CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
<u>CHENNAI</u>

REGIONAL BENCH – COURT No. III

Customs Appeal No. 40954 of 2025
with
Customs Miscellaneous (Stay) Application No. 40858 of 2025

(Arising out of Order No. 11/2025 dated 01.07.2025 passed by Commissioner of Customs (General), No. 60, Custom House, Rajaji Salai, Chennai – 600 001)

M/s. V-Unit **...Appellant**
No. 123/77, MM Tower,
B-4, 2nd Floor,
East Mada Church Road,
Royapuram,
Chennai – 600 013.

Versus

Commissioner of Customs **...Respondent**
Chennai VIII Commissionerate,
No. 60, Custom House,
Rajaji Salai,
Chennai – 600 001.

<u>APPEARANCE:</u>

For the Appellant : Mr. N. Viswanathan, Advocate
For the Respondent : Ms. Rajini Menon, Authorised Representative

<u>CORAM:</u>
HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

<u>FINAL ORDER No. 40138 / 2026</u>

DATE OF HEARING : 28.10.2025
DATE OF DECISION : 23.01.2026

Per Mr. VASA SESHAGIRI RAO

This is an appeal filed by M/s. V Unit, Chennai (hereinafter referred to as the Appellant) to assail the Order No. 11/2025 dated 01.07.2025 (impugned order) passed by the Commissioner of Customs (General), Chennai Customs Zone, Chennai (hereinafter referred to as the Respondent).

2. The Appellant was issued Customs Broker Licence No. R-538/2019-CBS by Commissioner of Customs, Chennai under Regulation 7(2)(b) of Customs Broker Licensing Regulations, 2018 (hereinafter referred to as CBLR).

3. *Vide* Order No. 23/2025 dated 12.06.2025, the licence of the Appellant was suspended by the Respondent upon receipt of offence report in the form of Order-in-Original against the Appellant in following two different cases: -

i. Order-in-Original No. 104579/2023 dated 07.02.2024 which was received by the Respondent on 28.04.2025 from Import Commissionerate, Chennai Customs Zone, wherein the Adjudicating Authority has imposed a penalty of Rs. 2,00,000/- (Rupees Two Lakhs only) under Section 117 of the Customs Act, 1962 on Shri M. Vinoth, partner in the Appellant firm.

ii. Order-in-Original No. 106410/2024 dated 24.04.2024 which was received by the Respondent on 16.05.2025 from Import Commissionerate, Chennai Customs Zone, wherein the Adjudicating Authority has imposed a penalty of Rs. 10,00,000/- (Rupees Ten Lakhs only) under Section 114AA of the Customs Act, 1962 on Shri M. Vinoth, partner in the Appellant firm.

4. The role of Appellant in the First Case (O-in-O No. 104579/2023 dated 07.02.2024) has been detailed out by the Respondent in paras 4.1 and 4.2 of the order of suspension dated 12.06.2025 as follows: -

> *"4.1 It appears from depositions of Shri M. Vinoth, partner of M/s. V Unit, Chennai (CB) that CB generate check-list for filing bills of entry and after approval of the importer, he files bill of entry with customs; he had been associated with Shri Anwar Sadath and Shri Moosa and in earlier occasions also cleared consignments of 'Areca Nuts in split form' by declaring the same as " UNFLAVOURED SUPARI (BETEL NUT PRODUCT)"; that as per the instructions of Shri Moosa, Manager and Shri Anwar Sadath, owner of M/s. Surya Oil Exporters, he filed bills of entry by mentioning description of the imported product wrongly as 'Inflavoured Supari (Betel NUT Product), so as to avail the facility of exemption under Notification NO.50/2017-CUs (Sl.No.103); that he admitted that the imported product under the previous 5 bills of entry was 'Areca Nut in split form' without any processing and any additives or ingredients; and that he has gone through the Mahazar dated 05.04.2022 drawn at ECCT CFS, Chennai and agreed with the contents recorded therein and also admitted that as per the photographs taken at the time of mahazar proceedings dated 05.04.2022, the imported products were nothing but 'Areca Nut in split form' and appear to be not processed and did not contain any additives and ingredients.*
>
> *4.2 Thus, it appears from the above that Shri M Vinoth, partner of M/s. V Unit, Chennai (CB) knowingly and intentionally caused M/S SURYA OIL EXPORTERS to file bills of entry with wrong description and classification of imported goods, abetted and facilitated M/S SURYA OIL EXPORTERS to fraudulently avail the benefit of Notification No.50/2017-Cus dated 30.06.2017 (Sl.No.103) and to evade payment of appropriate customs duty and also to circumvent the prohibition imposed by the Government of India on the import of Areca Nuts below the specific value, as per the Directorate of Foreign Trade (DGFT) Notification No.20/2015-2020 dated 25.07.2018. Thereby it appears that the CB i.e M/s V-Unit, Chennai being in the business*

