Customs, Excise & Service Tax Appellate Tribunal
West Zonal Bench at Ahmedabad

REGIONAL BENCH-COURT NO. 3

Customs Appeal No. 10140 of 2024-DB

(Arising out of Order in Original KND-CUSTM-000-COM-16-2023-24 dated 20/03/2024 passed by Commissioner of Customs, Kandla)

PURSHOTAM CHATRABHUJ THACKAR ....**Appellant**
4, Komal Complex,
1st Floor, Ward No. 12B,
Gandhidham- 370201

VERSUS

Commissioner of CUSTOMS - Kandla Customs ......**Respondent**
Customs House,
Nr. Balaji Temple, New Kandla
Kachchh, Gujarat- 370210

APPEARANCE:
Shri Amit Laddha, Advocate for the Appellant
Shri Sanjay Kumar, Superintendent (AR) for the Respondent

CORAM:
HON'BLE MEMBER (TECHNICAL), MR. C L MAHAR
HON'BLE MEMBER (JUDICIAL), DR. AJAYA KRISHNA VISHVESHA

Final Order No. 10079/2025

DATE OF HEARING: 03.01.2025
DATE OF DECISION: 31.01.2025

DR. AJAYA KRISHNA VISHVESHA

This appeal is directed against the Order-In-Original No. KND-CUSTM-000-COM-16-2023-24 dated 20th March, 2024 passed by the Commissioner of Customs, Kandla, through which the officer concerned revoked the Customs Broker License No. CHA/KCH/4/94 (PAN: AAAFP0495QCH001) issued to M/s. Purshotam Chatrabhuj Thackar under Regulation 14 of Customs Brokers Licensing Regulations, 2018 read with Regulation 17 of CBLR, 2018. The officer concerned also ordered for forfeiture of the whole security deposit furnished by the above mentioned Customs Broker for issuance of CB License No. CHA/KCH/4/94 (PAN: AAAFP0495QCH001) under Regulation 14 of CBLR, 2018. The officer concerned also imposed a penalty of Rs. 50,000/- upon M/s. Purshotam Chatrabhuj Thackar in terms of Regulation 18 of CBLR, 2018.

1.1 M/s Neminath Industries having IEC No. 0315079053 (hereinafter referred to as the "exporter") filed Shipping Bill Nos. 2014912 and 2014929 both dated 22nd November, 2016 through Customs Broker M/s. Maj Shipping Pvt. Ltd. for export of goods contained in factory stuffed container.

1.2 The officer posted for clearance of Factory Stuffed Container at MSWC CFS suspected the genuineness of the Factory Stuffing Permission produced by M/s. Neminath Industries for the abovementioned two Shipping Bills. The said Factory Stuffing Permission (FSP) produced by the exporter was sent for verification to FSP Cell, JNCH on 8th November, 2016 wherein it was informed that the said FSP letter was not issued by their office. Therefore, the matter was referred to the Central Intelligence Unit (CIU), JNCH on 10th November, 2016 for investigation.

1.3 The goods contained in the abovementioned containers were examined by the officers of CIU, JNCH at CONCOR DRT CFS under panchnama. During further investigation, it was found that the invoices submitted to the Central Excise Department for the subject consignments at the time of factory stuffing were different from the invoices produced for Customs clearance. Thereafter, a search was conducted at the premises of M/s. Neminath Industries situated at Gala No. 6, Bhayander Industrial Estate, CSM Road, Bhayander East, Thane on 11.11.2016 by a team of officer of CIU, JNCH and Central Excise, Thane-II office. However, it was found that Gala No. 6 does not exist in the Bhayander Industrial Estate. Further inquiry revealed that M/s. Neminath Industries used to function from Gala No. 1, Naronha Estate, near United Rubber Industries, Near Ghatak, Kashi- Mira Road, Bhayander East, Thane which was in control of Mr. Tarun Jain.

