

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 21972 of 2018

(Arising out of Order-in-Original No. BLR-CUSTOM-000-COM-004-18-19 dated 20.11.2018 passed by the Commissioner of Customs, Bangalore)

Shri Manjunatha Cargo Pvt., Ltd.

#416, Pai Layout, 14 C Cross,
1st Main Road, Old Madras Road,
Bangalore – 560 016

.....Appellant

VERSUS

**Commissioner of Customs
Bangalore**

C.R. Building, Queens Road,
P.B. No. 5400,
Bangalore – 560 001

.....Respondent

Appearance:

Mr. G.B. Eswarappa, Advocate for the Appellant
Mr. Maneesh Akhouri, Assistant Commissioner (AR) for Respondent

Coram:

Hon'ble Dr. D.M. Misra, Member (Judicial)

Hon'ble Mr. Pullela Nageswara Rao, Member (Technical)

Final Order No. 20540 /2025

Date of Hearing: 21.03.2025

Date of Decision: 30.04.2025

Per: Pullela Nageswara Rao

M/s. Manjunath Cargo Pvt., Ltd., Appellant is a Customs Broker holding the Customs Broker license issued by Commissioner of Customs, Bangalore.

2. The brief facts of the case are the appellant filed a Bill of Entry No. 3949531 dated 10.11.2017 on behalf of M/s. Mahi Enterprises, importer at Customs House, Chennai for clearance of goods declared as '100% Cotton Woven Plain Fabric, width

44/45 inch". On a reasonable doubt of mis-declaration of goods, Special Intelligence and Investigation Branch (SIIB), Chennai detained the container and subjected it to 100% examination and found cargo weighing 13,996 Kgs in excess of the assessment weight of 1,700 Kgs. Accordingly, proceedings were initiated separately against the Importer and the Appellant-Customs Broker. During investigation, the statements of Mr. T. Raja, Director of the Customs Broker, Bangalore, Mr. Ramesh and Mr. R. Anand working in the Customs Brokers' office at Chennai were recorded. The Commissioner of Customs, Chennai issued a prohibition order to Customs Broker on 09.02.2018, thereafter the Customs Broker License was suspended on 27.03.2018, the Custom Broker filed a Writ Petition before the Hon'ble High Court of Karnataka and obtained orders staying operation of prohibition dated 28.04.2018. The suspension order of the Customs Broker license was revoked on 05.06.2018. Thereafter the proceedings under CBLR, 2018 were initiated by issue of show cause notice dated 07.06.2018.

3. In the inquiry conducted under Regulation 17 of CBLR, 2018 it was concluded that; failure to obtain authorization and to comply with Regulation 10(a) cannot be sustained; allegation of violation of Regulation 10(d) sustains on the finding that Mr. T. Raja, Director of the Customs Broker did not know Mr. Anand, who works for his company in Chennai and therefore, they were in no position to advise their client regarding provisions of Customs law; allegation of violation of Regulation 10(n) sustains on the finding that there was no effort on the part of Customs Broker to verify the antecedents of the importer. On adjudication the adjudicating authority dropped the proposal for revocation of Customs Broker's license, however ordered forfeiture of security deposit and imposed penalty of Rs. 50,000/- under Regulation 14 read with Regulation 17 of CBLR, 2018 on the findings that the charges of violation of Regulations 10(d) and 10(n) of CBLR, 2018 have been proved.

Aggrieved by the impugned order of the Commissioner, the appellant filed this appeal before the Tribunal.

