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

REGIONAL BENCH- COURT NO. 2

CUSTOMS Appeal No. 11282 of 2025-DB

(Arising out of Order in Original No. 03-2025-26 dated 28/08/2025 passed by Commissioner of Customs-Kandla)

SAARTHEE SHIPPING CO **...... Appellant**
Plot No. 211. Ward No. 12/8,
Office No. 1 &Amp; 2, Second Floor,
Shah Avenue-1, Gandhidham 449-370201

VERSUS

COMMISSIONER OF CUSTOMS – KANDLA **......Respondent**
Office of the Commissioner of Customs,
Near Balaji Temple Kandla
Kachaa, Gujrat-370210

APPEARANCE:
Shri Hardik Modh with Ms. Shweta Garge, Advocates for the Appellant
Shri Girish Nair, Assistant Commissioner (AR) for the Respondent

CORAM:
HON'BLE DR. AJAYA KRISHNA VISHVESHA, MEMBER (JUDICIAL)
HON'BLE MR. SATENDRA VIKRAM SINGH, MEMBER (TECHNICAL)

Final Order No. 10176/2026

DATE OF HEARING:12.11.2025
DATE OF DECISION: 12.03.2026

SATENDRA VIKRAM SINGH

The present appeal bearing No. C/11282/2025 has been filed by M/s. Saarthee Shipping Co. against the order No. 3/2025-26 dated 28.08.2025 passed by the Commissioner Customs, Kandla.

1.1 The matter pertains to illegal import of Heroin in the garb of semi processed Talc stone by M/s. Vyom Fashion Surat (IEC No. CXBPP7317K) vide bill of entry No. 3160695 dated 16.03.2021 filed at Mundra Customs. The appellant was Customs Broker in the matter who processed import documents including filing of bill of entry for the consignment.

1.2 Based on certain inputs with the Customs department, the said container was picked up for scanning by the container scanning Division at Mundra port, which after scanning, red flagged the consignment with remarks "container mismatch". The said consignment was therefore marked for 100% examination and drawl of samples for testing. The examination report however mentioned- "opened and examined one package in the presence of CHA". The case was taken over by National Investigation Agency for investigation which recorded statements of various concerned persons including Shri Amit Bhardwaj proprietor of the appellant firm. On receipt of report from the vigilance department, proceedings were initiated against the appellant for revocation of Custom Broker's (CB) license under Customs Brokers Licensing Regulations (CBLR), 2018. Pending inquiry proceeding, the Commissioner of Customs, Kandla suspended the Broker's license under Regulation 16(1) of CBLR, 2018 vide order dated No. 01/2025 dated 29.07.2025 against which appeal is filed before the Tribunal.

2. The appellant filed miscellaneous application for grant of early hearing which was allowed vide order dated 30.09.2025. During regular hearing, learned Advocate pleaded that the department is already conducting enquiry for revocation of CB license and therefore, suspension of the same at this stage is unwarranted. This action of the department has affected livelihood of many persons and therefore, suspension should be revoked and in support, he cites the following case laws:-

- Perfect Cargo & Logistics V 2022 Commissioner of Customs (382) ELT 126641 (T)
- Airmasters Freight Services v. CC, CESTAT Mumbai- 2024 (12) TMI 170- CESTAT Mumbai
- M.K. Saha & Company V Commissioner of Customs (Airport and Administration), Kolkata 2021 (376) E.L.T. 534 (Tri. - Kolkata)
- BN Thakkar and Co Versus C.C. Kandla - 2019 (8) TMI 276 - CESTAT Ahmedabad
- Commissioner of Customs Versus National Shipping Agency (226) E.L.T. 46 (Bom.); 2008

- P Cawasji and Co. Versus Commissioner of Customs (Gen), Mumbai - 2018 (5) TMI 521 - CESTAT Mumbai
- Ratnadip Shipping Pvt. Ltd. Vs. Commr. of Cus. (General), Mumbai 2019 (370) E.L.T. 1765 (Tri. Mumbai)
- Shakti Cargo Movers v. CC- 2023 (9) TMI 1389- CESTAT New Delhi
- Thiru Rani Logistic Pvt. Ltd. Vs. Commr. of Cus., Chennai-VIII - 2019 (365) E.L.T. 856 (Mad.)
- Aradhya Export Import Consultants Pvt. Ltd. Versus Commissioner of Customs (Airport and General) 2024 (7) TMI 1174 - DELHI HIGH COURT

2.1 Relying on above decisions, he pleads that a sympathetic attitude needs to be taken against the appellant by setting aside the impugned order. He mentions that the department has alleged violation of Regulation 10(d), 10(e), 10(f) and 10(n) of CBLR, 2018 which do not hold ground in the light of facts of the case. He alleges that the principles of natural justice have not been followed while passing the order which also fails to show urgency requiring immediate suspension of CB Licence after almost four years of the incident. The order is also vitiated by delay and lapses. He therefore pleads for consideration of above grounds by this Tribunal for setting aside the suspension order.