1.4 Further intelligence indicated that several factory stuffed containers were exported in the name of the various firms / companies and on suspicion of fraudulent exports on similar modus operandi may have taken place on inflated value by manipulation of documents. Data pertaining to the Shipping

Bills filed by the exporters were sought by EDI Section, JNCH and it was found that a total of 1474 Shipping Bills were filed by the exporters. The details of Factory Stuffing Permission (herein after referred as "FSPs") received from the FSP Cell, JNCH were examined, and it was noticed that FSPs were used fraudulently by making and producing forged export documents.

1.5 Since, no FSP had been issued to M/s. Neminath Industries (IEC No. 0315079053), M/s Adinath Industries (IEC No. 0315064196) & M/s. Arihant Industries (IEC No. 0311050638) by the FSP Cell, JNCH, therefore, out of the total 1474 Shipping Bills, 384 Shipping Bills pertaining to M/s. Neminath Industries (IEC No. 0315079053), 249 Shipping Bills pertaining to M/s. Adinath Industries (IEC No. 0315064196) & 230 Shipping Bills pertaining to M/s. Arihant Industries (IEC No. 0311050638) were filed using fake Factory Stuffing Permissions. On further analysis of data, remaining 571 Shipping Bills pertaining to M/s Neminath Industries (IEC No. 0315059281) and M/s. Aadinath Industries (IEC No. 0314078461), it was observed that data pertaining to 40 Shipping Bills of M/s. Neminath Industries (IEC No. 0315059281) and 48 Shipping Bills of M/s. Aadinath Industries (IEC No. 0314078461) were not found with the Central Excise Department. Out of the remaining Shipping Bills, 79 Shipping Bills pertaining M/s. Neminath Industries (IEC No. 0315059281) and 20 Shipping Bills pertaining to M/s. Aadinath Industries (IEC No. 0314078461) were filed using FSPs.

1.6 The statement of Shri Dilip Purshotam Thackar, partner of the appellant was recorded under Section 108 of the Customs Act, 1962 on 9th June 2021. Another summons was issued to the appellant on 8th April, 2022, whereby Shri Dilip Purshotam Thackar, Partner of the appellant was summoned to produce the copy of Aadhar Card, PAN Card and copies of e-Mails/ documents received from Mr. Tarun Popatlal Jain from his e-Mail Id. In response to the aforesaid summons, the appellant vide letter dated 25th April, 2022, provided the documents as sought in the summons.

1.7 A Show Cause Notice No. 2554/2022-23/ADC/CEAC/CAC/JNCH was issued by the Additional Commissioner of Customs, Nhava Sheva calling upon to show cause as to why the penalty should not be imposed under Section 114 (iii) of the Act and as to why suitable action as per Regulation 19, 20 and any other Regulation should not be taken under Customs Brokers Licensing Regulations, 2013. On 29th November, 2023, Order-In-Original No. 1077/2023-24/ADC/NS-II/CEAC/CAC/JNCH was passed by the Learned Additional Commissioner, Nhava Sheva whereby the officer ordered for confiscation of the impugned goods having total declared FOB Value of Rs. 1,38,86,625/- attempted to be exported vide shipping bills mentioned in the order. He also ordered for recovery of amount of Rs. 12,15,447/-, which was fraudulently availed as draw back by M/s Neminath Industries, against the goods attempted to be exported with respect to shipping bills mentioned in the order from the exporters. The Officer also imposed penalty of Rs. 15 lakhs on M/s. Neminath Industries under Section 114 (iii) of the Customs Act, Rs. 30 Lakhs under Section 114 AA of the Customs Act, 1962, collectively on Mr. Tribhavan Budhiram Verma proprietor of M/s. Neminath Industries, Rs. 15 lakhs under Section 114 (iii) of Customs Act, 1962, upon de-facto exporter of M/s. Neminath Industries Mr. Lokesh Bansal, Rs. 30 lakhs on de-facto exporter/ beneficial owner of M/s. Neminath Industries Mr. Lokesh Bansal under Section 114 AA of Customs Act, 1962. He also imposed penalty of Rs. 15 Lakhs on de-facto exporter/ beneficial owner of M/s. Neminath Industries, Mr. Tarun Jain alias Tarun Kothari, under Section 114 (iii) of Customs Act, 1962, and imposed Rs. 30 Lakhs penalty on de-facto exporter/ beneficial owner of M/s. Neminath Industries, M/s. Tarun Jain alias Tarun Kothari, under Section 114 AA of Customs Act, 1962. He also passed suitable orders regarding past exports. However, the Learned Additional Commissioner refrained from recommending any action under Regulation 19 and 20 of Customs Broker Licensing Regulations, 2013, against the appellant with a liberty that the Appropriate Authority may initiate such action, as is felt appropriate against the appellant under CBLR, 2013. This order dated 29.11.2023 was never challenged by the department before the higher forum.

