

**FIRST APPEAL UNDER SECTION 19(1) OF THE
RIGHT TO INFORMATION ACT, 2005**

Dated: December 1st, 2020

To

The Additional Commissioner of Customs,
(First Appellate Authority)
O/o The Central Public Information Officer
Office of Commissioner of Customs (General),
New Custom House, Ballard Estate,
Mumbai-400 001.



Subject: Appeal against denial of information under the RTI Act, 2005:

Respected Sir,

It is submitted that I had filed an application dated 09.09.2020(received in Customs on 14th September, 2020) for information under the RTI Act, 2005, with the CPIO/Assistant Commissioner, O/o the Commissioner of Customs (General), New Custom House, Ballard Estate, Mumbai 400 001 (copy of the RTI Application attached as **Annexure 'A'**)

Till date, no reply to the said RTI Application has been received by the undersigned. Hence, in terms of the RTI Act, 2005, I have been denied the requisite information by the CPIO.

I, therefore, file this appeal as provided under Section 19 of the RTI Act, 2005.

All the required particulars in the prescribed format are given below-

1. Name of the appellant

Ashwani Kumar

2. Address:

Old Address:

B-2/8, IIIrd Floor,
Sector-16, Rohini,
New Delhi-110085

New Address:

280, 4th Floor, Utsav Apartment,
Sector-18, Near Metro Station,
Rohini, New Delhi-110085

3. Particulars of the Central/State Public Information Officer

(a) **Name:** The name of CPIO is not known. Therefore, I had filed the RTI application with the Office of the Commissioner of Customs (General), New Custom House, Ballard Estate, Mumbai-400 001.

(b) **Address:** Office of the Commissioner of Customs (General), New Custom House, Ballard Estate, Mumbai-400 001.

4. Date of submission of application for seeking information : 9th September, 2020

5. Date on which 40 days from submission of application are over:
24th October, 2020.

6. Reasons for appeal

(a) No response received within the specified time-limit : **Yes**

(b) Aggrieved by the response received within the specified period :**No.**

(c) **Grounds for appeal :**

The appeal against the reply given by the CPIO is preferred on the following grounds:

Because the CPIO has denied information:

The CPIO has failed to give any reply to the RTI Application filed by the undersigned till date. Failure on the part of the CPIO amounts to denial of information which is violative of Sections 3, 4 and 7 of the RTI Act, 2005.

7. Last date for filing the appeal : 24th November, 2020.

Reasons for delay in filing of appeal: The filing of appeal in this matter has been delayed by 08 days on account of the prevalent COVID-19 situation in Delhi and adjoining areas due to which it has become very difficult to move from one place to the other and seek legal opinion or take advice of qualified persons. The Applicant also suffered from Covid infection for over two weeks recently. Due to these factors, filing of the instant appeal got delayed.

It is prayed to kindly condone the said delay of 08 days. I shall be extremely thankful for the same.

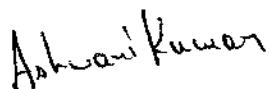
8. Particulars of Information-

- (i) Was a letter F. No. S/8-48/2019-20 CBS dated December, 2019 issued by Sh. Mahender Kumar, Deputy Commissioner of Customs, Customs Broker Section, New Custom House, Mumbai Customs Zone-1 to Assistant/Deputy Commissioner of Customs, Policy Section, New Custom House, Near IGI Airport, New Delhi-110037 in the matter relating to M/s Shri Ram Cargo Movers. If yes, please provide a copy of the same.
- (ii) Date of dispatch and dispatch number of the above referred letter dated December, 2019 issued by Sh. Mahender Kumar, Deputy Commissioner of Customs, Customs Broker Section, New Custom House, Mumbai Customs Zone-1.
- (iii) A copy of the relevant page of the Dispatch Register in the Commissionerate showing the dispatch of the above referred letter dated December, 2019.
- (iv) Copy of the relevant speed post receipt of the above referred letter.

(v) Inspection of the concerned file F. No. S/8-48/2019-20 CBS in the Customs Broker Section of Customs General Commissionerate, New Custom House, Ballard Estate, Mumbai Customs Zone-1 may kindly be permitted and date for inspection may be conveyed on the mobile number given below.