> *of Customs Broker, have not caused any verification of the actual description of imported goods and its correct classification under Customs Tariff Act, 1975 and not exercised due diligence in ascertaining the classification details while representing M/S SURYA OIL EXPORTERS for filing bills of entry and has failed to discharge their duty as a Customs Broker."*

5. Appellant's contraventions of CBLR, 2018 in the First Case (O-in-O No. 104579/2023 dated 07.02.2024) have been narrated by the Respondent in paras 16 and 16.1 of the order of suspension dated 12.06.2025 as follows: -

> *"16. Violations made by the Customs Broker in r/o CBLR, 2018 in First Case (O-in-O No.104579/ 2023 dated 07.02.2024)*
>
> *The Customs Broker i.e M/s V-Unit, Chennai prima facie appears to have violated the following regulations of Customs Broker Licensing Regulations CBLR, 2018:*
>
> *i. Regulation 10(a) mandates the CB to obtain authorization letter from the Exporter/Importer at the time of filing of Bill of Entry. In the instance Case, Shri M. Vinoth, partner of M/s. V Unit, Chennai (CB) vide his Voluntary Statement dated 04.05.2022 inter alia stated that Shri Moosa, Manager and Shri Anwar Sadath, owner of M/s. Surya Oil Exporters, orally instructed him to file bills of entry by mentioning description of the imported product wrongly as 'Unflavoured Supari (Betel Nut Product), so as to avail the facility of exemption under Notification No.50/2017-Cus (Sl.No. 103). During investigation it was revealed that CB generated check-list for filing bills of entry and after approval of the importer, he filed bill of entry with customs. Hence, the CB prima facie failed to comply with Regulation 10(a) of CBLR, 2018.*
>
> *ii. Regulation 10(d) mandates that the CB 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; But in the instant Case, it appears that the CB knowingly and intentionally caused M/s. SURYA OIL EXPORTERS to file bills of entry with wrong description and classification of imported goods, abetted and facilitated M/S SURYA OIL EXPORTERS to fraudulently avail the benefit of Notification No.50/2017-Cus dated 30.06.2017 (Sl.No. 103) and to evade payment of appropriate customs duty and also to*

circumvent the prohibition imposed by the Government of India on the import of Areca Nuts below the specific value, as per the Directorate of Foreign Trade (DGFT) Notification No.20/2015-2020 dated 25.07.2018. Hence, the CB prima facie failed to comply with Regulation 10(d) of CBLR, 2018.

(iii) Regulation 10(e) mandates that the CB 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 or baggage; However, in the instant Case it appears that CB failed to impart the information to the importer regarding correct classification of imported goods, inapplicability of Notification No.50/2017-Cus dated 20.06.2017 (Sl.No. 103). The CB also failed to impart the information about the prohibition imposed by the Government of India on the import of Areca Nuts below the specific value, as per the Directorate of Foreign Trade (DGFT) Notification No.20/2015-2020 dated 25.07.2018. Hence, the CB prima facie failed to comply with Regulation 10(d) of CBLR, 2018.

iv. Regulation 10(f) mandates the CB shall 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; However, in the instant Case the CB appears to have wilfully suppressed the fact of actual classification of imported goods (Areca Nut in split form) under CTH No. 08028000, and also made deliberate wrong declaration of classification of goods under CTH No. 21069030, so as to wrongly avail the benefit of Notification No.50/2017-Cus dated 20.06.2017 (Sl.No. 103) and to evade payment of appropriate customs duty and also to circumvent the prohibition imposed by the Government of India on the import of Areca Nuts below the specific value, as per the Directorate of Foreign Trade (DGFT) Notification No.20/2015-2020 dated 25.07.2018. Hence, the CB prima facie failed to comply with Regulation 10(f) of CBLR, 2018.