1.8 On 24th July, 2023, order No. KND-CUSTM-000-COM-02-2023-24 was passed against the appellant wherein it was held that the appellant has failed to verify the identity of clients and functioning at the declared address and dealt with Mr. Lokesh Bansal and Mr. Tarun Jain who claimed to be the exporters.

1.9 On 23rd August, 2023 Order No. KND-CUSTM-000-COM-06-2023-24 was passed against the appellant wherein suspension was continued in terms of Regulation 16(2) of CBLR, 2018. The appellant challenged the abovementioned order-in-Originals dated 24th July, 2023 and 23rd August, 2023 before this Tribunal vide Appeal No. C/10676/2023. On 4th January, 2024 this Tribunal vide Order No. 10041/2024 was pleased to quash and set aside the order-in-original challenged by the appellant.

1.10 A Show Cause Notice No. CUS/LIC/MISC/189/2023- CB was issued by the respondent to call upon to show cause as to why the Customs Broker License issued to the appellant should not be revoked under Regulation 14 read with Regulation 17 of CBLR, 2018. The inquiry report dated 18th January, 2024 under Regulation 14 read with Regulation 17 of CBLR, 2018 concluded to revoke the license of the appellant, to forfeit the security and to impose penalty on the appellant under Regulation 14 read with Regulation 17 for failure to comply with the provisions of Regulation 10 (d) and Regulation 10 (n) of CBLR, 2018.

1.11 The said show cause notice dated 22nd September, 2023 was adjudicated vide Order-In-Original No. KND-CUSTM-000-COM-16-2023-24, (hereinafter referred to as "the impugned order") whereby the respondent inter-alia held that the appellant failed to act in accordance with obligation as mentioned in Regulation 10(d) and Regulation 10(n) of CBLR, 2018 as they did not verify the address or if verified and found to be non-existing, did not report the same to the customs authority.

1.12 Feeling aggrieved from this order, the appellant has filed present appeal before this Tribunal.

2. Learned Counsel for the appellant argued that the learned Additional Commissioner of Customs, Nhava Sheva vide Order-In-Original No. 1077/2023/ADC/NS-II/CEAC/CAC/JNCH dated 29.11.2023 dropped the penalty proposed under Section 114 (iii) of the Act. The said order also specifies the fact that the appellant has not aided or abetted in the alleged fraudulent exports by M/s. Neminath Industries, M/s. Arihant Industries and M/s. Aadinath Industries. It was also held that the shipping bills filed by the appellant were allowed for export by the proper officer under Section 51 of the Act and no irregularities were noticed while processing the documents submitted for export of consignments. In such circumstances, the harsh action of revocation of Customs Broker License cannot be justified.