3. Countering the arguments, learned AR mentions that the appellant has violated the provisions of CBLR 2018 as elaborated in the impugned order. After scanning said container by Scanning division at Mundra port, consignment was red flagged and it was marked for destuffing and 100% examination and drawl of samples for testing. The examination report however shows that only one package was opened and examined and the CHA who was present there neither insisted on 100% examination nor did he make arrangements by coordinating with the Port authorities for destuffing jumbo bags from the container for facilitating examination. He stated that the CHA failed to have due diligence before handling the work of the importer by filing

the documents with customs as M/s Vyom Fashion were engaged in trading of Textile and Textile articles. The appellant should have been more vigilant as this was the first import consignment of M/s. Vyom Fashion and that too, completely unrelated to their regular trade. Shri Rajiv Gauba, who contacted the appellant portraying himself to be the Accountant of the importing firm, did not produce any authorisation letter yet the appellant without verifying identity of the person, accepted the documents and filed KYC and Customs documents.

3.1 Learned AR relies on the decision of Hon'ble Supreme Court in the case of Commissioner of Customs V/s. K. M. Ganatra & Co reported at 2016 (332) ELT 15 (SC) which makes a reference to the decision of CEGAT West Zone Mumbai in the case of Noble Agency Vs. Commissioner of Customs, Mumbai 2002 (142) ELT 84 (Tri.-Mumbai) wherein it was held that:-

> *"The CHA occupies a very important position in the Customs House. The Customs procedures are complicated. The importers have to deal with a multiplicity of agencies viz. carriers, custodians like BPT as well as the Customs. The importer would find it impossible to clear his goods through these agencies without wasting valuable energy and time. The CHA is supposed to safeguard the interests of both the importers and the Customs. A lot of trust is kept in CHA by the importers/exporters as well as by the Government Agencies. To ensure appropriate discharge of such trust, the relevant regulations are framed. Regulation 14 of the CHA Licensing Regulations lists out obligations of the CHA. Any contravention of such obligations even without intent would be sufficient to invite upon the CHA the punishment listed in the Regulations...."*

3.2 He prays for upholding the order of the Commissioner and dismissing appeal of the appellant.

4. We have heard rival submissions. The appellant pleads to have done due diligence in the matter before filing KYC and the bill of entry in this case and that, they have not violated any of the Regulations alleged by Revenue. He further pleads that suspension order has been issued after more than four years of the import and thus, there was no immediate cause for taking this action. Countering the argument, learned AR stated that the matter involved

national security, illegal financial out flow and spread of drug menace in the country due to lapses by the appellant.

4.1 The case laws cited by the appellant deal with the issue concerning "immediate necessity" of suspension of CB licence. In referred cases, action to suspend CB licence was taken by the commissioner after lapse of a considerable time. It has been held that power of suspension is an emergent power to be used in those cases where it is required that CHA licence be immediately suspended. Therefore, during hearing, the Bench desired to see the investigation report in the matter and asked the Commissioner of Customs, Mundra to send the report through an officer in a sealed envelope which was received on 11.11.2025. We find that the report was forwarded by the Directorate General of Vigilance, Ahmedabad vide their letter dated 22nd July, 2025 for taking action against the Customs broker and others. On receipt of the said report, commissioner, Customs Kandla suspended licence of the Customs broker on 29th July, 2025 and thereafter, the said suspension order was confirmed vide impugned order dated 28.08.2025. Thus, there was no delay on the part of Commissioner as the matter was under investigation by National Investigation Agency who after completing investigation, have forwarded their report to CBIC for taking further action. We therefore, are of the view that case laws cited by the appellant are not relevant in this case. Accordingly, we dismiss the argument of the appellant regarding delay of more than 4 years in taking action to suspend the broker's licence.

4.2 Revenue has alleged contravention of Regulation 10(d),10(e),10(f) and 10(n) of the Custom Brokers Licencing Regulations (herein after referred to as CBLR), 2018. For reference, the said provisions are reproduced below:-

"Regulation 10(d)

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;

Regulation 10(e)

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 or baggage;

Regulation 10(f)

Not withhold information contained in any order, instruction or public notice relating to clearance of cargo or baggage issued by the Customs authorities, as the case may be, from a client who is entitled to such information;

Regulation 10(n)

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;"