v. Regulation 10(n) mandates the CB 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; However, in the instant Case it is noticed that the officers of DRI, Coimbatore visited the registered premises of M/s Surya Oil Exporters. It was found locked. Enquiries with the building owner Shri P Gopalakrishnan revealed that during August 2019 two persons viz. Shri Mohamed Ashraf Villan and Shri Anwar Sadath approached him for taking mill on rent and had executed an agreement, they had paid rent for 6 months also. Further, the building owner stated that no activities of any sort were carried out at the rented premises, nor did *he know the reason as to why the mill was taken on rent by them. Here, it is evident that the CB has not verified the functioning of M/s. Surya Oil Exporters at the registered address. Hence, the CB prima facie failed to comply with Regulation 10(n) of CBLR, 2018.*

16.1 Hence, in the First Case (Order - in – Original No. 104579/ 2023 dated 07.02.2024) the CB, M/s. V-Unit in their acts of omission and commission prima facie contravened the Regulations 10(a), 10(d), 10(e), 10(f) and 10(n) of CBLR, 2018."

6. The role of Appellant in the Second Case (O-in-O No. 106410/2024 dated 24.04.2024) has been narrated by the Respondent in paras 15.1, 15.2 and 15.3 of the order of suspension dated 12.06.2025 as follows: -

*"**15.1** From the Statement dated 13.04.2022 of Shri. P.M. Vinoth of M/s. V- Unit, Customs Broker, it appears that he only passed on the KYC and other details of the importers to Shri Kamalakannan of M/s Lotus International Services (CB), who filed the bill of entry for clearance. After perusing the seizure of Mahazars along with images of split pieces of areca nut and Chapter 08 and Chapter 21 of the Customs Tariff, he agreed that goods are not betel nut products known as Supari (Unflavoured Supari) as declared in the Bill of Entry, but they are raw Areca Nuts / Betel Nuts in split form and he admitted that raw Areca Nuts / Betel Nuts in split form are rightly to be classified under 0802 8020. In view of above, it appears that he is the person who handled the clearance of the subject imported goods which was also confirmed by the importer in his voluntary statement dated 08.07.2022. It also appears that Shri Vinoth knowingly mis-classified the imported goods, with malafide intention to facilitate the importer, and had passed on the import related clearance work to Shri Kamalakannan and M/s Lotus International Services.*

***15.2** Shri M.Vinoth of V-Unit, Customs Broker arranged another Customs Broker M/s Lotus International Services for filing Bill of Entry for clearance by sharing the IEC, and KYC details of importer and has himself approved the check list given by Shri Kamalakannan without the consent of the importer and further that he has knowingly caused the mis-declaration in the subject Bill of Entries with regard to the classification and description of goods and had also given false statements and derailed the investigation.*

***15.3** Further, Shri. P.M. Vinoth of M/s.V- Unit, Customs Broker only decided on the declaration made in the bill of* *entries with regard to the classification and description of the goods and also approved the checklist without proper approval from the importer of the goods. He agreed, after perusal of images of split pieces or areca nut in the mahazars, that the imported good appeared to be raw Areca nuts/Betel Nuts in split form and are rightly to be classified under 08028020. He has knowingly caused the mis-declaration of the goods in the bill of entry to facilitate the importer and also approved the checklist for filing Bill of Entry without the consent of the importer."*

7. Appellant's contraventions of CBLR, 2018 in the Second Case (O-in-O No. 106410 / 2024 dated 07.02.2024) are narrated in paras 17 and 17.1 of the order of suspension dated 12.06.2025 as follows: -

"17. Violations made by the Customs Broker in r/o CBLR, 2018in Second Case (O-in-O No. 106410/ 2024 dated 24.04.2024)

The Customs Broker i.e M/s V-Unit, Chennai prima facie appears to have violated the following regulations of Customs Broker Licensing Regulations CBLR, 2018:

i. Regulation 10(a) mandates the CB to obtain authorization letter from the Exporter/Importer at the time of filing of Bill of Entry. In the instance Case, Shri P.M. Vinoth, partner of M/s. V- Unit, Customs Broker approved the checklist for filing Bill of Entry without proper approval from the importer of the goods. Hence, the CB prima facie failed to comply with Regulation 10(a) of CBLR, 2018.

ii. Regulation 10(e) mandates that the CB 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 or baggage; However, in the instant Case it appears that CB has knowingly caused the mis-declaration in the subject Bill of Entries with regard to the classification and description of goods. Hence, the CB prima facie failed to comply with Regulation 10(e) of CBLR, 2018.