9. I assure you that I shall not allow/ cause to use/ pass/share/display/ or circulate the information received in any case and under any circumstances, with any person or in any manner which would be detrimental to the Unity and Sovereignty or against the interest of India.

10. In case I am required to deposit any fee for entertaining this Appeal, I may kindly be informed accordingly.



Signature of Appellant

E-mail address: ashu10@gmail.com AshuKumar49394@gmail.com

Tel. No. 9582149307

**The Right to Information Act 2005
Application for obtaining information**

Dated: August 25th, 2020

From

Ashwani Kumar,
B-2/8, IIIrd Floor,
Sector-16, Rohini,
New Delhi-110085

To

The Central Public Information Officer
Office of Commissioner of Customs (General),
New Custom House, Ballard Estate,
Mumbai-400 001.

Sub: Providing of information under the RTI Act, 2005-reg:

Dear Central Public Information Officer,

Under the Right to Information Act 2005, Section 6, I need some information regarding letter F. No. S/8-48/2019-20 CBS dated December, 2019 issued by the Deputy Commissioner of Customs, Customs Broker Section, New Custom House, Mumbai Customs Zone-1 to Assistant/Deputy Commissioner of Customs, Policy Section, New Custom House, Near IGI Airport, New Delhi-110037 in the matter relating to M/s Shri Ram Cargo Movers. The details are as follows-

1. Details of the applicant

Ashwani Kumar,
B-2/8, IIIrd Floor,
Sector-16, Rohini,
New Delhi-110085

2. Period to which the information relates: 2019-20

3. Details of Information

(i) Was a letter F. No. S/8 48/2019-20 CBS dated December, 2019 issued by Sh. Mahender Kumar, Deputy Commissioner of Customs, Customs Broker Section, New Custom House, Mumbai Customs Zone-1 to Assistant/Deputy Commissioner of Customs, Policy Section, New Custom House, Near IGI Airport, New Delhi-110037 in the matter relating to M/s Shri Ram Cargo Movers. If yes, please provide a copy of the same.

(ii) Date of dispatch and dispatch number of the above referred letter dated December, 2019 issued by Sh. Mahender Kumar, Deputy Commissioner of Customs, Customs Broker Section, New Custom House, Mumbai Customs Zone-1.

(iii) A copy of the relevant page of the Dispatch Register in the Commissionerate showing the dispatch of the above referred letter dated December, 2019.

(iv) Copy of the relevant speed post receipt of the above referred letter.

(v) Inspection of the concerned file F. No. S/8-48/2019-20 CBS in the Customs Broker Section of Customs General Commissionerate, New Custom House, Ballard Estate, Mumbai Customs Zone-1 may kindly be permitted and date for inspection may be conveyed on the mobile number given below.

2. I am enclosing herewith a Postal Order (No.....) for Rs.10/-.
3. I further declare that I am a 'Citizen' of India and I am asking for the information as a 'Citizen'.
4. I may be intimated the cost of copies of the documents sought for by me, if any, so that I may remit the same.
5. I assure you that I shall not allow/ cause to use/ pass/share/display/ or circulate the information received in any case and under any circumstances,

with any person or in any manner which would be detrimental to the Unity and Sovereignty or against the interest of India.

Yours faithfully,

Ashwani Kumar

(Ashwani Kumar)
B-2/8, IIrd Floor,
Sector-16, Rohini,
New Delhi-110085
Mobile Phone: 9582149307



प्रधान आयुक्त सीमा शुल्क (सामान्य) का कार्यालय

OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (GENERAL)

नवीन सीमा शुल्क भवन, बेलार्ड इस्टेट, मुंबई - 400 001

NEW CUSTOM HOUSE, BALLARD ESTATE, MUMBAI - 400 001

टेलीफोन / Tel. : (022) 2261 2452

ईमेल आईडी / e-mail id : rtignch-mumbai@gov.in

फा.सं : F.No.GEN/RTI/APL/47/2020-TECH

आदेश तिथि : 05.01.2021

जारी करने की तिथि : 05.01.2021

आदेश संख्या : 20/2020-21

द्वारा पारित : श्री विजय जा. मानवटकर,
अपर सीमाशुल्क आयुक्त,
सूचना का अधिकार अधिनियम के प्रथम अपीलीय प्राधिकारी,
प्रधान आयुक्त सीमा शुल्क (सामान्य) का कार्यालय,
नवीन सीमा शुल्क भवन,
बेलार्ड इस्टेट, मुंबई- 400 001.