4. The learned counsel during the hearing submits that the order of the adjudicating authority is not proper, not justified and not speaking for the following reasons; deposition of Customs Broker during inquiry on 25.07.2018 to the effect that person responsible for filing Bill of Entry at Chennai was on leave resulting in their Bangalore office to file the Bill of Entry and at the same time, they have advised the importer orally about requirements of compliance of the Customs Act, 1962, Rules and Procedures and this suggests compliance of Regulation 10(d); the third allegation is regarding the verification of antecedents etc., in terms of regulation 10(n), the Inquiry Officer has split Regulation 10(n) into two parts, one of verification and the other of ascertaining antecedents of the client, the Inquiry Officer at Para 11.3 held that he found no reason to dispute the first part of verification that is of obtaining KYC. However, the Inquiry Officer with regard to ascertaining of the antecedents of the client, he has examined the registration certificate given by the Commercial Tax Department according to which the appellant was to trade in gift articles and toys, relying upon the registration certificate of the Commercial Tax Department to draw inference which was not there in the notice to provide the appellant an opportunity to meet it effectively and meaningfully is not proper, in the inquiry report it was stated that the appellant should have confronted the Importer in the line suggested by the Inquiry Officer which amounts to inquiry and investigation of the Importer by the appellant, this power is vested in the statutory authorities and not with the Appellant-Broker Company. The learned counsel submitted that the findings of the Inquiry Officer relating to the second part of verification of the antecedents of the client was based on wrong premises and therefore, the same is not sustainable. Therefore, the Appellant-Customs Broker has complied with the provisions

of Regulation 10(d) and 10(n) of CBLR, 2018 and hence, the impugned order is not sustainable.

5. Further the learned counsel has relied on the following case-laws in support of their submissions.

(i) (2025) 27 Centax 368 (Tri.-Cal) - Iww Logistics Pvt. Ltd. Vs. Principal Commissioner of Customs (Airport & Acc.), Kolkata,

(ii) (2024) 17 Centax 3 (Tri.-Bom) - H2O Logistics Vs. Principal Commissioner of Customs (General), wherein it is held as under:

*"6.3. From the above, we find that appellants have duly filed the bill of entry as per the documents given by the importer and they were not aware of the mis-declaration of value of the goods. As there is no specific brand name of the imported goods, nothing was mentioned and it could not be said that 'unbranded' needs to be mentioned. In the instant case the mis-declaration was found by the department after physical examination and market inquiry of the goods, and hence the appellants CB cannot be found fault that he did not advise his client to comply with the provisions of the Act. Further, as such mis-declaration was not known to the appellants CB, and when they had specifically sought for examination of the goods under First Check basis, the non-compliance by the importer of declaring the correct value of the goods, could not have been brought to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs by the appellants, as the Appraising group itself got a reasonable belief of incorrect value only after examination of goods and perusal of samples. Thus, we are of the considered view that the violation of Regulation 10(d) *ibid*, as concluded in the impugned order is not sustainable."*

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6.7. We find that CBIC had issued instructions in implementing the KYC norms for verification of identity, existence of the importer/exporter by Customs Broker in Circular No. 9/2010-Customs dated 08.04.2010, the extract of the relevant paragraph is as given below:

"(iv) Know Your Customer (KYC) norms for identification of clients by CHAs:

6. In the context of increasing number of offences involving various modus-operandi such as misuse of export promotion schemes, fraudulent availment of export incentives and duty evasion by bogus IEC holders etc., it has been decided by the Board to put in place the "Know Your Customer (KYC)" guidelines for CHAs so that they are not used intentionally or unintentionally by importers/ exporters who indulge in fraudulent activities. Accordingly, Regulation 13 of CHALR, 2004, has been suitably amended to provide those certain obligations on the CHAs to verify the antecedent, correctness of Import Export Code (IEC) Number, identity of his client and the functioning of his client in the declared address by using reliable, independent, authentic documents, data or information. In this regard, a detailed guideline on the list of documents to be verified and obtained from the client/customer is enclosed in the Annexure. It would also be obligatory for the client/customer to furnish to the CHA, a photograph of himself/herself in the case of an individual and those of the authorised signatory in respect of other forms of organizations such as company/trusts etc., and any two of the listed documents in the annexure.

No.	Form of organisation	Features to be verified	Documents to be obtained
1	Individual	(i) Legal name and any other names used (ii) Present and Permanent address, in full, complete and correct.	(i) Passport (ii) PAN card (iii) Voter's Identity card (iv) Driving licence (v) Bank account statement (vi) Ration card Note : Any two of the documents listed above, which provides client/customer information to the satisfaction of the CHA will suffice."