(iii) Regulation 10(q) mandates that the CB shall co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees; However, in the instant Case, it appears that the CB had given false statements and derailed the investigation. Hence, the CB prima facie failed to comply with Regulation 10(q) of CBLR, 2018.

iv. Regulation 13(12) mandates that the Customs Broker shall exercise such supervision as may be necessary to ensure proper conduct of his employees in the transaction of business and he shall be held responsible for all acts or omissions of his employees during their employment. However, in the instant Case it is noticed that Shri. P. M. Vinoth of M/s. V-Unit, Custom Broker arranged another Custom Broker M/s Lotus International Services for filing Bill of Entry for clearance by sharing the IEC, KYC and other details of importer and has himself approved the check list given by Shri Kamalakannan without the consent of the importer and further that he has knowingly caused the mis-declaration in the subject Bill of Entries with regard to the classification and description of goods. It appears that M/s. V-Unit, Custom Broker lacks supervision over his employee Shri P. M. Vinoth. Hence, the CB prima facie failed to comply with Regulation 13(12) of CBLR, 2018.

17.1 Hence, in the First Case (Order – in- Original No. 106410/ 2024 dated 24.04.2024) the CB, M/s V-Unit in their acts of omission and commission prima facie contravened the Regulations 10(a), 10(e), 10(q) and 13(12) of CBLR, 2018."

8. It appeared to the Respondent that the Appellant has prima facie violated various regulations of CBLR, 2018 *viz*. 10(a), 10(d), 10(e), 10(f), 10(n), 10(q) and 13(12) which led to circumvention of the prohibition imposed by the Government of India on the import of Areca Nuts below the specific value, evasion of appropriate customs duty and thereby inflicted loss to the public exchequer and if the Customs Broker is allowed to continue to operate, it would be detrimental to the interest of revenue and therefore, it is necessary to take immediate action against the Customs Broker to prevent them from further misuse of their license in terms of Regulation 16(1) of Customs Broker Licensing Regulations, 2018. Therefore, the Respondent passed Order

No. 23/2025 dated 12.06.2025 wherein it was ordered inter-alia as under: -

> *"In exercise of powers conferred under regulation 16(1) of the CBLR, 2018, I Order suspension of the licence No. CHN / R-538/2019-CBS and PAN: AANFV7830L of M/s. V Unit, having office address at 2nd FLOOR, NO.77/1, MM TOWERS EAST MADHA CHRUCH STREET, ROYAPURAM, CHENNAI- 600013, across all customs stations, with immediate effect and until further orders as inquiry is contemplated against the said Customs Broker. However, all documents already filed prior to this order will be allowed to be completed.*
> *However, an opportunity of personal hearing under regulation 16(2) of CBLR, 2018 is granted to M/s. V Unit, on 19.06.2025 at 11 hrs before the undersigned at Krishna Block, 3rd Floor, Custom House, No 60, Rajaji Salai, Chennai 600 001."*

9. After considering the Case records, Statements, and the written and oral submissions made by the Customs Broker (CB) during the personal hearing held on 19.06.2025 seeking revocation of the suspension order dated 12.06.2025, Respondent passed the impugned order wherein in exercise of the powers conferred under provisions of Regulation 16 (2) of the Customs Brokers Licensing Regulations, 2018, Respondent ordered that the suspension of Customs Broker Licence of the Appellant across all Customs Stations vide order dated 12.06.2025 be continued until further orders. Further, Respondent ordered that inquiry proceedings under Regulation 17 of CBLR, 2018 shall follow.

10. The appellant has preferred the present appeal assailing the impugned order.

10.1 The Appeal is taken up out of turn as the Appellant sought an early hearing of the matter considering the plea of the Appellant that their livelihood and the livelihood of 50 odd staff of the Appellant are affected. Further, stay petition of the Appellant is also clubbed with the main Appeal.

