

## Central Information Commission

**Appeal No. 74 /IC(A)/2006  
F.No.CIC/MA/A/2006/00163**

**Dated, the 28<sup>th</sup> June, 2006**

Name of the Appellant : Shri O.P. Arya, 3163, Sector-40 D, Chandigarh.

Name of the Public Authority : Office of Chief Commissioner, Customs & Central Excise (CZ), Central Revenue Building, Plot No. 19, Sector-17-C, Chandigarh.

### DECISION

#### **Facts of the Case:**

1. In a case of evasion of duty by M/s Fujitsu India Ltd., Mohali, the respondent handled the matter and found that the Company had wrongly availed of custom duty drawback. The Company was accordingly asked to deposit the claim of duty drawback already availed of by them. The appellant seems to hold the view that the matter was not handled properly. He has therefore asked for the following information from the CPIO of the public authority:

- (a) *Copy of the statement of Shri Neeraj Khal and others.*
- (b) *Copy of the purchase order submitted by the Drawback claimant.*
- (c) *Copy of the production slip submitted.*
- (d) *Certified copy of the orders/decision passed on the file Nos. IV(HQ)PREV./29.2.98/Part-I and File No. IV(HQ) PREV./29.2.98/Part-II.*
- (e) *Copy of the invoices available in the file Nos. IV(HQ)PREV./29.2.98/Part-I and File No. IV(HQ) PREV./29.2.98/Part-II.*

2. The CPIO had supplied information with respect to (a) above and the information under S.Nos. (b),(c) & (e) were denied to the appellant on the ground that information/documents of M/s Fujitsu, provided to the department are in the nature of commercial confidence, which were held in fiduciary capacity and therefore exempt from disclosure u/s 8 (1)(d) and (j) of the Act.

3. Information listed at Sl. No. (d) has been denied in accordance with the details provided in the web site of the DOPT "file notings would not constitute 'information' under RTI Act". The appellate authority also upheld the decision of the CPIO.

4. The appellant contended that relevant section 8(1) (d) and (j) of the Act have been misinterpreted to deny information to him.

**Commission's Decision:**

5. The documents submitted by the Company to the respondent are not generated due to any public action. These are indeed submitted to the department in fiduciary capacity and are in the nature of commercial confidence. The disclosure of such documents would effect the competitive position of the third party. Therefore, the CPIO has correctly applied exemption from disclosure of information u/s 8(1)(d) and (j). The appellant has however not indicated the overriding public interest in disclosure of such documents.

6. As regards disclosure of 'file notings', the ground for refusal or denial of information is not maintainable, as the Commission has ordered in a number of cases that the DOPT's direction on the issue is not legally tenable. The CPIO is therefore directed to disclose the information sought under S.No. (d) above within 15 working days, provided exemption u/s 8(1) is not claimed.

7. The appeal is accordingly disposed of.

Sd/-  
(Prof. M.M. Ansari)  
Information Commissioner

Authenticated true copy :

(L.C. Singhi)  
Additional Registrar

Cc:

1. Shri O.P. Arya, 3163, Sector-40 D, Chandigarh.
2. Shri D.S. Sra, Chief Commissioner & Appellate Authority, Customs & Central Excise (CZ) , Central Revenue Building, Plot No. 19, Sector-17-C, Chandigarh.