CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL AHMEDABAD
REGIONAL BENCH, COURT NO. 1

CUSTOMS APPEAL NO. 10562 OF 2022-SM

[Arising out of OIA-MUN-CUSTM-APP-187-21-22 dated 26.11.2021 passed by Commissioner of CUSTOMS-MUNDRA]

UNNATI CARGO **Appellant**

OFFICE NO.105 1ST FLOOR HONEYCOMB CFS ZONE
MUNDRA, GUJARAT

Vs.

Commissioner of Customs-MUNDRA **Respondent**

Office of the Principal Commissionerate of Customs,
Port User Buld. Custom House Mundra, Mundra
Kutch, Gujarat-370421

Appearance:

Shri Vikas Mehta, Consultant appeared for the appellant
Shri Rajesh K Agarwal, Superintendent (AR), appeared for the respondent

CORAM:
HON'BLE MR. SOMESH ARORA, MEMBER (JUDICIAL)

FINAL ORDER NO. 10871/2025

Date of Hearing: 30.10.2025
Date of Decision: 03.11.2025

SOMESH ARORA

1. In the instant case, the appellant who is Customs Broker is aggrieved by a penalty sustained to the extent of Rs.50,000/- though initially, the same was imposed and reduced from Rs.5,00,000/- under Section 112 (a) read with CBLR, 2018. No separate proceeding under CBLR,2018 however were initiated for breach of any obligations or regulations. Learned Commissioner (Appeals) found no positive evidence to show active involvement of the appellant in the import done by his client, therefore reduced penalty was imposed, by quoting Regulation 10 of the CBLR,2018 which required due diligence to ascertain the correctness of any information. Therefore, on the charge of lack of due diligence as per CBLR,2018 Commissioner (Appeals) imposed penalty of Rs.50,000/-.

2. Learned Advocate pleads that the order of Commissioner (Appeals) on the basis of giving findings under CBLR, 2018 is without jurisdiction, as only authority to decide and conclude disciplinary proceedings under CBLR, 2018

is administrative authority which is the Commissioner (General) or Regular Commissioner who is also the Licensing Authority and therefore, the disciplinary authority.

3. Learned AR reiterates the order and justifies penalty.

4. The Court has considered the rival submissions. It finds substance in the submission of learned Advocate and agrees that the jurisdiction to consider any breach under CBLR which is a sui-generis legislation is with the disciplinary authority i.e. the Commissioner who grants license. In the absence of any findings of such licensing Commissioner for proceedings under CBLR, 2018, the findings in the instant case suffer from infirmity, so far as, same are based on the provisions of CBLR,2018, for which no separate proceedings have ever been initiated by the licensing authority. Therefore, this Court finds that the finding in para 5.1 reproduced below suffer from infirmity and are base on absence of jurisdiction or are based on extraneously unfounded observations, as far as CBLR and its operation is concerned, same for ease of reference are reproduced below:-

> *"5.1 Now, it is fact that the appellant is a Customs Broker of the importer in the case involving import of Moulding Machines and other goods vide BE No.5666874/13.11.2019. It is also a fact the importer attempted to evade the customs duty by grossly undervaluing the goods and also attempted to evade the ADD. Since the appellant acted as a Customs Broker in a case involving mis-declaration, under-valuation and evasion of duties, and considering that a Customs Broker has certain obligations under regulation 10 of the CBLR, 2018, including the obligation that the Customs Broker shall exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo, the appellant cannot claim innocence and cannot remain unscathed. At the same time, however, as per the impugned order there is no positive evidence to show the active involvement of the appellant in the offence committed by the importer. In view of the above, I find merit in the appellant's submission that the quantum of penalty is too harsh against the Customs Broker (appellant). In view of the above, the penalty imposed on the appellant under section 112(a) of the Customs Act, 1962 is reduced to Rs.50,000/- (Rupees Fifty Thousand Only)."*

5. The penalty of Rs.50,000/- is therefore unsustainable and is set aside with consequential relief.

(*Pronounced in the open court on 03.11.2025*)

(SOMESH ARORA)
MEMBER (JUDICIAL)

Bharvi