

Robert A. Copone Vs. Commissioner of Central Excise

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Dec-04-2001

Reported in : (2002)(80)ECC426

Appellant : Robert A. Copone

Respondent : Commissioner of Central Excise

Judgement :

1. The application for bringing on record additional evidence in the form of contract of employment between M/s. Dolce Vita Pvt. Ltd. and the appellant which has been filed to support the plea that the appellant was staying in Indian for more than 1 year and hence entitled to the benefit of Public Notice No. 3(RE-2000)/1997-2002 dated 31/3/2000, is allowed.

2. The appeal is now taken up for hearing. The Commissioner of Customs, Goa has held that the appellant did not fulfil the conditions stipulated in the Public Notice which permits foreign nationals working in Indian to import vehicles without a specific Import Licence or a Customs Clearance Permit subject to the condition that the contract period for employment or stay of the Importer in Indian shall not be less than 1 year, and hence confiscated 2 cars imported by the appellant with an option to redeem the same on payment of duty amount and fine. He has also imposed a personal penalty of Rs. 60,000/- upon the appellant. The Commissioner has not accepted a sufficient evidence of stay in Indian for more than 1 year, the resolution of his employer, M/s. Dolce Vita Pvt. Ltd. stating that the appellant is the salaried Chairman of the Company and that his period of employment is 5 years.

The contract of employment dated 11/10/99 which we have allowed to be brought on record shows that the contract is for the period of 5 years.

We are therefore, of the view that the claim of the appellant that he was entitled to import the Porsche car which was in his possession in U.K. and used by him there will have to be examined afresh in the light of the new material in the form of contract of employment. We order accordingly.

3. The impugned order is set aside and the appeal allowed by way of remand to the Commissioner for fresh decision on the entitlement of the appellant to the benefit of the Public Notice No. 3(RE-2000)/1997-2002 dated 31/3/2000. The Commissioner shall pass fresh order after extending a reasonable opportunity to the appellant of being heard in person. He shall also re-examine the issue of valuation of the Porsche car in the light of the submission of the appellant regarding extending the benefit of depreciation for the car.

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