11.1 The Ld. Advocate Mr. N. Viswanathan appeared and argued for the Appellant and submitted that the order passed did not meet the mandate contained in regulation 16 [1] of the CBLR namely immediate necessity and appropriate cases as has been held in plethora of cases delivered by the Hon'ble Tribunal, as neither the suspension order nor the continued suspension order cited any reasons of immediate necessity whereas the facts relied upon pertained to 2022 and 2024. Further, he submitted that in the impugned order, the Respondent pre-concluded their guilt and for this reason alone the whole proceedings need to be set aside holding the proceedings as void and vitiated.

11.2 The Ld. Advocate contented that the Respondent failed to see that both the cases relied upon related to dispute on classification with different views held by the different authorities and that the settled position of law mandates the onus to establish the correct classification on the revenue and in any case there is no room for charging the Appellant and punishing them for any irregularity as the Appellant had followed the accepted practice of assessment after having filed the bills of entry based on import documents provided to them, including the overseas statutory country of origin certificate, which have not been held to be false or materially incorrect.

11.3 He averred that whereas regulation 17 [1] of CBLR mandates that action against the Customs Broker should be initiated only upon receipt of an "offence report" which term has been explained in CBLR, Respondent passed the impugned order without even receiving any such offence report. He submitted further that regulation 17 [1] of CBLR mandates that action should be initiated against Customs Broker within three months of receipt of the offence report and when the Respondent had cited the orders passed in 2024 which were much earlier than the three-month period mentioned in regulation 17 [1], the whole proceedings are void ab-initio as has been held by the Hon'ble Bench of the Madras High Court in the case of Santon Shipping Services.

11.4 He argued that the impugned order passed by Respondent for continuing suspension of license of the

Appellant is not justified in view of the fact that the Commissioner of Customs [Appeals-II] had reversed the decision of the adjudicating authority and upheld the classification declared by the importer.

11.5 He submitted that the circular of the Board having clearly instructed not to proceed against the Customs Broker when only disputable interpretational issues are involved also warrants setting aside of the impugned order passed against the Appellant.

12.1 The Ld. Authorized Representative Ms. Rajni Menon, for the Department reiterated and supported the findings of the Respondent and reiterated that the Appellant's conduct shows a recurring violation of critical regulatory norms and due diligence standards expected of a licence holder and the continued operation of such a Customs Broker poses a real and immediate threat to government revenue and national security due to the likelihood of further non-compliant or fraudulent consignments being cleared. She submitted that allowing such a Customs Broker to continue operations could result in further illegal clearances, revenue loss and potential smuggling of prohibited goods.

12.2 The Ld. AR averred that given the seriousness, repetition, and wide-ranging nature of the violations, immediate suspension of the Customs Brokers license of the Appellant is justified and is in line with the statutory mandate under Regulation 16 of CBLR, 2018, and necessary for enabling a fair and unfettered inquiry under Regulation 17.

13. Heard both sides and perused the appeal records.

14. The issues for consideration in this appeal are: -

i. Whether the action of Respondent in issuing the Order No. 23/2025 dated 12.06.2025 suspending Customs Broker license of the Appellant is in accordance with the provisions of CBLR or not.
ii. Whether the action of Respondent in issuing the Order No. 11/2025 dated 01.07.2025 for continuation of suspension of Customs Broker license of the Appellant is in accordance with provisions of CBLR or not.

15. Appellant has contended that the order did not meet the mandate contained in regulation 16 [1] of CBLR as neither the suspension order nor the continued suspension order cited any reasons of immediate necessity when the

facts relied upon pertained to 2022 and 2024. It is observed that the Order dated 12.06.2025 suspending Customs Broker license of the Appellant and the Order of continuation of suspension have been issued under Regulation 16(1) and 16(2) of CBLR respectively which read as under: -

> *"Regulation 16. Suspension of license: -*
> *(1) Notwithstanding anything contained in regulation 14, the Principal Commissioner or Commissioner of Customs may, in appropriate cases where immediate action is necessary, suspend the license of a Customs Broker where an enquiry against such Customs Broker is pending or contemplated:*
>
> *Provided that where the Principal Commissioner or Commissioner of Customs may deem fit for reasons to be recorded in writing, he may suspend the license for a specified number of Customs Stations.*
> *(2) Where a license is suspended under sub-regulation (1), the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, shall, within fifteen days from the date of such suspension, give an opportunity of hearing to the Customs Broker whose license is suspended and may pass such order as he deems fit either revoking the suspension or continuing it, as the case may be, within fifteen days from the date of hearing granted to the Customs Broker:*
>
> *Provided that in case the Principal Commissioner of Customs or Commissioner of Customs, as the case maybe, passes an order for continuing the suspension, further procedure there after shall be as provided in regulation 17."*

