CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

CUSTOMS APPEAL NO: 86400 OF 2025

[Arising out of Order-in-Appeal No: 393(Gr.VB)/2025(JNCH)/Appeals dated 24th March 2025 passed by the Commissioner of Customs (Appeals), Nhava Sheva, Mumbai-II.]

Rohit Ghanshyam Gupta
Flat No. C-601, Marvel Aurum Lane No.7
Koregaon Park, Pune – 411001 … ***Appellant***

versus

Commissioner of Customs (NS-V)
Jawaharlal Nehru Customs House, Nhava Sheva
Tal: Uran, Dist: Raigad - 400707 ***…Respondent***

APPEARANCE:

Shri Dev Wadhwa, Advocate for the appellant

Shri JK Jain, Joint Commissioner (AR) for the respondent

CORAM:

HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)
HON'BLE MR AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO: 85091/2026

DATE OF HEARING: 25/09/2025
DATE OF DECISION: 22/01/2026

PER: C J MATHEW

Shri Rohit Ghanshyam Gupta imported a 'Rolls Royce

Phantom' car valued at AED 10,00,000 (approximately ₹ 2,35,00,000) supported by CPD Carnets no. GE50133418. Imports of car against carnet is exempted from duties of customs *vide* notification[1] which does not apply to

> *'(a) legal persons referred to in article 1(e) of the Convention;*
>
> *(b) persons normally resident outside India/ who on the occasion of temporary visit to India take up paid employment or any other form of gainful occupation.'*

and, for alleged contravention of the latter, the car was held as liable to confiscation under section 111 of Customs Act, 1962 with option to redeem on payment fine of ₹ 21,00,000 under section 125 of Customs Act, 1962 solely for re-export besides imposition of penalty of ₹ 7,00,000 on the appellant. The affirmation of the confiscation, fine and penalty in order[2] of Commissioner of Customs (Appeals), Nhava Sheva has brought this appeal before us.

2. The sum and substance of the proceedings before the lower authority was that, despite holding a valid carnet, the appellant, by having undertaken business in India during his temporary stay had jeopardized eligibility to the exemption notification[3] and the ineligibility was determined on the finding that

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[1] [no. 296/76-Cus dated 2nd August 1976]
[2] [order-in-appeal no. 393(Gr.VB)/2025(JNCH)/Appeals dated 24th March 2025]
[3] [no. 296/76-Cus dated 2nd August 1976]

> *'In this instant case, Mr. Rohit Gupta vide letter dated 18.10.2024 submitted that he is the CEO of M/s Mantra Properties in Pune, Maharashtra. where he is actively engaged in real estate projects.*
>
> *I find that during his temporary visit to India, he also continues to manage the real estate projects or any other business of Mantra Properties, during his visit in India, as evident from his Income Tax Returns filed in India. Hence, as such condition 2(b) of the said exemption Notification is not fulfilled in this case by the importer.'*

3. Learned Counsel for the appellant submitted that invoking of section 111 of Customs Act, 1962 was incorrect inasmuch as there has been no suppression and more so as 'income-tax return' had been furnished along with letter for permission to clear the car. It was further submitted that the car has been lying under the custody of customs after import and had not been made use of consequently. Learned Counsel for the appellant placed reliance on the decision of the Hon'ble Supreme Court in *Northern Plastics Ltd v. Collector of Customs & Central Excise [1998 (101) ELT 549 (SC)]* to submit that claiming of an exemption, that was found to be inapplicable, should not have to result in confiscation when the remedy of re-assessment was available. It was further submitted that the appellant had not taken up any paid employment or gainful occupation during his temporary visit to India as business enterprises floated by him prior to leaving India, though continuing to be under his ownership, merely

earned him returns without taking up his time and effort.

4. Learned Authorized Representative contended that the appellant is on record as having admitted to control over the business of M/s Mantra Properties and which continued to be with him during this temporary visits to India.

5. The proceedings were commenced, and concluded, even as the goods continue to remain in customs control. In effect, even as correspondence was pending with the department on the intimation of import and procedure to be followed, the consequence of ineligibility for the notification was fastened on the appellant. The facility of temporary duty-free import against carnet is intended for residents outside the country to import vehicles for travel in India. There is no bar on the applicability of carnet to an Indian citizen subject to being resident outside the country. The appellant, undoubtedly, is one such. There is neither allegation of the appellant having taken up ‘paid employment’ nor any evidence that the appellant had undertaken ‘gainful occupation’ on this particular visit to India. The company established by the appellant continued to operate even when he was outside the country and may not have involved any additional preoccupation of his time and effort in its pursuit of normal activities. There is no evidence that during his stay in India he had been specifically addressed to resolve any business matter for which he was

compensated. Moreover, ineligibility attributed by the adjudicating authority would not be a threshold condition but intended to prohibit such activity while availing the benefit of the notification. The car was never cleared from customs control. Any allegation of ‘paid employment’ or ‘gainful occupation’ prior to the import of the car or after the export of the car is of no relevance to administration of the impugned notification.

6. For the above reason, we find that the confiscation of the car under section 111 of Customs Act, 1962 does not have authority of law. Accordingly, the consequential fine, along with the penalties imposed on the appellant under section 112 of Customs Act, 1962, are set aside to allow the appeal.

(Order pronounced in the open court on 22/01/2026)

(AJAY SHARMA)
Member (Judicial)

(C J MATHEW)
Member (Technical)

**/as*