CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL BANGALORE

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 20124 of 2019

[Arising out of Order-in-Original No. COC-CUSTOMS-OOO-COM-33/18-19 dated 30.10.2018 passed by the Commissioner of Customs, Cochin]

M/s. Chakiat Agencies
Subramanian Road
P.O. Box No. 525
Willingdon Island
Cochin – 682 003 ....**Appellant(s)**

VERSUS

Commissioner of Customs, Cochin
Willingdon Island,
Cochin – 682 009
Customs House ....**Respondent(s)**

Appearance:

Mr. S. Sankaravadivelu, Advocate for the Appellant
Mr. Maneesh Akhoury, Asst. Commissioner (AR) for the Respondent

CORAM:
Hon'ble Dr. D.M. Misra, Member (Judicial)
Hon'ble Mr. Pullela Nageswara Rao, Member(Technical)

<u>Final Order No. 21331 / 2025</u>

Date of Hearing: 20.06.2025
Date of Decision: 28.08.2025

Per: Pullela Nageswara Rao

This appeal is filed against the Order-in-Original No. COC-CUSTOMS-000-COM-33-18-19 dated 30.10.2018 passed by the Commissioner of Customs, Cochin.

2. The brief facts are M/s. Chakiat Agencies the appellant is a holder of Customs Broker License issued by Custom House,

Chennai. The appellants were issued a show-cause notice dated 24.05.2018 on the grounds that they have not complied with the requirements of Regulation 11(a), Regulation 11(n) and Regulation 17(9) of the Customs Broker Licensing Regulation (CBLR), 2013 with respect to handling of shipping bills on behalf of M/s. Logo Trading through ICD, Bangalore, proposing as to why the Custom Broker License should not be revoked under Regulation 18; security deposit should not be forfeited partly or wholly or a penalty imposed under Regulation 18; and penalty not exceeding Rs. 50,000 should not be imposed under Regulation 18 of CBLR, 2013. The appellant in reply to the show-cause notice submitted that in the action taken against another Custom House Broker M/s. Cargo Care International there was no averments against the appellants as there is no offence committed and no availment of fraudulent drawback in the 22 (twenty two) shipping bills handled by the appellant; the KYC norms were verified as per CBEC Circular No. 09/2010 dated 08.04.2010 and there is no requirement as per the Circular that the appellants were to physically verify the existence of the company as held in catena of case-laws; the fraudulent availment of drawback was in respect of the export shipments of leather goods to Malayasia which were handled by another Customs Broker and not related to export of garments to Hong Kong handled by the appellant; the appellant has obtained the authorization as per the requirements of Regulation 11(a) of CBLR, 2013; they have verified the antecedents of the exports using reliable, independent authentic documents etc., and there is no violation of provisions of sub-regulation 11(n) of CBLR, 2013; there was no commission or omission on the part of the employee which led to fraudulent availment of drawback and hence there is no violation of sub-regulation 17(9) of CBLR, 2013.

3. The enquiry officer appointed in this regard in his report which was sent to the appellant by the Commissioner of Customs

vide letter dated 06.09.2018 inferred that the appellant has complied with requirements of Regulation 11(a), 11(n) and 17(9) of CBLR, 2013. The learned Commissioner accepted the findings of the enquiry officer with respect to Regulation 11(a) and 17(9), however, he has held that appellants have violated Regulation 11(n) of CBLR, 2013 as they failed to physically verify the existence of the exporters in the declared premises and imposed a penalty of Rs. 50000/- on the Appellant-Custom Broker under Regulation 18 of CBLR, 2013. Aggrieved by the impugned order this appeal is filed before the Tribunal.

4. The learned Advocate during the hearing submits that there was no fraudulent availment of drawback by M/s. Logo Trading in the export of garments exported under 22(twenty five) shipping bills handled by them; there is nothing on record to show that the appellants were involved in the attempted/ availment of fraudulent drawback by the exporter M/s. Logo Trading; the appellants have verified the requirements of KYC norms as per Circular No. 09/2010 dated 08.04.2010 and there is no requirement that the appellants were to cause physical verification of the existence of the exporter at the furnished addresses and in this regard, he has relied on the following case-laws:

i. *Setwin Shipping Agency Vs. Commissioner of Customs (General), Mumbai [2010 (250) E.L.T. 141 (Tri.-Mumbai)]*
ii. *Him Logistics Pvt. Ltd. Vs. Commissioner of Customs, New Delhi [2016 (338) E.L.T. 725 (Tri.-Del.)]*
iii. *Commissioner of Customs Vs. Him Logistics Pvt. Ltd. [2017 (348) E.L.T. 625 (Del.)]*
iv. *M/s. Bright Clearing & Carrier Pvt. Limited Vs. Commissioner of Customs (Airport and General), New Delhi vide Final Order No. 51083-51084/2022 dated 18.11.2022*

v. *M/s. Akanksha Global Logistics Pvt. Ltd. Vs. Commissioner of Customs, New Delhi vide Final Order No. 50377/2025 dated 07.03.2025*

5. In view of the above averments, the learned Counsel submits that the penalty imposed of Rs. 50,000/- may be set aside.