It is observed that in Regulation 16(1) of CBLR which provides for immediate suspension of license of Customs Broker where an enquiry against such Customs Broker is pending or contemplated but immediate action is necessary, reference is made to Regulation 14 ibid to explicitly provide for the suspension of license of Customs Broker notwithstanding anything contained in the said Regulation

14. Therefore, the word "immediate action" and "immediately" appearing in Regulation 16(1) should be read in the back drop of Regulation 14 of CBLR which reads as under: -

> *"Regulation 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 regulation8;*
> *(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."*

In Regulation 14 of CBLR which provides for revocation of license of Customs Broker, it is specifically mentioned that such revocation is subject to the provisions of Regulation 17 ibid, which reads as under:

> *"Regulation 17. Procedure for revoking license or imposing penalty : -*
> *(1) The Principal Commissioner or Commissioner of Customs shall issue a notice in writing to the Customs Broker within a period of ninety days from the date of receipt of an offence report, stating the grounds on which it is proposed to revoke the license or impose penalty requiring the said Customs Broker to submit within thirty days to the Deputy Commissioner of Customs or Assistant Commissioner of Customs nominated by him, a written statement of defense and also to specify in the said statement whether the Customs Broker desires to be heard in person by the said Deputy Commissioner of Customs or Assistant Commissioner of Customs.*

(2) The Commissioner of Customs may, on receipt of the written statement from the Customs Broker, or where no such statement has been received within the time-limit specified in the notice referred to in sub-regulation (1), direct the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, to inquire into the grounds which are not admitted by the Customs Broker.

(3) The Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case maybe, shall, in the course of inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material to the inquiry in regard to the grounds forming the basis of the proceedings, and he may also put any question to any person tendering evidence for or against the Customs Broker, for the purpose of ascertaining the correct position.
(4) The Customs Broker shall be entitled to cross-examine the persons examined in support of the grounds forming the basis of the proceedings, and where the Deputy Commissioner of Customs or Assistant Commissioner of Customs declines permission to examine any person on the grounds that his evidence is not relevant or material, he shall record his reasons in writing for so doing.

(5) At the conclusion of the inquiry, the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, shall prepare a report of the inquiry and after recording his findings thereon submit the report within a period of ninety days from the date of issue of a notice under sub-regulation (1).

(6) The Principal Commissioner or Commissioner of Customs shall furnish to the Customs Broker a copy of the report of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, and shall require the Customs Broker to submit, within the specified period not being less than thirty days, any representation that he may wish to make against the said report.

(7) The Principal Commissioner or Commissioner of Customs shall, after considering the report of the inquiry and the representation thereon, if any, made by the Customs Broker, pass such orders as he deems fit either revoking the suspension of the license or revoking the license of the Customs Broker within ninety days from the date of submission of the report by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, under sub-regulation (5) :
Provided that no order for revoking the license shall be passed unless an opportunity is given to the Customs Broker to be heard in person by the Principal Commissioner of Customs or Commissioner of Customs, as the case maybe.

(8) Where in the proceedings under these regulations, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, comes to a conclusion that the F card holder is guilty of grounds specified in regulation 14 or incapacitated in the meaning of the said regulation, then the Principal Commissioner of Customs or Commissioner of Customs may pass an order imposing penalty as provided in regulation 18:

***Provided** that where an order is passed against an F card holder, he shall surrender the photo identity card issued in Form F forthwith to the Deputy Commissioner of Customs or Assistant Commissioner of Customs.*

(9) Where in an offence report, charges have been framed against an F card holder in addition to the Customs Broker who has been issued a license under regulation 7, then procedure prescribed in regulations 16 and 17shall be followed mutatis mutandis in so far as the prescribed procedure is relevant to the F card holder:

***Provided** that where any action is contemplated against a G card holder alone under these regulations, then instead of authority referred to in sub-regulation (8), a Deputy Commissioner or Assistant Commissioner rank officer shall pass such order as mentioned in the said sub-regulation along with debarring such G card holder from transacting the business under these regulations for a period of six months from such order.*