प्रस्तावना

प्रस्तावना

- 1) यह प्रति उस व्यक्ति के प्रयोग के लिए निःशुल्क है जिसके लिए यह पारित किया गया है।
- 2) सूचना का अधिकार अधिनियम 2005 (3) 19 की धाराके तहत इस आदेश के विरुद्ध अपील, आदेश पारित करने की अंतिम तिथि या आदेश प्राप्ति की तिथि से 90 दिनों के भीतर, केन्द्रीय सूचना आयोग, नई दिल्ली में की जा सकती है।
- 3) इस आदेश में प्रस्तावना सहित कुल 07 पृष्ठ सम्मिलित हैं।

BRIEF FACTS OF THE CASE

Subject:- *Appeal filed by Shri Ashwani Kumar, under Section 19(1) of the Right to Information Act, 2005 against RTI application dated 25.08.2020 (date wrongly mentioned as 09.09.2020 in the appeal) received in RTI Section on 14.09.2020.*

This order is passed in the case of Appeal dated 01.12.2020 (received in this office on 08.12.2020) filed by Shri Ashwani Kumar (hereinafter referred to as the appellant) against RTI application dated 25.08.2020 (date wrongly mentioned by the appellant as 09.09.2020 in the appeal) received in RTI Section on 14.09.2020.

2. *Briefly, the facts of the case are that the appellant having new address (as mentioned in the appeal) as 280, 4th Floor, Utsav Apartment, Sector-18, Near Metro Station, Rohini, New Delhi – 110085 [Old address : B-2/8, IIIrd Floor, Sector-16, Rohini, New Delhi – 110 085] had sought the following information under the Right to Information Act, 2005 vide his RTI application dated 25.08.2020, received in RTI General, New Custom House, Mumbai on the 14.09.2020, the same is reproduced as under:-*

"(i) Was a letter F.No.S/8-48/2019-20 CBS dated December, 2019 received from Sh. Mahender Kumar, Deputy Commissioner of Customs, Customs Broker Section, New Custom House, Mumbai Customs Zone-1 in the matter relating to M/s. Shri Ram Cargo Movers. If yes, please provide a copy of the same.

(ii) Date of receipt of the above referred letter dated December, 2019 from Sh. Mahender Kumar, Deputy Commissioner of Customs, Customs Broker Section, New Custom House, Mumbai Customs Zone-1, in the Delhi (Airport & General), Commissionerate.

(iii) A copy of the relevant page of the Receipt Register in the Commissionerate showing the receipt of the above referred letter dated December, 2019.

(iv) Copy of the relevant speed postal receipt of the above referred letter.

(v) Inspection of the concerned file F.No.VIII(H)13/37/2010 in the Policy Branch of Airport & General Commissionerate, New Custom House, New Delhi may kindly be permitted and date for inspection may be conveyed on the mobile number given below."

3. *On scrutiny of the RTI appeal, it is noticed that the appellant has now sought a different information than the information sought in the RTI application dated 25.08.2020. The same is reproduced below :*

"(i) Was a letter F.No. S/8-48/2019-20 CBS dated December, 2019 issued by Sh. Mahender Kumar, Deputy Commissioner of Customs, Customs Broker Section, New Custom House, Mumbai Customs Zone-I to Assistant/Deputy Commissioner of Customs, Policy Section, New Custom House, Near IGI Airport, New Delhi-110037 in the matter relating to M/s Shri Ram Cargo Movers. If yes, please provide a copy of the same.

