

List of RTI Appeals and their replies given by First Appellate Authority, CX 9 Section, CBEC during the period  
October 2017 to December 2017

Sl. No.	Name of the Appellant	File Number	Page No.	Date of filing Appeal
1	Sh C J Karira	295/305/2017-CX-9	Nov/17/01-10	7-Dct-17
2	Sh C J Karira	295/306/2017-CX-9	Nov/17/11-20	7-Oct-17

F.No.295/305/2017-CX-9  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs

New Delhi, dated 20.11.2017

IN THE MATTER OF

Shri C J Karira - Appellant

V/s

CPIO (CX 9)/ Nodal Officer - Respondent  
CBEC, New Delhi.

**Brief facts of the case:**

Shri C J Karira his RTI application (I) CBEC/RTI/2017/001 dated 14.08.2017 sought the following information from CPIO, CBEC, New Delhi: -

“Please provide the following information:

- i. For All Offices of CBEC and its subordinate / field/ port / airport / etc offices in different parts of India.
  - Name of the Office.
  - Complete postal address with pin code
  - Office telephone numbers with STD code
  - Official email address
  - working hours of the office.
- ii. Please provide the HTML links / URL's, where the above mentioned information has been uploaded on the Internet as mandated in Sec 4(1)( b) of the RTI Act 2005, read along with Sec 4(2),4(3) and 4(4) of the said Act.
- iii. Please provide Name, designation, office address, office telephone number, official email id of the Officer (or Officers) responsible in CBEC to upload this information on the Internet.
- iv. Please provide certified copies of any Acts/ Laws/ Rules/ Circulars/ OMs under which action can be taken against such officers listed in item 3 above, for dereliction of their official duty and functions.

(II) CBEC/RTI/2017/002 dated 14.08.2017 sought the following information from CPIO, CBEC, New Delhi: -

“Please provide the following information:

- v. For All Members, Officers and Staff of CBEC stationed in any Head/Subordinate/Field/Port/Airport offices located anywhere in India.

(NOTE: Information required for each and every person - from Chairperson to the lowest level like Peon/ Driver/ Safai Karamchari, etc.)

- Name of the Member/Officer/Staff
  - Designation
  - Complete office postal address with pin code
  - Office telephone numbers with STD code
  - Official email address
  - Mobile number (if mobile bill is fully or partly reimbursed/paid by the Government)
- vi. Please provide the HTML links / URL's, where the above mentioned information has been uploaded on the Internet as mandated in Sec 4(1)( b) of the RTI Act 2005, read along with Sec 4(2),4(3) and 4(4) of the said Act.
  - vii. Please provide Name, designation, office address, office telephone number, official email id of the Officer (or Officers) responsible in CBEC to upload this information on the Internet.
  - viii. Please provide me certified copies of any Acts/ Laws/ Rules/ Circulars/ OMs under which action can be taken against such officers listed in item 3 above, for dereliction of their official duty and functions.

2. The CPIO (CX 9)/Nodal Officer replied on 23.08.2017 vide F.No.295/208/2017-CX.9 as under –

“Point No.1:

The information sought on this point is not held by me. However, a copy of the application is transferred under Section 6(3) of the RTI Act to (i) CPIO, O/o the Directorate General of Human Resource Development (HRM), Customs and Central Excise, 409/8, Deep Shikha, Rajendra Place, New Delhi - 110008 for the information regarding all Group 'A' Officers of CBEC; (ii) CPIO/ US, Ad 1 B, Department of Revenue, North Block, New Delhi for Information regarding all Group B/C/D officers of CBEC posted at Headquarters. For information regarding officers posted in field formations of CBEC it is informed that the required information is scattered all over the country. A list of all field formations under CBEC is available in the public domain

[www.cbec.gov.in](http://www.cbec.gov.in) under the heading 'contact us'. You may, if you so wish, take up the matter with the concerned CPIOs of these formations. In this regard your attention is also drawn to the instructions contained in the OM No.10/2/2008-IR dated 24.09.2010 from DOPT (relating to RTI applications concerning more than one CPIO).

Point No.2:

The information sought on this point regarding CBEC can be accessed in the internet at [www.cbec.gov.in](http://www.cbec.gov.in) under taxpayer assistance - RTI information.