***Provided** further that where an order is passed against a G card holder, then he shall surrender the photo identity card issued in Form G forthwith to the Deputy Commissioner of Customs or Assistant Commissioner of Customs.*

***Explanation** . - Offence report for the purposes of this regulation means a summary of investigation and prima facie framing of charges into the allegation of acts of commission or omission of the Customs Broker or a F card holder or a G card holder, as the case may be, under these regulations thereunder which would render him unfit to transact business under these regulations."*

It is observed from a harmonious reading of the provisions of Regulations 16(1), 16(2), 14 and 17 of CBLR reproduced above that: -

(1) The procedure for suspension of license and continuation of suspension of license under Regulations 16(1) and (2) of

CBLR is different from the procedure for revocation of licence under Regulation 17 ibid.

(2) *The only pre-requisite for suspension of license is that an enquiry under Regulation 17 of CBLR should be pending or contemplated against the Customs Broker on whether the Customs Broker :*

(a) failed to comply with any of the conditions of the bond executed by him under regulation 8 of CBLR;
(b) failed to comply with any of the provisions of these regulations, within his jurisdiction or anywhere else;
(c) committed 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) was adjudicated as an insolvent;
(e) is of unsound mind; and
(f) was convicted by a competent court for an offence involving moral turpitude or otherwise.

(3) *The suspension of license is resorted to in cases where immediate action is necessary in cases where an enquiry against such Customs Broker is pending or contemplated. In other words, the suspension of licence should be done either during the pendency of an enquiry against the Customs Broker or before initiation of such an enquiry.*

(4) *no time limit is prescribed within which the Principal Commissioner or Commissioner of Customs may suspend the license of a Customs Broker under Regulation 16(1) of CBLR but it is prescribed in Regulation 16(2) of CBLR that an opportunity of personal hearing should be given to the Customs Broker within 15 days from the date of suspension of the license. A further time limit of 15 days from the date of personal hearing is prescribed for passing an order of either revoking the suspension or continuing it under Regulation 16(2).*

(5) *a time limit of ninety days from the date of receipt of an offence report by the Principal Commissioner or Commissioner of Customs is prescribed in Regulation 17 of CBLR for issuing notice to the Customs Broker for revocation of license or imposition of penalty under CBLR.*

In the instant case, an enquiry was contemplated against the Customs Broker under Regulation 17 of CBLR as evident from the fact that in the impugned Order No. 11/2025 dated 01.07.2025 wherein the suspension of Customs Broker License of Appellant was ordered to be continued, it was ordered that inquiry proceedings under Regulation 17 of CBLR, 2018 shall follow. Further, the order of suspension of license of Appellant is dated 12.06.2025, which is well before initiation of enquiry against the Appellant under Regulation 17 of CBLR as ordered in impugned Order No. 11/2025 dated 01.07.2025. Thus, the two conditions prescribed under CBLR for suspension of license of Appellant, viz. contemplation of an enquiry against the Appellant and the date of suspension of Customs Broker License of Appellant being either within the period of pendency of enquiry against Appellant under Regulation 17 of CBLR or before initiation of such an enquiry, are satisfied. Therefore, Order No. 23/2025 dated 12.06.2025 suspending Customs Broker license of the Appellant is in accordance with the provisions of Regulation 16(1) of CBLR.

16. The order of suspension of Customs Broker License of Appellant was passed on 12.06.2025. Thereafter, an opportunity of personal hearing was granted to the Appellant which was conducted on 19.06.2025, which is within 15 days from the date of suspension as prescribed in Regulation 16(2) of CBLR and the impugned Order No. 11/2025 was passed on 01.07.2025 which is also within the prescribed period of 15 days from the date of personal

hearing. Therefore, the impugned order has been passed in accordance with the provisions of Regulation 16(2) of CBLR.