(ii) Date of dispatch and dispatch number of the above referred letter dated December, 2019 issued by Sh. Mahender Kumar, Deputy Commissioner of Customs, Customs Broker Section, New Custom House, Mumbai Customs Zone-I.

(iii) A copy of the relevant page of the Dispatch Register in the Commissionerate showing the dispatch of the above referred letter dated December, 2019.

(iv) Copy of the relevant speed post receipt of the above referred letter.

(v) Inspection of the concerned file F.No.S/8-48/2019-20 CBS in the Customs Broker Section of Customs General Commissionerate, New Custom House, Ballard Estate, Mumbai Customs Zone-I may kindly be permitted and date for inspection may be conveyed on the mobile number given below."

4. *On receipt of the said RTI appeal, comments were sought from the CPIO. The CPIO vide letter F.No.RTICG/Gen-66/2020-21 dated 17.12.2020 submitted the comments in the matter. The relevant portion of the CPIO's comments is reproduced below :*

" 3. As the information sought by the applicant also pertained to the Delhi (Airport & General) Commissionerate so the RTI was partially transferred under Sec 6(3) of the RTI Act, 2005 to the CPIO Delhi (Airport& General) Commissionerate on 15/09/2020.

4. In addition, the information sought by the RTI applicant was forwarded to CBS Section, New Custom House, Mumbai. Dy. Commissioner of Customs, CBS Section, New Custom House, Mumbai vide letter F. No. S/6-52/2016-17-CBS Pt.I dated 09.10.2020 submitted the following reply :

It is to inform that the letter F.No. S/8-48/2019-20-CBS dated: December 04, 2019 was forwarded to the parent Commissionerate (i.e.

New Delhi) of the Customs Broker, M/s Shri Ram Cargo Movers with signature of Shri Mahendra Kumar, the then Deputy Commissioner Customs Broker Section, New Custom House, Mumbai Customs Zone-I. However, the detail particulars asked about in the above letter i.e. confirming receipt of the letter, furnishing copy of the letter, date of receipt of the letter, copy of the relevant page of the Receipt Register copy of speed post receipt of the letter and permission for inspection of the concerned file F.No. VIII(H)13/37/2010 in Policy Branch of Airport & General Commissionerate, New Custom House, New Delhi are available only with the parent Commissionerate of the Customs Broker i.e. New Delhi. Hence, the above RTI does not pertain to this Commissionerate.

Accordingly, the applicant was issued letter F.No.RTICG/Gen-66/2020-21 dated 13/10/2020 informing that the information sought by the applicant is not available with this office and that this office has already transferred the RTI to CPIO Airport & General Commissionerate, New Custom House, Near IGI Airport, New Delhi - 37 on 15/09/2020 under section 6(3) of the RTI Act, 2005 with request to provide the information directly to the applicant. The said letter was issued to the applicant vide speed post no. EM063801524IN on the addressed provided in the RTI application i.e. "B-2/8, III FLOOR, SEC-16, ROHINI, NEW DELHI, Pin : 110085". However, the said letter was returned back by Postal Authorities with remarks 'Item returned No such person in the address.'."

GROUND OF APPEAL

5. *As the appellant did not receive any communication from the CPIO (General) with regards to his RTI application, the appellant preferred an appeal against the said RTI application under section 19(1) of the RTI Act, 2005.*

CONDONATION OF DELAY

6. *As the filing of appeal was delayed, the appellant sought condonation of delay by submitting that the filing of appeal in this matter has been delayed on account of the prevalent COVID-19 situation in Delhi and adjoining areas due to which it has become very difficult to move from one place to the other and seek legal opinion or take advice of qualified persons. The appellant further submitted that he also suffered from Covid infection for over two weeks recently. Due to these factors, filing of the instant appeal got delayed and prayed to kindly condone the delay.*