4.3 It is the contention of the appellant that they have done due diligence in verifying IEC number and GST registration Number from the available data. They have also taken proper authorisation as well as bank account statement of the importer which made them believe about genuineness of the importing firm and therefore, they proceeded with filing of bill of entry for the consignment. On the basis of these averments and cited case laws, appellant pleads innocence and prays for setting aside the suspension order. We find that in this case KYC documents as well as authorisation letter of the importer was handed over to the appellant by one Shri Rajesh Gauba claiming himself to be the Accountant of M/s Vyom Fashion. The authorisation letter dated 15th March, 2021 provided by M/s Vyom Fashion is addressed to the Principal Commissioner of Customs but neither the same bears stamp of the customs office nor a copy was endorsed to the appellant. It nowhere, mentions that the importer is authorising Shri Rajesh Gauba to contact the Broker and handover documents to him on his behalf. The authorisation letter also mentions that appointment of CB is specific to and limited to carry out only the process of preparation of bill of entry/shipping bill on the basis of documents provided by us and to complete documenting formality for clearance of import/export goods from customs authorities. The documents produced by the appellant before the Learned Commissioner or during hearing before this Tribunal do not indicate that Shri Rajesh Gauba was accountant of the importer. The appellant thus, did not check genuineness of the person who was interacting with them on behalf of the importer and handed over KYC documents for processing and filing Bill of entry under the Customs Law. The very fact that M/s Vyom Fashion which were all along trading in Textile articles had suddenly imported a consignment of semi-process Talc stone, should have alerted the appellant to be more vigilant and cautious about genuineness of the importing firm.

4.4 We also find that the container in which consignment had arrived from Iran was scanned which resulted in mismatch and therefore, the said container was marked for 100% examination as per Public Notice No. 01/2018-19 dated 20.04.2018 issued by Mundra Customs. This public notice reads as " *The Importers, Exporters, General Trade, Port Terminal Operators, Shipping Lines / Shipping Agents, Container Freight Stations coming under the jurisdiction of Mundra Custom House, Vessel operators/ Non vessel Operating Common Carriers/ Inland Container Depots and all other stakeholders concerned are hereby informed that Mobile Gamma Radiographic Container Scanning Facility and Drivethrough X-Ray Based Container Scanner Facility is to be launched shortly at Mundra Port and scanning of selected import containers will commence. The effective date of commencement of container scanning facility will be intimated shortly.*" The relevant para 5.2(b) of the above public notice is reproduced below: -

> ***"5.2(b)*** *If the image of the scanned container is found to be SUSPICIOUS, then the "SCANNED MISMATCH" in RED INK shall be affixed on the reverse of the EIR document. Thereafter, such containers will be moved for 100% examination by the Docks Examination Officers at the CFS."*

Thus, the appellant (Custom Broker) was having full knowledge that the said container was marked for 100% examination whereas examination report as available in the system shows that only 1 bag was examined and sample was drawn. The appellant who was present during examination, should have ensured compliance of examination instructions which he had violated inspite of existence of above Public Notice. We therefore, are of the view that the appellant failed to exercise due diligence in this case in verifying genuineness of the person dealing with them on behalf of the importer and then again, during examination process where only one bag was opened and examined inspite of instruction to have 100% examination and drawl of samples. The investigation suggests that not only in this consignment but in several other consignments imported during that period, huge quantity of Narcotic drugs (approx. 2988kg of Heroin) have been smuggled into India having adverse impact not only on foreign exchange outflow and national security but also on millions of Indian youths.

4.5 As discussed above, the present case also relates to smuggling of Narcotic drugs into India which not only compromises national security but also ruins future of lakhs of Indian youth. We find that while dealing with similar issue, CESTAT New Delhi in the case of Paramount cargo & Logistics Solutions reported at 2023(385) ELT 767 (Trib.) observed that the role of the Customs Broker is of great responsibility in the customs operations and it is for this reason, a licence is issued only after conducting an examination and after necessary background verification. All that is required of the customs broker is to fulfil its obligations under CBLR, 2018. Similar observations were made by CEGAT West zone Mumbai in the case of Noble Agency and referred to by Hon'ble Apex Court in the case of KM Ganatra & Co (cited supra) as mentioned in para 3.1 above.

4.6 Considering above facts, we are of the view that the impugned order of the Commissioner suspending customs brokers licence does not require interference at this stage when detailed inquiry against the appellant is already underway. We are however conscious of the fact that suspension of CB licence is affecting livelihood of it's employees, therefore, we direct the concerned Commissioner to strictly adhere to the timelines provided under CBLR, 2018 for completing the inquiry proceeding and passing of final order in the matter. With these directions, we dismiss the appeal and uphold the impugned order. No observations made by us shall influence inquiry in the matter, as these are based on the prima facie findings in this suspension matter.

5. Appeal dismissed.

(Pronounced in the open court on 12.03.2026)

(DR. AJAYA KRISHNA VISHVESHA)
MEMBER (JUDICIAL)

(SATENDRA VIKRAM SINGH)
MEMBER (TECHNICAL)

Raksha