2.1. The learned Counsel for the appellant quoted para 44.9 of the Order-In-Original NO. 1077/2023/ADC/NS-II/CEAC/CAC/JNCH dated 29.11.2023 passed by the learned Additional Commissioner (Customs) Nhava Sheva in which he has observed as follows :

> *"44.9. However, I find all the shipping bills filed by the Custom Brokers were allowed for export by the proper officer under Section 51 of the Customs Act, 1962 and no irregularities were noticed while processing the documents submitted for export of the said consignment. I find that the department raised no questions or objections when those consignments were cleared, about LOFSPs and no allegation of involvement /abatement of the Customs Brokers in the fraudulent export is established during the investigation. It is also not the case that there are any evidence of the involvement of the Customs Brokers in tampering of the seals or in preparation of the forged invoices or Examination Reports of the consignments.*
>
> *Therefore, I am of the considered opinion that Customs Brokers have not aided or abetted in the fraudulent exports by the M/s. Neminath Industries, M/s. Arihant Industries, M/s.*

Adinath Industries and hence, cannot be penalized under Section 114 (iii) of the Customs Act, 1962. Hence, I hold that the Custom Brokers (CB) namely, M/s. Maj Shipping Private Limited, M/s. Purshottam Chatrabhuj Thacker and other brokers mentioned in the order, are not liable to penalty under Section 114 (iii) of the Customs Act, 1962."

2.2. It has also been mentioned in the order that some of the Customs Brokers have stated that for export of the consignments , they have dealt with Mr. Tarun Jain and Mr. Lokesh Bansal who are neither exporter nor IEC holder. However, admittedly, authority letters, KYC documents etc. of the exporters were obtained and the IEC was verified by the Customs Brokers on the DGFT website. Therefore, the mere fact that the Customs Brokers were dealing with Mr. Tarun Jain and Mr. Lokesh Bansal, who had provided authenticated IEC along with KYC of the exporters, cannot be reflect that Customs Brokers had failed to comply with the "due diligence" requirement under Regulation 11 of the Customs Brokers Licensing Regulations, 2013.

2.3. The learned Counsel for the appellant also submitted that above mentioned order dated 29.11.2023 attained finality and therefore, when the officer concerned gave clean chit to the appellant then another Customs Authority proceeding under the provisions of CBLR, 2018, cannot initiate any action by clearly ignoring reasoning and findings by another Customs Authority.

2.4. The learned Counsel for the appellant also submitted that when on 24.07.2023 and 23.08.2023 Order No. KND-CUSTM-000-COM-02-2023-24 and Order No. KND-CUSTM-000-COM-06-2023-24 were passed against the appellant through which the license of the appellant was suspended and the suspension was continued in terms of Regulation 16 (2) of the CBLR, 2018, the appellant challenged the above mentioned orders before this Tribunal vide Appeal No. C/10676/2023. This Tribunal, vide Order No. 10041/2024 was pleased to quash and set aside the Order-In-Original challenged by the appellant and it was held that there is no requirement under CBLR for the customs broker to physically verify the address. The respondent failed to consider the said observation and passed the impugned order by brushing aside the above mentioned order passed by this Tribunal.

2.5. Learned Counsel for the appellant also submitted that the appellant had filed only 29 shipping bills out of 1474 shipping bills alleged to have been filed on behalf of the exporters. He has also submitted that appellant has observed due diligence in terms of Regulation 10 of CBLR 2018 by taking into account all the relevant documents provided by the alleged exporter for the export of goods. The appellant has also taken Udhyog Aadhar Card, Pan Card, IEC Certificate, etc. from the exporter while filing the shipping bill. In such circumstances, the respondent failed to consider the limited role of the appellant and ought to have appreciated that the appellant has complied with Regulation 10 of CBLR, 2018.

2.6. The learned Counsel for the appellant also argued that so long as the exporter holds valid IEC code, PAN and submits all such relevant KYC documents to the custom brokers on the basis of which custom broker filed shipping bills, the custom broker cannot be blamed for any mis-declaration alleged to be made by the exporter.

2.7. The learned Counsel for the appellant argued that when any clearance of export is to be granted on the basis of any Factory Stuffing Permission, the Central Excise Officer, who is undertaking the activity of factory stuffing is responsible to verify the particulars as per invoice, packing list, container no., Inspection lot, description, classification, weight, value, specification, etc. Since, in the present case, the Central Excise officials had granted FSPs after considering all the documents, the Appellant cannot be expected to go beyond the documents provided to them.

