

John Barretto Vs. Commr. of Customs

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Mumbai

Decided On : Mar-05-2003

Reported in : (2003)(160)ELT320Tri(Mum.)bai

Judge : K Kumar, S T C.

Appellant : John Barretto

Respondent : Commr. of Customs

Judgement :

1. Shri S.N. Kantawala, learned counsel appeared on behalf of Shri John Barretto and Shri Santosh Talpade. Shri H.H. Dave, learned advocate appeared on behalf of Shri Abdul Sattar. Shri Aftab Qureshi, learned advocate appeared on behalf of the Shri Arif Khan and Shri Firoz Zafar and Mrs. Ansari, Advocate is present on behalf of Shri Munif Ahmed and Shri Shakil Patel.

2. Shri S.N. Kantawala, learned advocate submitted that the impugned order has been passed ex-parte without giving opportunity of hearing to Shri John Barretto and Shri Santosh Talpade. Shri H.H. Dave, learned advocate submitted that Shri Abdul Sattar was also not given an opportunity: of hearing and ex-parte order has been passed against him.

Shri Aftab 'Qureshi, learned advocate submitted that the department has not supplied the relied upon documents to his clients despite repeated requests. Mrs. Ansari, learned advocate submits that the same is the position with Shri Munif

Ahmed and Shri Shakil Patel. Thus the learned counsels have submitted that in view of the facts of the case, necessary stay may be granted and the matter may be remanded to the original authority for de novo adjudication after affording reasonable opportunity of being heard and after supplying the relied upon documents so that they can defend themselves effectively. The learned counsels also submitted that this is a clear cut case of violation of principles of natural justice and as such the impugned order can be set aside on this ground alone.

3. Shri M.H. Sheikh, learned J.D.R. opposes the request of the learned counsels.

4. After hearing the learned counsels and perusal of the records, we are satisfied that this is a clear cut case of violation of principles of natural justice. We, therefore, waive the pre-deposit, set aside the impugned order and remand the appeals at the stay stage itself to the adjudicating authority for de novo adjudication after affording reasonable opportunity of being heard and after furnishing relied upon documents to the appellants and to pass a fresh speaking order. The appeals are thus allowed by way of remand.

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