Point No.3:

The information sought on this point is not held by me. However, a copy of the application is transferred under Section 6(3) of the RTI Act to CPIO, O/o the Director General (Systems), CBEC, 4th & 5<sup>th</sup> Floor, Hotel Samrat, Kautilya Marg, Chanakyapuri, New Delhi - 110021.

Point No.4:

Conduct of Government Servants are governed by CCS Conduct Rules, 1965, which is easily available in the public domain.

3. Dissatisfied by the reply of the CPIO the Appellant filed an appeal on 07.10.2017 on the grounds that -

- i. The CPIO has incorrectly transferred the RTI application under see 6(3) to various subordinate offices of CBEC. He had asked for information related to office addresses of all offices of CBEC which are all pertaining to CBEC - i.e., one public authority. The CPIO should have collected the information and provided it to me.
- ii. CPIO cannot transfer the RTI application to various sub offices under the same public authority. He referred to Delhi High Court in WP (C) 4172/2017; CIC order F.No.PBA/06/141 dated 12.09.2006; CIC order in Appeal No.CIC/WB/A/2006/00605 dated 14.08.2006 and CIC order in Appeal No.2881 & 2882/ICPB/2008 F.No.PBC/2008/125 dated 07.10.2008.
- iii. CPIO has not even provided the information related to her very own office.
- iv. The CPIO has not provided the HTML links / URL where such information is uploaded on the internet as mandated under Sec 4(1)(b)(ix) read along with Sec 4(2), 4(3) and 4(4) of the RTI Act 2005 - as sought in item 2 of the RTI application.
- v. The CPIO has also not provided the Names, designation, office address, office telephone number, official email id of the officer (or officers) who are responsible in CBEC to upload such information - as sought in item 3 of RTI application.
- vi. The CPIO has also not provided me information sought in item 4 of my RTI application viz; certified copies of Acts/Laws/Rules/Circulars/OMs under which action can be taken against such officers listed in item 3 above, for dereliction of their official duty and functions.

And the appellant has prayed that the CPIO may be instructed to provide the complete information and that he would like to be present during the hearing and since he is located in Hyderabad the hearing may be conducted over phone after issuing a proper notice of hearing.

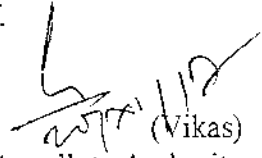
**Personal Hearing-** Personal Hearing conducted on 17.11.2017 at 10.35AM in my chamber (Room No.253A) and Shri Karia requested to provide him information as he asked.

**Discussion and Findings**

I have gone through the facts of the case on record. Information asked by applicant is in public domain and it is available on official website of Central Board of Excise & Customs and also on website of Director General of Human Resources and development, CBEC and link is information is <http://dghrdcebc.gov.in/WriteReadData/sampark.pdf>


**Decision**

In view of the findings above, since information sought by applicant is already in public domain and link is as mentioned above. The appeal is accordingly disposed of.

  
(Vikas)  
First Appellate Authority  
CX 9 Section

To,

Shri C. R. Karira,  
Plot No.26, Road No.1, Balamrai Society,  
Mahendra Hills, Secunderabad - 500026.

  
20/11/17

To:

First Appellate Authority Under RTI ACT 2005  
OSD (Cx 9), Room No. 251 B,  
CBEC  
Department of Revenue, North Block,  
New Delhi - 110001

From:

C. J. Karira <sup>1/10</sup>  
Plot No. 26, Road No. 1,  
Balamrai Society,  
Mahendra Hills,  
Secunderabad - 500026

Total: 10 Pages (Including this one)

Dated: 07 October 2017

Dear Sir/Madam,

**SUB: First Appeal under Sec 19(1) of the RTI Act 2005**

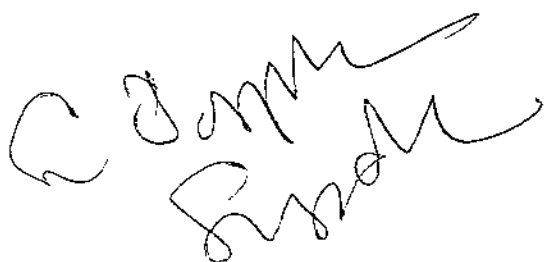
I, Mr C J Karira, a citizen of India, would like to make a FIRST APPEAL under Sec 19(1) of the RTI Act 2005, as per the following details:

1. Name and Address of Appellant: **Mr C.J. Karira**  
**Plot No. 26, Road No. 1,**  
**Balamrai Society,**  
**Mahendra Hills,**  
**Secunderabad - 500026**
2. Name and Details of PIO appealed against: **Mr. V Ganesh Kumar**  
**Under Secretary to the Govt. of India**  
**CBEC**  
**Dept. of Revenue,**  
**Ministry of Finance, North Block,**  
**New Delhi - 110001**
3. Reference of the original RTI Application: **RTI application dated 14 Aug**  
**2017 (CBEC/RTI/2017/001 & 002)**
4. Reference of reply of PIO appealed against: **F. No. 295/208/2017-CX-9 dtd**  
**23.08.2017**
5. If personal hearing required: **Yes, personal hearing is requested over phone**

**BACKGROUND:**

I had applied to the CPIO, CBEC, North Block, New Delhi, for certain **Information** about Names of officers / staff, etc., under the RTI Act 2005, as per my application dated **14 August 2017**. The application was accompanied by a IPO of Rs. 10.00 (**25F 623270**), as payment for application fees.

.....Contd. Page 2



The RTI application was sent by **Speed Post vide EN424339474IN**, and was delivered to your office on 18 August 2017 as per Speed Post tracking on the Internet.

A copy of the said application, the proof of payment and the speed post delivery tracking are attached herewith along with the CPIOs response as ANNEXURE – I (Total 4 pages)

**GROUND FOR FIRST APPEAL:**

1. The CPIO has incorrectly transferred my RTI application under sec 6(3) to various subordinate offices of CBEC.

Sec 6(3) states:

6(3) Where an application is made to a public authority requesting for an information,—  
(i) which is held by **another public authority**; or  
(ii) the subject matter of which is more closely connected with the functions of **another public authority**.

I had asked for information related to office addresses of all offices of CBEC which are all pertaining to CBEC – ie one public authority. The CPIO should have collected the information and provided it to me.

- A) The responsibility of the CPIO in providing information under the RTI Act 2005 does not end with merely transferring the RTI application to different CPIOs within the same public Authority. The CPIO is not a "postman" !!

The Hon'ble Delhi High Court in its Judgment in Ministry of Railways v. Girish Mittal in W.P.(C) 6088/2014 & CM Nos.14799/2014, 14800/2014 & 14801/2014 clearly ruled that:

*The plain language of Section 6(3) of the RTI Act indicates that the public authority would transfer the application or such part of it to another public authority where the information sought is more closely connected with the functions of the other authority. In this case, penalty has not been imposed with respect to queries which have been referred to another public authority, but with respect to queries that were to be addressed by the public authority of which petitioner no. 2 is a Public Information Officer. Section 6(3) of the Act cannot be read to mean that the responsibility of a PIO is only limited to forwarding the applications to different*

*departments/offices. Forwarding an application by a public authority to another public authority is not the same as a PIO of a public authority arranging or sourcing information from within its own organisation. In the present case, undisputedly, certain information which was not provided to respondent would be available with the Railway Board and the PIO was required to furnish the same. He cannot escape his responsibility to provide the information by simply stating that the queries were forwarded to other officials.*

- B) Similarly, as per the judgment of the Hon'ble Delhi High Court in WP(C) 4172/2017 a CPIO cannot transfer the RTI application to various sub offices under the same public authority.

*Clearly, transferring the petitioner's application to various schools is unsustainable. The PIO is required to provide all such information as sought for, subject to the exceptions as provided under the Act*

In this case the CPIO has clearly violated the Delhi High Court judgment cited herein.

- C) In its decision F.No.PBA/06/141 dated September 12, 2006, the Central Information Commission had ruled as follows:

*In so far as the information sought in serial No 2 is concerned, as rightly pointed out by the appellant and as has also been decided by this Commission, if the information sought relates to a single public authority, even if it has designated more than one CPIO, then, the first CPIO who deals with an application should collect information from other CPIOs within the same public authority and furnish the same to the information seeker. Forwarding the application to another CPIO within the same public authority is not envisaged in the Act. Only when the information pertains to another public authority, then the application can be forwarded in terms of Section 6(3).*

- D) Further, in its decision in Appeal No.CIC/WB/A/2006/00605 dated 14-8-2006 the CIC had also clearly and unambiguously ruled that:



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*For the sake of clarity and after hearing respondents it is specifically directed as follows:*

*i) When an application is received by the CPIO and found not to pertain to the public authority in which that CPIO is located this must be transferred within 5 days to the CPIO of the concerned authority under intimation to the applicant in accordance with Section 6 (3).*

*ii) If on the other hand the information sought is found to pertain to a separate wing of the same public authority the CPIO receiving the information will seek the information required from the officer/ PIO dealing with the subject u/s 5 (4) and either (a) provide that information to the applicant or (b) direct the officer to whom it has been forwarded to so provide.*

E) Further, the CIC ruled in its decision in Appeal No.2881 & 2882/ICPB/2008 F. No. PBC/2008/125, 128 October 7, 2008 that:

*Under RTI Act if the appellant has requested information, the PIO of headquarter is expected to collect the information from the concerned branch whoever is having information and provide it to the appellant. In this particular case the papers have been transferred to another branch in Mumbai and concerned authority has said this information is available in Chennai and the appellant has not received any information till today. Therefore I consider the PIO of the headquarter is responsible for not providing the information under RTI Act*

F) Strangely, the CPIO has not even provided me the information related to her very own office !!

2. As per Sec 4(1)(b)(ix) of the RTI Act, each and every public authority is supposed to disclose the (ix) **a directory of its officers and employees;** "Directory" includes the Names of ALL its officers & Staff, their designations, complete office postal address with pin code, office telephone number with STD code, official email id's and the mobile number **(if mobile bill is fully or partly reimbursed by the public authority)**

The CPIO has not provided me the HTML links / URL where such information is uploaded on the internet as mandated under Sec 4(1)(b)(ix) read along with Sec 4(2), 4(3) and 4(4) of the RTI Act 2005 – as sought by me in item 2 of my RTI application.

.....Contd. Page 5

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3. The CPIO has also not provided me the Names, designation, office address, office telephone number, official email id of the officer (or officers) who are responsible in CBEC to upload such information – as sought by me in item 3 of my RTI application.
4. The CPIO has also not provided me information sought in item 4 of my RTI application viz; certified copies of ACTS/Laws/Rules/Circulars/OMs under which action can be taken against such officers listed in item 3 above, for dereliction of their official duty and functions.

**MY "PRAYER/PLEA" IN THIS FIRST APPEAL:**

1. Instruct the CPIO, in writing, to provide me the complete information as requested by me in my above mentioned RTI Application.
2. As per Sec 19(5) of the RTI Act 2005, during the appeal proceedings, the CPIO, should be asked to explain the provision of incomplete information and his/her actions, as explained in the grounds for first appeal above.
3. I would like to be present during this hearing of First Appeal under the RTI Act 2005. Since I am located in Hyderabad, I request you to please conduct the hearing over phone after issuing a proper Notice of hearing clearly indicating the date and time for the hearing.

**SPECIAL NOTE:**

Kindly note the following common order of APIC in case Nr. 952, 953 and 954/CIC/2009 dated 10-05-2010 (C J Karira v/s PIO & FAA, APIC), it has been clearly ruled that the First Appellate Authority must issue a notice of hearing and conduct a proper hearing before passing any order:

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To conclude, this Commission on receipt of the requisition letter dated 25.2.2010 from the Appellant and the relevant rules and the case laws of the Hon'ble Supreme Court and various High Courts cited therein and on going through them felt that it is incumbent on the part of the second Appellate Authority to give opportunity to the Appellant of being heard and hence the necessity of issuing a notice to the Appellant before passing an order. considered the request of the Appellant that he should be given an opportunity of being heard before the 2<sup>nd</sup> Appellate Authority also and accordingly notice was sent to the Appellant and heard the Appellant.

In the light of the aforementioned discussion, it shall be the duty of every 1<sup>st</sup> Appellate Authority and 2<sup>nd</sup> Appellate Authority that they must invariably send notices to both the parties and pass a just and proper order only after hearing their rival contentions.