6.8. We find that in the case of *M/s Perfect Cargo & Logistics Vs. Commissioner of Customs (Airport & General)*, New Delhi 2021 (376) E.L.T. 649 (Tri. - Del.), the Tribunal had decided the issue of KYC verification of the importer/exporter by the Customs broker and the requirements specified in the CBLR, 2018.

"34. The basic requirement of Regulation 10(n) is that the Customs Broker should verify the identity of the client and functioning of the client at the declared address by using, reliable, independent, authentic documents, data or information. For this purpose, a detailed guideline on the list of documents to be verified and obtained from the client is contained in the Annexure to the Circular dated April 8, 2010. It has also been mentioned in the aforesaid Circular that any of the two listed documents in the Annexure would suffice. The Commissioner noticed in the impugned order that any two documents could be obtained. The appellant had submitted two documents and this fact has also been stated in paragraph 27(a) of the order. It was

obligatory on the part of the Commissioner to have mentioned the documents and discussed the same but all that has been stated in the impugned order is that having gone through the submissions of the Customs Broker, it is found that there is no force in the submissions. The finding recorded by the Commissioner that the required documents were not submitted is, therefore, factually incorrect.

35. The Commissioner, therefore, committed an error in holding that the appellant failed to ensure due compliance of the provisions of Regulation 10(n) of the Licensing Regulations."

Further, we also find that the Hon'ble High Court of Delhi has held in the case of Kunal Travels (Cargo) Vs. Commissioner of Customs (I&G), IGI Airport, New Delhi reported in 2017 (354) E.L.T. 447 (Del.), the appellants CB is not an officer of Customs who would have an expertise to identify over valuation or under valuation of goods. The relevant portion of the said judgement is extracted below:

"The CHA is not an inspector to weigh the genuineness of the transaction. It is a processing agent of documents with respect to clearance of goods through customs house and in that process only such authorized personnel of the CHA can enter the customs house area..... It would be far too onerous to expect the CHA to inquire into and verify the genuineness of the IE Code given to it by a client for each import/export transaction. When such code is mentioned, there is a presumption that an appropriate background check in this regard i.e. KYC etc. would have been done by the customs authorities."

(iii) (2024) 23 Centax 408 (Tri.-Del) - Selected Cargo Services Pvt. Ltd. Vs. Commissioner of Customs (Airport & General), New Delhi, wherein it is held as under:

"23. According to the learned counsel for the appellant, it is a well-settled legal position that the Customs Broker need not physically go to the premises of the client to see if he is operating from the address. It is sufficient if this verification is done using reliable, independent, authentic, documents, data or information. The appellant had obtained all the KYC documents including the GSTIN and IEC which showed that the exporter was operating at that address and it believed so and proceeded to file the Shipping Bills.

.....

25. As has been decided in several orders, Regulation 10(n), verification of the client operating from the address can be done by the Customs Broker through independent and authentic documents, data or information. The importer exporter code (IEC) issued by the Director General of Foreign Trade and the GSTIN issued by the GST department both qualify as authentic documents. They are deemed to be reliable because they are issued by Government officers. Since the officers are not expected to have any bias, they are also independent documents. It is reasonable for the Customs Broker to trust that these documents have been correctly issued by the officers and proceed accordingly.

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28. We find that if the appellant was guilty of trusting the address given in the IEC when filing the Shipping Bills, so is the Additional Commissioner who

sent his order (which forms the offence report in this case) to that very address. We have no hesitation in concluding that there is no evidence whatsoever that the appellant had violated Regulation 10(n)."

6. The learned counsel submits that applying the ratio of the above decisions it is evident that there is no breach of Regulations 10(d) and 10(n) by the Appellant.

7. The learned Authorized Representative for the Revenue reiterated the findings in the impugned order and also submitted that the appellant has committed such violations in the past.