2.8. The learned Counsel for the appellant also submitted that the appellant has not violated Regulation 10(d) of CBLR, 2013 read with Regulation 10(n) of CBLR, 2018 which require the Appellant to exercise due diligence. According to this regulation the Customs Broker has to verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), Identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information. Regulation 10(n) of CBLR, 2018 does not contemplate that the Customs Broker has to physically go to the premises of importer/exporter to ensure that they are functioning at the declared premises. Further, it was an ongoing export under the supervision of Central excise officials and the relevant documents of previous exports were verified. Therefore, the Appellant has duly fulfilled the mandate of Regulation 11(n) of CBLR, 2013. The learned Counsel for the appellant submitted his above mentioned arguments by rulings in

(a) **Anax Air Services Pvt. Ltd.** Vs. **CC (Airport & General), New Delhi**, Final Order No.50002/2022 dated 01.01.2022 passed by Hon'ble CESTAT, New Delhi.

(b) **S. Prakash Kushwaha & Co.** Vs. **CC, (Airport & General), New Delhi**, 2023 (384) E.L.T. 89 (Tri. Del.)

(c) **Perfect Cargo & Logistics** Vs**. C.C. (Airport & General), New Delhi**, 2021 (376) E.L.T. 649 (Tri. - Del.).

2.9. The learned Counsel for the appellant also argued that the responsibility of the Customs Broker under Regulation 10(n) does not include keeping a continuous surveillance on the client to ensure that he continues to operate from that address and has not changed his operations. Therefore, once verification of the address is complete, if the client moves to a new premises and does not inform the authorities or does not get his documents amended, such act or omission of the client cannot be held against the Customs Broker.

2.10. The learned Counsel for the appellant also argued that since the IEC code which is issued by the DGFT, the GST number, the PAN which is issued by the Department of Revenue, CBIC & CBDT respectively. It cannot be presumed that the fault for any wrongdoing thus fall upon the Custom Broker. The appellant supported this argument by following Rulings :

(i) **Mauli Worldwide Logistics** Vs. **Commissioner, Customs-New Delhi (Airport and General)**, 2022 (7) TMI 368 CESTAT New Delhi.

(ii) **Baid International Services Ltd.** Vs. **CC, Kolkata**, 2023 (386) E.L.T. 567 (Tri. Kolkata)

(iii) **Friends Cargo Services** Vs. **CC, (Airport & General), New Delhi**, 2024 (2) TMI 739-CESTAT New Delhi.

2.11. The learned Counsel for the appellant also argued that revenue department has not produced any shred of evidence to suggest that the appellant was aware of the fake Factory Stuffing Permission on the basis of which alleged drawback was claimed.

2.12. The learned Counsel for the appellant also submitted that there was no malafide intention on their part in filing Shipping Bill. The Appellant was under the bonafide belief that the documents provided by the exporters were genuine and accordingly, filed Shipping Bills. The investigating agency/ Revenue Department has not produced any evidence to establish malafide intent on the part of Appellant. Therefore, in the absence of any mala fide intention, the Appellant cannot be made liable under CBLR, 2018.

2.13. The learned Counsel for the appellant finally submitted that the impugned order passed by the respondent for revocation of Customs Broker License is without any basis and it deserves to be quashed and set aside.

3. The Authorized Representative submitted that the impugned Order-In-Original No. KND-CUSTM-000-COM-16-2023-24 has been passed by the officer after taking into consideration all the facts of the case and relevant provisions of CBLR. The appellant was throughout negligent and he failed to observe "Due Diligence". Therefore, the customs broker license issued to the

appellant was rightly revoked and there is no need to interfere in the impugned order. He pleaded that the appeal may be dismissed.

3.1. We have heard the learned Counsel for the appellant and the Authorized Representative and perused the record.

4. We are of the view that the impugned order has been passed by the officer concerned after taking into consideration all the peculiar facts of the case and the impugned order has been passed in accordance with the Regulation 10 (D) and 10 (N) of CBLR, 2018.