**It is therefore obligatory and mandatory for you to conduct a proper first appeal hearing, after issuing me a proper "Notice of Hearing".**

Thanking You,



(C J Karira)

Mobile: +919848203583

email: [cjkarira@gmail.com](mailto:cjkarira@gmail.com)

**Encl: RTI application, IPO copy and speed post tracking - 3 pages**

F.No.295/306/2017-CX-9  
Government of India  
Ministry of Finance  
Department of Revenue  
Central Board of Excise and Customs

New Delhi, dated 20.11.2017

IN THE MATTER OF

Shri C J Karira – Appellant

V/s

CPIO (CX 9)/ Nodal Officer - Respondent  
CBEC, New Delhi.

**Brief facts of the case:**

Shri C J Karira his RTI application CBEC/RTI/2017/003 dated 14.08.2017 sought the following information from CPIO, CBEC, New Delhi: -

“Please provide the following information:

- i. For All Members, Officers and Staff of CBEC stationed in any Head/Subordinate/Field/Port/Airport offices located anywhere in India.

(NOTE: Information required for each and every person - from Chairperson to the lowest level like Peon/ Driver/ Safai Karamchari, etc.)

- Name of the Member/Officer/Staff
- Latest Monthly Remuneration
- System of Compensation as provided in CBEC regulations
- ii. Please provide the HTML links / URL's, where the above mentioned information has been uploaded on the Internet as mandated in Sec 4(1)( b) of the RTI Act 2005, read along with Sec 4(2),4(3) and 4(4) of the said Act.
- iii. Please provide Name, designation, office address, office telephone number, official email id of the Officer (or Officers) responsible in CBEC to upload this information on the Internet.
- iv. Please provide me certified copies of any Acts/ Laws/ Rules/ Circulars/

OMs under which action can be taken against such officers listed in item 3 above, for dereliction of their official duty and functions.

2. The CPIO (CX 9)/Nodal Officer replied on 23.08.2017 vide F.No.295/209/2017-CX.9 as under –

“Point No.1:

The information sought on this point is not held by me. However, a copy of the application is transferred under Section 6(3) of the RTI Act to (i) CPIO, O/o the Directorate General of Human Resource Development (HRM), Customs and Central Excise, 409/8, Deep Shikha, Rajendra Place, New Delhi - 110008 for the information regarding all Group 'A' Officers of CBEC; (ii) CPIO/ US, Ad I B, Department of Revenue, North Block, New Delhi for Information regarding all Group B/C/D officers of CBEC posted at Headquarters and (iii) CPIO/US, Cash Section, CBEC, North Block, New Delhi for information regarding latest monthly remuneration. For information regarding officers posted in field formations of CBEC it is informed that the required information is scattered all over the country. A list of all field formations under CBEC is available in the public domain [www.cbec.gov.in](http://www.cbec.gov.in) under the heading 'contact us'. You may, if you so wish, take up the matter with the concerned CPIOs of these formations. In this regard your attention is also drawn to the instructions contained in the OM No.10/2/2008-IR dated 24.09.2010 from DOPT (relating to RTI applications concerning more than one CPIO).

Point No.2:

The information sought on this point regarding CBEC can be accessed in the internet at [www.cbec.gov.in](http://www.cbec.gov.in) under taxpayer assistance - RTI information.

Point No.3:

The information sought on this point is not held by me. However, a copy of the application is transferred under Section 6(3) of the RTI Act to CPIO, O/o the Director General (Systems), CBEC, 4th & 5<sup>th</sup> Floor, Hotel Samrat, Kautilya Marg, Chanakyapuri, New Delhi – 110021.

Point No.4:

Conduct of Government Servants are governed by CCS Conduct Rules, 1965, which is easily available in the public domain.

3. Dissatisfied by the reply of the CPIO the Appellant filed an appeal on 07.10.2017 on the grounds that –

i. The CPIO has incorrectly transferred the RTI application under sec 6(3) to various subordinate offices of CBEC. He had asked for information related to monthly remuneration and system of compensation of officers & staff of CBEC which are all pertaining to CBEC – i.e, one public authority. The CPIO should have collected the information and provided it to me.

ii. CPIO cannot transfer the RTI application to various sub offices under the same public authority. He referred to Delhi High Court in WP (C) 4172/2017; CIC order F.No.PBA/06/141 dated 12.09.2006; CIC order in Appeal No.CIC/WB/A/2006/00605 dated 14.08.2006 and CIC order in Appeal No.2881 & 2882/ICPB/2008 F.No.PBC/2008/125 dated 07.10.2008.