PERSONAL HEARING

7. An online personal hearing was granted to the appellant via NIC application on 22.12.2020. As the appellant was unable to login in and as per the appellant's request, the online personal hearing was rescheduled for 23.12.2020. The appellant appeared for the online personal hearing on 23.12.2020 via NIC application. During the personal hearing the appellant reiterated his RTI appeal stating that the CPIO has not provided him information to his original RTI application. The appellant was informed that the CPIO had issued 02 orders, 1st order stating that the RTI was partially transferred (point no. ii to v) under section 6(3) of the RTI Act, 2005 to the CPIO Delhi (Airport & General) Commissionerate on 15.09.2020 therefore, the said information would be provided by CPIO Delhi (Airport & General) Commissionerate and 2nd order of the CPIO (General) stating that the information does not pertain to this Commissionerate. The appellant was further informed that since he had changed his address the orders of the CPIO was returned back by Postal Authorities. The appellant requested to issue the orders of the CPIO to his new address. The appellant was further informed that vide his RTI appeal he has changed the information sought, which is not mentioned in his original RTI application. The appellant was advised that he may file a new/fresh RTI application seeking the new information. The appellant agreed to the same.

FINDINGS

8. I have gone through the RTI application dated 25.08.2020 (date wrongly mentioned by the appellant as 09.09.2020 in his appeal), CPIO's orders dated 15.09.2020 and 13.10.2020, Appeal dated 01.12.2020 filed by the appellant, which was received in this office on 08.12.2020 and CPIO's comments dated 17.12.2020 and I find that the appellant in his RTI application had sought information which appears to pertain to Delhi (Airport & General), Commissionerate. I also find that the CPIO vide order dated 15.09.2020 has rightly and legally transferred points 2 to 5 of the RTI application to CPIO, Delhi (Airport & General) Commissionerate under section 6(3) of the RTI Act, 2005. Therefore, I find that the said information will now be provided by CPIO, Delhi (Airport & General) Commissionerate, if available with them. I also find that the CPIO vide order dated 13.10.2020 issued vide F.No.RTICG/Gen-66/2020-21 informed the appellant that the information sought does not pertain to this Commissionerate. I also find that since the appellant had changed his address the above two orders of the CPIO was returned back by the Postal Authorities.

9. Further, with respect to the new information sought by the appellant in his appeal, I find that I can take reliance on decision no. CIC/AB/A/2016/000004 dated 22.08.2017 in the case of Shri Pramod K. K. vs CPIO, Bharat Dynamics Ltd issued by Central Information Commission wherein the Hon'ble Information Commissioner at para 8 has made the following decision:

"8. The Commission, after hearing the submissions of both the parties and perusing the records, observes that the appellant is not satisfied with the order of the FAA as the additional queries raised in the first appeal have not been addressed. The Commission further observes that queries raised in the first appeal are different from the ones raised in the RTI application, which the appellant is not entitled to at the Appellate stage. The Commission notes that since the information sought in the RTI application has been provided to the appellant by the respondent, no further intervention of the Commission is required in the matter."

In view of the above, I find that the new information as sought by the appellant during the Appellate stage is liable for rejection.

ORDER

10. In view of the above discussion and findings, I pass the following order, as per the provisions of the RTI Act, 2005 :-

- (i) *I condone the delay for filing the RTI appeal.*
- (ii) *As the appellant has not received the orders of the CPIO dated 15.09.2020 and 13.10.2020 both issued vide F.No.RTICG/Gen-66/2020-21, I direct the CPIO to re-send the same to the appellant on his new address.*
- (iii) *I reject the new information as sought by the appellant vide his above mentioned appeal.*
- (iv) *I uphold both the decisions of the CPIO. However, I direct the CPIO to provide the speed post receipt / number to the appellant as sought by the appellant in point iv of his RTI application dated 25.08.2020.*

The appeal is disposed of accordingly.


(VIJAY J. MANVATKAR) 5-1-21
FIRST APPELLATE AUTHORITY
ADDITIONAL COMMISSIONER OF CUSTOMS (G),
NEW CUSTOM HOUSE, MUMBAI

To :-

*Shri Ashwani Kumar
280, 4th Floor, Utsav Apartment,
Sector-18, Near Metro Station,
Rohini, New Delhi - 110085*

Copy to:-

1. *The CPIO RTI (G), New Custom House, Mumbai.*
2. *Office Copy.*