4.1. We have gone through the provisions of Regulation 10 (D) and 10 (N) of CBLR, 2018 which are as follow:

> *"10 (d): A customs Broker shall advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be*
>
> *10 (n): A Customs Broker shall verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent authentic documents, data or information; "*

4.2. While passing the impugned order the officer concerned came to the conclusion that Customs Broker M/s. Purshotam Chatrabhuj Thackar has not verified the details and not completed KYC. The CB failed to verify the identity of their clients and functioning of the client at the declared address, and dealt with other persons Mr. Lokesh Bansal & Mr. Tarun Jain who claimed to be the exporter but were neither the IEC holder of any of the 05 firms including M/s. Aadinath Industries nor were holding any post in any of the said firms.

4.3. The address mentioned in the IEC of M/s. Aadinath Industries and others were found to be incorrect and non-existing. It was found that the CB has failed to verify the genuineness of the Exporter, KYC documents.

4.4. In the impugned order at page 525 it has been observed that it is expected of a man of prudence to know the exporter or importer and rely on undisputed Government documents available in public domain. However, it does not imply that in the stated facts of present case, a CB can take such documents from a third party and also aver that compliance under Regulation 10 (d) & (n) be taken as complete. If the action of CB in taking documents KYC from third party is justified then it will be contrary to the purpose of CBLR, 2018 and also Section 146 and 147 of Customs Act, 1962.

4.5. In the impugned order, findings in the inquiry report have been reproduced from page 525 to 527 of the Appeal which are very relevant in disposing off this appeal. In para 35 of the inquiry report it has been mentioned that :

> *"35. Further reading of the said Investigation Report point more acutely to the gross negligence committed by the CB. In the findings of the IR, the para 19.4. reads as under-*
>
> > *19.4 From the statements of the persons recorded in this case, it is observed that Mr. Tribhavan Budhiram Verma was introduced to Mr.Tarun Jain by Mr. Lokesh Bansal, who was a daily wager and worked in Mr. Tarun Jain's factory for 2-3 months. As per the statements of Central Excise Officers, Truck Drivers and other persons recorded Mr. Lokesh Bansal was handling the work related to stuffing of containers and Mr. Tarun Jain was coordinating with Customs Brokers and Freight Forwarders for clearance of the above mentioned stuffed containers by providing forged and fabricated documents. Both, Mr. Lokesh Bansal and Mr. Tarun Jain collaborated to execute the forgery and fraud to avail drawback fraudulently in respect of the said exports. Further, Mr. Lokesh Bansal used to have cheque book of Mis. Neminath Industries & Others signed in advance by Mr. Tribhavan Budhiram Verma/Nath & Mr. Damer Bahadur Subba, Mr. Lokesh Bansal was operating those Bank accounts with the help of employee of Mr. Tarun Jain. Based on the forged letters submitted to Bank and impersonating as Superintendent of CIU JNCH, when the bank accounts pertaining to M/s. Neminath Industries &*

Others were got defreeze, and Mr. Tarun Jain sent his employee to withdraw amount from those accounts of M/s. Neminath Industries & Others.

36. It has been found in the investigation that Mr. Tribhavan Budhiram Verma was a daily wager and worked in Mr. Tarun Jain's factory for 2-3 months. ***If the CB has verified the identity of their client as given in the regulation 10(n) and met the IEC holder, they could see the correct picture, that a daily wager cannot be the proprietor of an export firm having regular ongoing export activity.*** *The fact found in the Inquiry Report clearly show that the CB failed to verify the identity of their client and functioning of their client at declared address.*

37. The Custom Broker are obligated under the Regulation 10 (n) of the Custom Brokers Licensing Regulations 2018) to verify the correctness of the IEC member, identity of his client. It is observed that the CB did not verify the identity of the client and dealt with Tarun Jain who claimed to be Exporter. However Mr. Tarun Jain was neither the IEC holder of the client firm of the CB nor holding any post in the firm. Secondly, the address mentioned in the IEC of the firm were found to be non-existing. If the Custom Broker have verified the identity of the IEC holder and also verified functioning of the firm at the given address, it would have come to their notice that the firm is non-existent. If Custom Broker in course the routine verification have insisted on meeting the proprietor of the firm, it could have come to their notice that it is in the name of Mr. Tribhavan Budhiram Verma who was a daily wager. The verification of the IEC, verification of the functioning at given premises and meeting the Exporter-proprietor together could make the picture very clear to the Custom Broker. Therefore it evident that they have failed to do such verification."

