

CENTRAL INFORMATION COMMISSION

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F.No.CIC/AT/A/2008/00084

Dated, the 30th June, 2008.

Appellant : Shri Sitalkumar T. Agarwal

Respondents : Directorate General of Valuation, Department of Customs & Central Excise.

This second-appeal filed by appellant, Shri Sitalkumar T. Agrawal came up for hearing on 11.06.2008 when the appellant was present in person and the respondents were represented by the Appellate Authority, Shri Yogesh Kumar Agarwal.

2. The short-point for decision here is whether certain data apparently collected by the Directorate General of Valuation of the Department of Customs and Central Excise aimed at protecting the customs revenue and to prevent leakages could be disclosed to the appellant.

3. Respondents urged that it was true that certain data was collected, which was analyzed and an advisory was issued to all departmental officers about how to apply discounting processes for the determination of the revenue liability for certain items of import and export. Respondents claimed that a copy of the final advisory issued to all officers of the department has already been provided to the appellant on the orders of the Appellate Authority. Respondents, however, declined to disclose the database on the basis of which the advisory was issued. Their case was that this database and the analysis of the information collected was essentially an internal process, which was periodically carried out by the Department with the sole purpose of equipping itself to meet attempts at evasion of customs revenue by importers and exporters. There was no public interest in disclosing this information. On the contrary, if disclosed, such information could be used by interested parties to devise ways and means to beat the system and evade duty. Such information is always a privileged information held by the revenue collecting department and cannot be disclosed without inflicting severe damage on the system and adversely impacting revenue collection.

4. Commission finds merit in the submission of the respondents. The department has already disclosed to the appellant the advisory (Valuation Alert) it had issued to all departmental officers in respect of how to apply formulae for discounting purposes. There is no reason why the material which was examined by the Department to arrive at a conclusion which led to the issue of the advisory, should be disclosed to the appellant. There is merit in the

respondents' submission that such disclosure was not in public interest and would adversely impact revenue collection. It attracts the exemption under Section 8(1)(a) as well as under Section 8(1)(d) of the RTI Act. It is also noted that the data which formed the basis for the alert issued by the public authority was collected, collated and analyzed through own efforts of the public authority. There is no reason why they should pass on such information — based as it is on their own labours — to an outsider who wishes to access these. This variety of information attracts the exemption specified in Section 8(1)(d) — being the intellectual property of the respondents, which, if allowed to be disclosed, had the potentiality to harm the revenue interests of the State, which the respondents were duty-bound to protect.

5. In view of the above, the appeal cannot be allowed. Rejected.

6. Copy of this decision be sent to the parties.

Sd/-

(A.N. TIWARI)

INFORMATION COMMISSIONER

Authenticated by –

Sd/-

(D.C. SINGH)

Under Secretary & Asst. Registrar