- iii. CPIO has not even provided the information related to her very own office.
- iv. The CPIO has not provided the HTML links / URL where such information is uploaded on the internet as mandated under Sec 4(1)(b)(ix) read along with Sec 4(2), 4(3) and 4(4) of the RTI Act 2005 - as sought in item 2 of the RTI application.
- v. The CPIO has also not provided the Names, designation, office address, office telephone number, official email id of the officer (or officers) who are responsible in CBEC to upload such information - as sought in item 3 of RTI application.
- vi. The CPIO has also not provided me information sought in item 4 of my RTI application viz; certified copies of Acts/Laws/Rules/Circulars/OMs under which action can be taken against such officers listed in item 3 above, for dereliction of their official duty and functions.

4. And the appellant has prayed that the CPIO may be instructed to provide the complete information and that he would like to be present during the hearing and since he is located in Hyderabad the hearing may be conducted over phone after issuing a proper notice of hearing.

**Personal Hearing-** Personal Hearing conducted on 17.11.2017 at 10.35AM in my chamber (Room No.253A) and Shri Karia requested to provide him information as he asked.

**Discussion and Findings**

I have gone through the facts of the case on record. First of all, it is seen that CPIO, CX.9 is the CPIO for CX 9 Section as well as he is holding the charge of Nodal Officer for RTI matters for CBEC. As Nodal Officer he is supposed to forward the RTI applications to the concerned CPIOs within CBEC where the required information is likely to be available. From Section 6 (3) of the RTI Act, 2005 it is seen that where an application is made to a public authority requesting for an information, which is held by another public authority, the public authority, to which such application is made, shall transfer the application to that other public authority and inform the applicant immediately after such transfer.

It is seen that at **point No.1** the applicant sought information about officers/ staff and their remuneration in respect of officers under CBEC stationed in any Head/Subordinate, Field, Port/ Airport offices located anywhere in India. The details regarding officers and their remuneration in various offices under CBEC is not available in one office and is scattered among many offices under CBEC. Hence a copy of the RTI application was transferred under Section 6 (3) of the RTI Act, 2005 to DGHRD for information about the Group A officers of CBEC and to Ad. I B Section for the information about Group B, C & D officers of CBEC posted at headquarters. CPIO/US, Cash Section, CBEC, North Block, New Delhi for information regarding latest monthly remuneration. As regards the officers posted in field formations of CBEC the RTI applicant was advised to take up the matter with the concerned CPIO of the field formations. The instructions contained in the OM No.10/2/2008-IR dated 24.09.2010 issued the Department of Personnel & Training where the information is scattered with more than one other public authorities, the PIO should inform the applicant that the information is not available with him and that the applicant should make separate application to the concerned public authorities for obtaining information from them. The circular further states that the matter was examined in consultation with the Chief Information Commissioner, Central Information Commission and it was decided to advise the PIOs that if the details of public authorities who may have this

Information sought by the applicant are available with the PIO, such details may also be provided to the applicant. It is seen that the CPIO has informed the applicant about the non-availability of information on point No.1 with him and also gave the internet link where details of the public authority where the information are likely to be available, which is [http://www.cbec.gov.in](#) - contact us.

CBEC is a Board under Department of Revenue having many offices, subordinate offices, field offices under it, hence the assertion of the applicant that CBEC is one public authority and all the required information should be available with this public authority is not tenable.

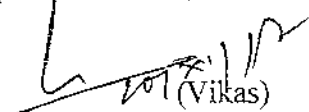
Regarding Point No.2, the CPIO has provided the internet link where the required information is available, which is [http://www.cbec.gov.in](#) - taxpayer assistance - RTI information. Hence the allegation of the appellant that the CPIO has not provided the HTML links / URL where such information is uploaded on the internet as mandated under Sec 4(1)(b)(ix) read along with Sec 4(2), 4(3) and 4(4) of the RTI Act 2005 is not correct.

Regarding point No.3 it is seen that uploading of the information in respect of CBEC on the website is being done by Directorate General of Systems and Data Management and hence the CPIO has rightly transferred a copy of the RTI application to CPIO, DG Systems for supply of information.


Regarding point No.4 it is seen that the conduct of a Government servant is governed by the CCS (Conduct Rules), 1965 and action for any dereliction of duty is taken under this Rule and a copy of CCS (Conduct Rule), 1965 is easily available in the public domain i.e., by searching the Google or any other search engine. Hence the CPIO has rightly directed the applicant to the public domain.

