

**MINISTRY OF COMMERCE & INDUSTRY
MEPZ SPECIAL ECONOMIC ZONE
N.H.45, G.S.T. ROAD,
TAMBARAM,
CHENNAI-600 045.**

F.No.RTI/MSEZH/A/2019/60002

Dated:10.01.2020

**Sub: Filing of First Appeal under Section 19(1) of The Right to Information Act, 2005
against the reply vide letter No.MSEZH/R/2019/80001/6005 dt.17.12.2019 given by
CPIO/Superintendent of Customs, MEPZ Special Economic Zone, Chennai – Reg.**

Ref: RTI Appeal dated 28.12.2019.

DECISION OF THE FIRST APPELLATE AUTHORITY

An application dated 20.11.2019 under RTI Act, 2005, seeking certain information was received by the CPIO, O/o Development Commissioner, MEPZ-SEZ from Shri Amit Gupta, resident of New No.25, Old No.13, 2nd Street, 1st Floor, East Abhiramapuram, Mylapore, Chennai-600 004, hereinafter referred to as the Appellant.

The CPIO vide letter No. MSEZH/R/2019/80001/6005 dt.17.12.2019 had informed the Appellant that the information sought by the Appellant is not available in this office and therefore, could not be furnished to him.

The Appellant has filed an Appeal on 28.12.2019 before me under Rule 19(1) of the RTI Act, 2005.

I have gone through the submissions and grounds of the Appellant. It is seen that the Appellant vide his RTI application dated 20.11.2019 had wanted to know the status of the refund application dated 9th September 2016 filed by him for refund of 4% AD wrongly charged in respect of BE Nos.0002505/17/02/2016, 0001802/05/02/2016 and 0002603/10/02/2016 cleared from J Matadee Free Trade Zone Private Limited. In response, the CPIO has informed the Appellant that on verification of the records available in the office as on date, no information is available about the status of application for refund of the 4% AD in respect of BE Nos.0002505/17/12/2016, 0001802/05/02/2016 and 0002603/10/02/2016 and that therefore the status of the refund application could not be furnished to the Appellant. The CPIO has further informed the Appellant

that in respect of refund of 4% SAD which is a duty of customs, the claim has to be filed by the Appellant with the Jurisdictional customs authorities as per sub rule (5) of Rule 47 of SEZ Rules, 2006 and that as per the clarificatory Circular No.11/2017-Cus dated 31.03.2017 in F.No.DGEP/SEZ/51/2009 Part II of DGEP, the functional operations of Refund, demand, etc have been vested with the jurisdictional Commissioner of Customs with effect from 5.8.2016, consequent to introduction of new Rule 47(5) of the SEZ Rules, 2006.

The Appellant has stated in his Appeal that the information provided by the CPIO is incomplete amounting to denial of information and has requested the First Appellate Authority to direct the CPIO to make all efforts to trace the application and original documents and provide him the required information or alternatively issue him a Certificate stating that the application under above mentioned Speed Post Receipt No. No.ET128140915IN booked on 14.09.2016 at Mylapore HPO was received on 15.09.2016 as per inward mail register maintained in the Office of the Zonal Development Commissioner, MEPZ-SEZ, even though the original documents themselves may not be traceable immediately.

As per Section 2(f) of the RTI Act, "information" means any material in any form, including records, documents, memos, e-mails, opinions, advices, press releases, circulars, orders, logbooks, contracts, reports, papers, samples, models, data material held in any electronic form and information relating to any private body which can be accessed by a public authority under any other law for the time being in force. It is pertinent to note here that only the "information" which is available with the Public Authority, in any form as specified above, can be furnished to the applicant under the RTI Act. However where such information is not available, the question of furnishing such information does not arise.

In the instant case, the Appellant had wanted to know the status of the refund application dated 9th September 2016 sent by him to this office in respect of BE Nos. 0002505/17/02/2016, 0001802/05/02/2016 & 0002603/10/02/2016 cleared from J. Matadee Free Trade Zone Private Limited. The CPIO seems to have searched for the said refund application in this office and since he could not trace the said refund application anywhere in the office, he has informed the Appellant that the status of the refund application could not be ascertained and furnished to the Appellant. Therefore, the claim of the Appellant that the CPIO has denied the information is not a correct interpretation of the facts.

Nevertheless as requested by the Appellant in his Appeal, the CPIO was directed to once again carry out a thorough search to trace the application filed by the Appellant. Accordingly, the CPIO has submitted a report stating that though the Dak Register maintained in the office shows that an Application for refund of 4% AD charged and collected was received by this office from M/s.

Brilliant Metals Private Limited on 15.09.2016, however on searching the files available in the section, the said application could not be traced out.

Since despite all attempts, the application for refund filed by the Appellant could not be traced in this office, the CPIO is therefore not in a position to furnish the status of the refund application as requested by the Appellant.

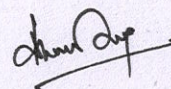
As regards the request of the Appellant to issue him a Certificate stating that the refund application was received by this office, the CPIO shall furnish to the Appellant the details as appearing in the Dak Register.

Accordingly, the Appeal filed by Shri Amit Gupta is hereby disposed of.

If the Appellant is not satisfied with this Order, he may prefer an appeal with the 2nd Appellate Authority whose address is given below, within 30 days of the date of this letter:

**Central Information Commissioner,
II Floor, C Wing,
August Kranti Bhavan,
Bikaji Cama Place,
New Delhi-110 006.**

o/c



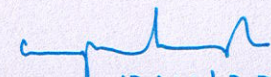
(D. ANANDAN)

**FIRST APPELLATE AUTHORITY &
JOINT DEVELOPMENT COMMISSIONER**

To

**Shri Amit Gupta,
New No.25, Old No.13,
2nd Street, 1st Floor,
East Abhiramapuram,
Mylapore, Chennai-600 004.**

Copy to: The CPIO, MEPZ Special Economic Zone,
Tambaram, Chennai-45.

V. 
13/01/2020

ET 351551062 In.

DESPATCHED ON

13-1-20

Despatcher/Mez-Sez