

## CENTRAL INFORMATION COMMISSION

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

**Dated, the 30<sup>th</sup> 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

CENTRAL INFORMATION COMMISSION

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F.No.CIC/AT/A/2009/000312

Dated, the 15<sup>th</sup> June, 2009.

Appellant : Md.Akhtar Usman Moulvi

Respondents : Directorate General of Valuation, Customs.

This matter came up for hearing on 11.06.2009 pursuant to Commission's notice dated 18.05.2009. Both parties were present.

2. Appellant, in his RTI-application dated 15.09.2008 has asked for information relating to the Bills of Entry of third-parties in respect of "*MDF with Veneer Face imported only from Thailand during the period from 2003 to 2007*".

3. Respondents declined to disclose this information, which according to them, was personal to the third-parties and being of commercial interest of that third-party attracted, apart from Section 8(1)(j), Section 8(1)(d) of the RTI Act.

4. Appellant made the point that the information, which he was seeking, was necessary for him to defend his interest in an ongoing proceeding against him before the adjudicating authority of the Department of Customs. He also submitted that this information was regularly collected and tabulated by the Department and could not be described as personal to third-parties or impacting those third-parties' commercial and competitive interests.

5. Respondents countered this plea of the appellant by reiterating their original stand that all Bills of Entry-related matters were essentially commercial in nature whose disclosure was most likely to adversely impact the commercial interest of third-parties. There were decisions of the CIC prohibiting disclosure of this variety of information.

6. I am in agreement with the respondents that the requested information could not be authorized to be disclosed. Commission had earlier decided in *D.Deivasigamani Vs. Customs; Appeal No. [CIC/AT/A/2007/01385](#); Date of Decision: 07.04.2008* that Bills of Entry-related information of third-parties cannot be authorized to be disclosed as it attracted exemption-Sections 8(1)(j) and 8(1)(d) of the

RTI Act. Consistent with those decisions, it is now held that there shall be no disclosure of the requested information.

7. Appeal disposed of with these directions.
8. Copy of this direction be sent to the parties.

( A.N. TIWARI )  
INFORMATION COMMISSIONER