8. Heard both sides and perused the records.

9. In this regard Regulation 10 of Customs Broker Licensing Regulations, 2018 is extracted below;

"10. Obligations of Customs Broker. - A Customs Broker shall-

(a) obtain an authorisation from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Broker and produce such authorisation whenever required by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

.....

(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;

.....

(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;"

10. We find that in this case the Adjudicating authority has forfeited the security deposit in whole under Regulation 14 and imposed penalty under Regulation 18 of CBLR, 2018. The provisions of Regulation 14 and 18 of CBLR, 2018 are extracted below:

Customs Broker Licensing Regulations, 2018

*"14. Revocation of licence or imposition of penalty - The Principal Commissioner or Commissioner of Customs may, subject to the provisions of regulation 17, revoke the license of a Customs Broker and order for **forfeiture of part or whole of security**, on any of the following grounds, namely:-*

(a) failure to comply with any of the conditions of the bond executed by him under regulation 8;

(b) failure to comply with any of the provisions of these regulations, within his jurisdiction or anywhere else;

(c) commits any misconduct, whether within his jurisdiction or anywhere else which in the opinion of the Principal Commissioner or Commissioner of Customs renders him unfit to transact any business in the Customs Station;

(d) adjudicated as an insolvent;

(e) of unsound mind; and

(f) convicted by a competent court for an offence involving moral turpitude or otherwise.

.....

"18. Penalty.- (1) The Principal Commissioner or Commissioner of Customs may impose penalty not exceeding fifty thousand rupees on a Customs Broker or F card holder who contravenes any provisions of these regulations or who fails to comply with any provision of these regulations."

(2) The Deputy Commissioner or an Assistant Commissioner of Customs may impose penalty not exceeding ten thousand rupees on a G card holder who contravenes any provisions of these regulations in connection with the proceedings against the Customs Broker.

(3) The imposition of penalty or any action taken under these regulations shall be without prejudice to the action that may be taken against the Customs Broker or F card holder or G card holder under the provisions of the Customs Act, 1962 (52 of 1962) or any other law for the time being in force.

11. In this case the adjudicating authority has held that the violations of Regulations 10(d) and 10(n) CBLR, 2018 have been proved for the reason that the Director of the Custom Broker was not aware of their employee working in Chennai, hence they were in no position to advise their client regarding provisions of Customs law. Further, there was no effort on the part of Customs Broker to verify the antecedents of the importer, hence violated Regulation 10(n) of the CBLR.

12. We find that in this case the Appellant-Custom Broker has filed the bill of entry, on investigation it was found that the quantity found is much in excess than what was declared. Therefore, we find that there was an attempt to mis-declare the weight to evade customs duty. Investigations also revealed that the consignment belongs to Mr. Gulab and the Import Export Code (IEC) of M/s. Mahi Enterprises has been used for the

purpose of clearance of the imported goods. Investigations revealed that the employee of the Appellant-Customs broker had met the actual importer and did not inform the Customs about the actual importer about whom they had knowledge.

13. In view of the fact that the bill of entry for the imports made at Chennai Customs was filed by their Bangalore office, the Custom Broker ought to have taken additional care to inform the importer about the Customs law and procedures and also ought to have exercised due diligence in such a case. Therefore, in the facts of the case we find that the Customs Broker has failed to advise the importer about the Customs law and procedures and exercise due diligence in verification of the antecedents of the importer and thereby violated Regulations 10(d) and 10(n) of CBLR, 2018.

14. We find that the penalty of forfeiture of the security deposit in whole and imposition of penalty of Rs. 50,000/- in the facts and circumstances of the case, can be considered for reduction. Accordingly, the forfeiture of security deposit under Regulation 14 of CBLR, 2018 is reduced to 15% of the security deposit amount and the penalty under Regulation 18 of CBLR, 2018 is reduced to Rs. 10,000/-.

15. Accordingly, the impugned order is set aside, and the appeal is allowed in the above terms with consequential relief, if any, as per law.

(Order pronounced in open court on 30.04.2025)

(D.M. MISRA)
MEMBER (JUDICIAL)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

pr/iss...