4.6. After taking into consideration the above mentioned portion of inquiry report, the officer concerned while passing the impugned order came to the conclusion that mere reference to documents handed over by Shri Lokesh Bansal and Mr. Tarun Jain without knowing the exporters does not constitute diligence which was required for verification of KYC documents.

4.7. The officer concerned in the impugned order came to the conclusion that it is evident that Customs Broker failed to act in accordance with their obligation as mentioned in Regulation 10(d) & 10 (n) of the Customs Broker Licensing Regulations, 2018 as they did not verify the address, or verified it and found it to be non-existing but did not report the same. It has been a serious lapse on part of the Customs brokers, which resulted in loss of revenue. Inquiry Officer has confirmed the contravention of said regulation by the CB. Thus, the CB has contravened the provisions of Regulations 10 (d) and 10 (n) of CBLR, 2018.

4.8. We agree with the conclusion arrived at by the Commissioner of Customs House (Kandala) as it is based on proper appreciation of facts of this case and relevant provisions of CBLR, 2018.

4.9. As far as the argument of the appellant that in the impugn Order-In-Original dated 29.11.2023 issued by the Additional Commissioner, NS-II, Nhava Sheva that he has given clean chit to the appellant. We are of the view that this argument of the appellant is not proper. It is pertinent to mention here that Additional Commissioner of Customs Nhava Sheva of Order-In-Original dated 29.11.2023 has observed as follows :-

> *"45. However, I find that Licensing Authority the Customs Broker Section has already initiated proceedings for violation of, Rule 11 of CBLR 2013 by the Customs Brokers. In the circumstances, when the inquiry has already been initiated by the Customs Broker Section, New Customs House, Mumbai for any violation of Regulation 11 of CBLR 2013against the Customs Brokers and since the alleged failure of the Customs Brokers in verifying the address of the exporters are issues which falls under the jurisdiction of CBLR, 2018, I refrain from recommending any action under Regulation 19 and 20 of CBLR, 2013 against the Customs Brokers. Even otherwise as an adjudicating authority under the Customs Act, 1962, I am not authorized to carry out an Inquiry and take any action under the CBLR, 2013 for which the appropriate authority is the Principal Commissioner/Commissioner (General)."*

4.10. Therefore, it is clear that the Additional Commissioner of Customs Nhava Sheva of Order-In-Original dated 29.11.2023 was not having jurisdiction to pass any order regarding violation of relevant provisions of CBLR, 2018 by the appellant. Therefore, if any observation was made by the Additional Commissioner of Customs Nhava Sheva of Order-In-Original dated 29.11.2023 regarding violation or non-violation of relevant provisions of CBLR it has no effect what so ever being without jurisdiction.

4.11. We are also of the view that the rulings cited by the learned Counsel for the appellant are not applicable in the present case because facts of those rules are entirely different from the facts of these case.

4.12. In view of the above observation we are of the view that impugned order has been passed by the officer concerned after proper analysis of the facts of the present case and after proper appreciation of the relevant provisions of CBLR and therefore, the impugned order is liable to be confirmed and the appeal appears to be without any merit and therefore, it is liable to be dismissed.

5. The appeal is consequently dismissed.

(Pronounced in the open court on 31.01.2025 *)*

(C L MAHAR)
MEMBER (TECHNICAL)

(DR. AJAYA KRISHNA VISHVESHA)
MEMBER (JUDICIAL)

Arpita