6. The learned Authorized Representative (AR) of the Revenue reiterated the findings in the impugned order. During the hearing he has submitted that the Appellant-Custom Broker was involved in other cases in the past.

7. Heard both sides and perused the records.

8. We find that the learned Commissioner in his findings has observed that during the enquiry, the Appellant-Customs Broker produced the authorization obtained from the exporter and also submitted that they have done KYC verification by verifying the documents viz. photo, IEC, Passport, PAN, Voter Id etc. and they also verified the IEC of the exporter with the website of DGFT and it was found to be correct. Further the learned Commissioner observed that the Customs Broker has an authorization from the exporters to act as authorized Customs Broker. However, the Commissioner held that the appellant violated the provisions of Regulation 11(n) of CBLR, 2013 inasmuch as the appellant did not verify that their client works from the declared address using reliable, independent and authentic documents, data or information even though the appellant had verified the correctness of IEC of the exporter, there is nothing to show that appellant has taken any effort to verify the declared address which amounted to violation of Regulation 11(n) and therefore, liable for action under provisions of CBLR, 2013. Further the adjudicating authority held that though the major allegation in the case of DRI was that of fraudulent availment of drawback by exporting waste / torn / inferior quality leather goods by declaring them as genuine leather goods. However, in those 10(ten) shipping bills

filed by M/s. Logo Trading, the appellant was not the Customs Broker and they were filed by another Customs Broker M/s. Anvar Exim Pvt., Ltd. M/s. Chakiat Agencies-appellant filed 6(six) shipping bills dated 15.10.2015 and another 16(sixteen) shipping bills dated 17.10.2015 on behalf of M/s. Logo Trading for export of 100% polyester woven tops, skirts, etc. The DRI follow up report dated 15.03.2017 did not mention any fraudulent availment of drawback by exporter M/s. Logo Trading in the year 2015 when the appellant had filed the shipping bills on their behalf. Further he held that none of the reports of DRI have given any details of alleged involvement of the appellant or its employee in the fraud.

9. We find that the adjudicating authority has only held that the appellant has violated Regulation 11(n) which has been proved since the appellant has not taken any effort to verify the declared address of the exporter i.e., M/s. Logo Trading. Further the adjudicating authority has held that since the investigation and the enquiry conducted did not find that the Appellant-Customs Broker had abetted any mis-declaration or benefited from this act and he has taken a lenient view and imposed penalty of Rs. 50,000/- under the provisions of Regulation 18 for violation of Regulation 11(n) of CBLR, 2013.

10. We find that in this case the Appellant- Customs Broker was imposed with penalty of Rs. 50,000/- for violation of Regulation 11(n) and the learned Advocate has cited case-laws mentioned (supra) wherein physical verification of the declared address of the exporter/importer is not required and the KYC norms verification through the documents viz. photo, IEC, Passport, PAN, Voter Id etc., would suffice the requirement of compliance of Regulation 11(n) of CBLR, 2013. Further we find that the adjudicating authority has also held that the Appellant-Customs Broker was not found involved in the export of leather goods for availment of fraudulent draw back. We find that the adjudicating authority has imposed penalty of Rs 50,000/- for

violation of Regulation 11(n) of CBLR, 2013 as the appellant has not verified the exporter's declared premises.

11. We find that since the appellant Customs Broker was not found to be involved in the fraudulent export of inferior leather goods to claim fraudulent drawback, the fact that he had handled exports of M/s. Logo Trading in the year 2015 cannot be a reason for imposition of penalty on the appellant.

12. In view of the above discussion, we find that imposition of penalty of Rs. 50,000/- under Regulation 18 of CBLR, 2013 is not proper and tenable. Hence, the impugned order is liable to be set aside.

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

(Order pronounced in open court on 28.08.2025)

(D.M. Misra)
Member (Judicial)

(Pullela Nageswara Rao)
Member (Technical)

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