**Decision**

In view of the findings above I find no infirmity in the reply given by the CPIO, CX.9 Section and RTI application has correctly been transferred to concerned public authority. The appeal is accordingly disposed of.

  
(Vikas)  
First Appellate Authority  
CX 9 Section

To,  
Shri C. R. Karira,  
Plot No.26, Road No.1, Balamrai Society,  
Mahendra Hills, Secunderabad - 500026.

9c  
  
18  
20/11/17

To:

First Appellate Authority Under RTI ACT 2005  
OSD (Cx 9), Room No. 251 B,  
CBEC  
Department of Revenue, North Block,  
New Delhi - 110001

From:

1/10  
C. J. Karira  
Plot No. 26, Road No. 1, (15)  
Balamrai Society,  
Mahendra Hills,  
Secunderabad - 500026

Total: 10 Pages (Including this one)

Dated: 07 October 2017

Dear Sir/Madam,

**SUB: First Appeal under Sec 19(1) of the RTI Act 2005**

I, Mr C J Karira, a citizen of India, would like to make a FIRST APPEAL under Sec 19(1) of the RTI Act 2005, as per the following details:

1. Name and Address of Appellant: **Mr C.J. Karira**  
**Plot No. 26, Road No. 1,**  
**Balamrai Society,**  
**Mahendra Hills,**  
**Secunderabad - 500026**
2. Name and Details of PIO appealed against: **Mr. V Ganesh Kumar**  
**Under Secretary to the Govt. of India**  
**CBEC**  
**Dept. of Revenue,**  
**Ministry of Finance, North Block,**  
**New Delhi - 110001**
3. Reference of the original RTI Application: **RTI application dated 14 Aug**  
**2017 (CBEC/RTI/2017/001 & 002)**
4. Reference of reply of PIO appealed against: **F. No. 295/209/2017-CX-9 dtd**  
**23.08.2017**
5. If personal hearing required: **Yes, personal hearing is requested over phone**

**BACKGROUND:**

I had applied to the CPIO, CBEC, North Block, New Delhi, for certain **information** about Names of officers, Monthly remuneration and system of compensation, under the RTI Act 2005, as per my application dated **14 August 2017**. The application was accompanied by a IPO of Rs. 10.00 (**25F 623271**), as payment for application fees.

.....Contd. Page 2



Qy. No. 1946-29  
Dtd 12-10-17



The RTI application was sent by **Speed Post vide EN424339474IN**, and was delivered to your office on 18 August 2017 as per Speed Post tracking on the Internet.

A copy of the said application, the proof of payment and the speed post delivery tracking are attached herewith along with the CPIOs response as ANNEXURE - I (Total 3 pages)

**GROUND FOR FIRST APPEAL:**

1. The CPIO has incorrectly transferred my RTI application under sec 6(3) to various subordinate offices of CBEC.

Sec 6(3) states:

6(3) Where an application is made to a public authority requesting for an information,—  
(i) which is held by **another public authority**; or  
(ii) the subject matter of which is more closely connected with the functions of **another public authority**,

I had asked for information related to Monthly Remuneration and system of compensation of Officers & Staff of CBEC which are all pertaining to CBEC – ie one public authority. The CPIO should have collected the information and provided it to me.

- A) The responsibility of the CPIO in providing information under the RTI Act 2005 does not end with merely transferring the RTI application to different CPIOs within the same public Authority. The CPIO is not a "postman" !!

The Hon'ble Delhi High Court in its Judgment in Ministry of Railways v. Girish Mittal in W.P.(C) 6088/2014 & CM Nos.14799/2014, 14800/2014 & 14801/2014 clearly ruled that:

*The plain language of Section 6(3) of the RTI Act indicates that the public authority would transfer the application or such part of it to another public authority where the information sought is more closely connected with the functions of the other authority. In this case, penalty has not been imposed with respect to queries which have been referred to another public authority, but with respect to queries that were to be addressed by the public authority of which petitioner no. 2 is a Public Information Officer. Section 6(3) of the Act cannot be read to mean that the responsibility of a PIO is only limited to forwarding the applications to different*

*For the sake of clarity and after hearing respondents it is specifically directed as follows:*

