhi-110066

Web: www.cic.gov.in Tel No: 26167931

Case No. CIC/SS/A/2012/001032

Dated: 18.03.2013

Name of Appellant : Shri Om Prakash Saraf

Name of Respondent : Directorate General of Valuation
Central Board of Excise & Customs,
Mumbai

ORDER

Shri Om Prakash Saraf, hereinafter called the appellant, has filed the present appeal dated 7.12.2011 before the Commission against the respondent Directorate General of Valuation, Central Board of Excise and Customs, Mumbai for not providing information in response to his RTI-application dated 4.7.2011. The matter came up for hearing on 28.08.2012 through videoconferencing. The appellant was represented by Shri Rakesh Saraf and Ms. Anita Kapoor whereas the respondent were represented by Shri S.P. Chand, Deputy Commissioner & Dr. Subhash Yadav, Assistant Commissioner/CPIO at NIC Videoconferencing Facility Centre, Mumbai.

2. The appellant, through his RTI application dated 4.7.2011 sought information on National Imports & Exports Data constituting certain statistical and unrestricted fields for the period from 1.1.201 to 30.6.2011. The CPIO vide letter No. VAL/RTI/10/2011 dated 25/28.7.2011 informed the appellant that identical application was decided vide order No. Val/RTI/22/2010 dated 28.2.2011 in which it was stated that the data held by the public authority consists of several personal/ commercial information of third party and hence exempted from

disclosure. The request of the information seeker is to develop software and then use the same to extract information from the said database will amount to stretching the provisions of the RTI Act too far. The same was also confirmed by the FAA vide Appeal Order dated 19.4.2011 issued under F. No. Val/RTI/04/2011.

3. Not satisfied with the reply of the CPIO, the appellant filed appeal on 24.8.2011 before the FAA. Order No. Val/RTI/12/2011 dated 3.10.2011, while upholding the reply of the CPIO, held that the main contention of the appellant was that the provisions of Section 8(1) (d) and (j) and 7(9) of the RTI Act have been wrongly invoked for denial of the requisite information. The CPIO had dealt with an identical issue and a detailed and well reasoned order dated 28.2.2011 was passed by the CPIO and the same was upheld by the FAA vide order dated 19.4.2011. The then FAA had found that the CPIO has been categorical in stating reasons for rejecting the request of the appellant and the appellant had not appealed against the said order of the FAA before the Commission.

4. During the respondent CPIO submits as follows:

- *The National Import Data Base and the Export Commodity Data Base is intellectual property of DGOV and the CPIO had denied the information against the requisite data fields under the provisions of Section 8(1)(d) of the RTI Act.;*
- *The raw data is received and stored on a server in DGOV, Mumbai, which is linked to the Central Server of CBEC, situated in Delhi through VAN. This is only server in DGOV which is linked to the Central Server and the officers keep on monitoring the receipt of data from the locations on daily basis and report the DG (Systems) if there is any loss or non receipt of data from any locations. The said data is manually loaded to the specific software (Mulyaankan) for analysis purpose which operates on a different server. It may not be possible to utilize the only server connected to the central server, in which the data is received from the central server for any other purpose.*
- *The appellant's contention is that the requested data is in the native form which is available with DGOV in oracle data base as read from the raw data field. He has further contended that in oracle there is a utility to extract selective information and by using that, requisite information could be furnished to him. The data read from the raw data fields, as is referred to by the appellant, is nothing but the analyzed (value added) data in oracle data base, extracted by using Mulyaankan software, which is claimed as intellectual property and not contested by the appellant.*
- *Further the data is not stored in the form requested by the appellant. It is not within the spirit of RTI Act to first get a software for data extraction and then create a data table as per requirement of the appellant. There are several decisions of the Commission that the data has to be provided as such if it is not exempted from declaration under various*

provisions of Section 8 of the RTI Act, it is not required to create a data as per the requirements of the appellant.

- The CBEC has a Directorate General of Systems and Data Management, who are the custodians of all the data. All the concerned departments of CBEC, like DRI, RMS, DGCEI, DGOV and other Government organizations such as DG of Commercial Intelligence & Statistics, receive the data as per their requirement from the System Directorate, for their use. Further, the DGOV is using some part of the data maintained by the DG Systems and Data Management for analysis purpose. Such type of requirement under RTI was being received by all such organizations and therefore, CBEC has decided to publish daily list and make the same available on the website www.icegate.gov.in. In this website, almost all data fields asked for by the appellant are available.*
- The appellant who wants to use the data for research purpose may download the data and store the same in any manner as per his requirement.*

5. The appellant during the hearing states that the public authority is our nation's nodal agency to record, maintain and provide statistical value intelligence related to National Export Import Database. Public Authority has spent crores of public money to create, consolidate, maintain databases. Section 8(1) (d) and (j) and Section 7(9) have been utilized without any application of mind by the respondent. The CPIO has not passed speaking order but merely cited as a reference, without going into the context of his RTI application.

6. Having considered the submissions of the parties and perused the relevant documents on file, the Commission observes that the information as sought for by the appellant relates commercial confidence, trade secrets of exporters and importers and would harm the competitive position of third party, provisions of Section 8(1) (d) and (j) of the RTI Act apply in the instant case. However, as submitted by the respondent CPIO, the appellant can download the disclosable information which is available on the website www.icegate.gov.in and store the same in any manner as per his requirement. The Commission finds no reason to interfere with the replies of the respondent.

The matter is disposed of on the part of the Commission.

(Sushma Singh)
Information Commissioner

Authenticated true copy:

(K.K. Sharma)
OSD & Deputy Registrar

Address of the parties:

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The CPIO,
Directorate General of Valuation,
Central Board of Excise & Customs,
New Custom House,
Ballard Estate,
Mumbai-400001.

The First Appellate Authority,
Directorate General of Valuation,
Central Board of Excise & Customs,
New Custom House,
Ballard Estate,
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