*i) When an application is received by the CPIO and found not to pertain to the public authority in which that CPIO is located this must be transferred within 5 days to the CPIO of the concerned authority under intimation to the applicant in accordance with Section 6 (3).*

*ii) If on the other hand the information sought is found to pertain to a separate wing of the same public authority the CPIO receiving the information will seek the information required from the officer/ PIO dealing with the subject u/s 5 (4) and either (a) provide that information to the applicant or (b) direct the officer to whom it has been forwarded to so provide.*

E) Further, the CIC ruled in its decision in Appeal No.2881 & 2882/ICPB/2008 F. No. PBC/2008/125, 128 October 7, 2008 that:

*Under RTI Act if the appellant has requested information, the PIO of headquarter is expected to collect the information from the concerned branch whoever is having information and provide it to the appellant. In this particular case the papers have been transferred to another branch in Mumbai and concerned authority has said this information is available in Chennai and the appellant has not received any information till today. Therefore I consider the PIO of the headquarter is responsible for not providing the information under RTI Act*

F) Strangely, the CPIO has not even provided me the information related to her very own office !!

2. As per Sec 4(1)(b)(x) of the RTI Act, each and every public authority is supposed to disclose the

**(x) the monthly remuneration received by each of its officers and employees, including the system of compensation as provided in its regulations;;**

The CPIO has not provided me the HTML links / URL where such information is uploaded on the internet as mandated under Sec 4(1)(b)(ix) read along with Sec 4(2), 4(3) and 4(4) of the RTI Act 2005 – as sought by me in item 2 of my RTI application.

.....Contd. Page 5

He has blandly given the website of CBEC : [www.cbec.gov.in](http://www.cbec.gov.in)  
On deeply searching this website with the best web based search engines, no such information regarding Monthly remuneration and System of Compensation can be found.

**The CPIO has given me incorrect and false information.**

- 3. The CPIO has also **not provided me** the Names, designation, office address, office telephone number, official email id of the officer (or officers) who are responsible in CBEC to upload such information – as sought by me in item 3 of my RTI application.
- 4. The CPIO has also **not provided me information** sought in item 4 of my RTI application viz; certified copies of ACTS/Laws/Rules/Circulars/OMs under which action can be taken against such officers listed in item 3 above, for dereliction of their official duty and functions.

**MY "PRAYER/PLEA" IN THIS FIRST APPEAL:**

- 1. **Instruct the CPIO, in writing, to provide me the complete information as requested by me in my above mentioned RTI Application.**
- 2. **As per Sec 19(5) of the RTI Act 2005, during the appeal proceedings, the CPIO, should be asked to explain the provision of incomplete information and his/her actions, as explained in the grounds for first appeal above.**
- 3. **I would like to be present during this hearing of First Appeal under the RTI Act 2005. Since I am located in Hyderabad, I request you to please conduct the hearing over phone after issuing a proper Notice of hearing clearly indicating the date and time for the hearing.**

**SPECIAL NOTE:**

**Kindly note the following common order of APIC in case Nr. 952, 953 and 954/CIC/2009 dated 10-05-2010 (C J Karira v/s PIO & FAA, APIC), it has been clearly ruled that the First Appellate Authority must issue a notice of hearing and conduct a proper hearing before passing any order:**

6/10 (20)  
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To conclude, this Commission on receipt of the requisition letter dated 25.2.2010 from the Appellant and the relevant rules and the case laws of the Hon'ble Supreme Court and various High Courts cited therein and on going through them felt that it is incumbent on the part of the second Appellate Authority to give opportunity to the Appellant of being heard and hence the necessity of issuing a notice to the Appellant before passing an order. Considered the request of the Appellant that he should be given an opportunity of being heard before the 2<sup>nd</sup> Appellate Authority also and accordingly notice was sent to the Appellant and heard the Appellant.

In the light of the aforementioned discussion, it shall be the duty of every 1<sup>st</sup> Appellate Authority and 2<sup>nd</sup> Appellate Authority that they must invariably send notices to both the parties and pass a just and proper order only after hearing their rival contentions.

**It is therefore obligatory and mandatory for you to conduct a proper first appeal hearing, after issuing me a proper "Notice of Hearing".**

Thanking You,



(C J Karira)

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**Enc: RTI application, IPO copy and speed post tracking - 3 pages**