17. Appellant's reference to explanation of the term "offence report" in CBLR and contention that in terms of regulation 17 [1] of CBLR action should be initiated only upon receipt of such an offence report is misleading as neither Regulation 16(2) under which the impugned order for continuation of suspension of Appellant's Customs Broker License has been passed nor Regulation 16(1) under which Customs Broker License of the Appellant was suspended stipulate that the action thereunder should be taken only upon receipt of an "offence report" as defined in the explanation in Regulation 17 of CBLR which reads as under: -

> *"**Explanation** . - Offence report for the purposes of this regulation means a summary of investigation and prima facie framing of charges into the allegation of acts of commission or omission of the Customs Broker or a F card holder or a G card holder, as the case may be, under these regulations thereunder which would render him unfit to transact business under these regulations."*

Usage of the words "for the purposes of this regulation" in regulation 17 makes it explicitly clear that the meaning of offence report contained therein is only applicable for regulation 17 and not for any other regulation such as Regulation 16(2) under which the impugned order has been passed or Regulation 16(1) under which Customs Broker License of the Appellant was suspended. In fact, the term "offence report" is not mentioned anywhere in either Regulation 16(1) or Regulation 16(2) of CBLR.

18. Appellant has placed reliance on the decision of Hon'ble Madras High Court in the case of *Santon Shipping Services [C.M.A. No. 730 of 2016 and C.M.P. No. 5921 of 2016]* to contend that regulation 17 [1] mandates that action against the Customs Broker should be initiated within three months of receipt of the offence report and when the Respondent had cited the orders passed in 2024 which were much earlier than the three-month period mentioned in regulation 17 [1], the whole proceedings are void to be held ab-initio. First of all, the case of Santon Shipping Services is distinguishable as the issue there was whether the limitation prescribed under Regulation 22(1) of Custom House Licensing Regulation, 2004 (CHALR, 2004) for revocation of licence is mandatory or not and it was held that revocation of licence is without jurisdiction as the show cause notice for the same was issued beyond the mandatory period of 90 days as fixed by Regulation 20(1) of CHALR, 2004 whereas here it is an undisputed fact that the Respondent granted an opportunity of personal hearing to the Appellant within the period prescribed under Regulation 16(2) of CBLR, i.e., 15 days from the date of suspension of the license, and passed the order of continuing it within a further time limit of 15

days as prescribed under Regulation 16(2). Further, in Regulation 20(1) read with Regulation 22(1) of CBLR, 2004 a time limit of 90 days from the date of offence report was prescribed not only for revocation of license but also for suspension of license whereas no such time limit is prescribed in Regulation 16(1) of CBLR, 2018 for suspension of license and the time limit of 90 days from the date of offence report as prescribed in Regulation 17(1) of CBLR, 2018 is only for issuing notice for revocation of license as Regulation 17(1) of CBLR, 2018 deals only with revocation of licence and does not deal with suspension of licence.

Further, it is observed that in the Order No. 23/2025 dated 12.06.2025 suspending Customs Broker license of Appellant, it is mentioned that Respondent received offence report in the form of (i) Order-in-Original No. 104579/2023 dated 07.02.2024 which was received by Respondent on 28.04.2025 from Import Commissionerate, Chennai Customs Zone and (ii) Order-in-Original No. 106410/2024 dated 24.04.2024 which was received by Respondent on 16.05.2025 from Import Commissionerate, Chennai Customs Zone. This has not been disputed by the Appellant. Therefore, it is an undisputed fact that the Order No. 23/2025 dated 12.06.2025 suspending Customs Broker license of Appellant was issued immediately upon receipt of offence report in the form of Orders-in-Original No.

104579/2023 and 106410/2024 on 28.04.2025 and 16.05.2025 respectively. Further, the time limit of ninety days from the date of receipt of offence report as prescribed in regulation 17(1) of CBLR will come into play only in respect of a notice issued under the said regulation 17(1) and not in respect of orders of suspension of license and continuation of suspension of license under Regulation 16(1) and 16(2) of CBLR respectively. The dispute in the present appeal is not in respect of a notice, if any, issued under Regulation 17(1) of CBLR and therefore, Appellant's contention based on time limit prescribed under regulation 17 [1] of CBLR is not relevant for deciding the present appeal against impugned order issued under regulation 16(2) of CBLR.

19. On merits, Appellant argued that Respondent failed to note that both cases relied upon by Respondent dealt with classification disputes, and there is no irregularity on the part of Appellant as they had followed the accepted practice of assessment after filing bills of entry based on import documents provided to them. It is observed that the impugned order details Appellant's violation of various regulations of CBLR as evident from the findings of the Respondent which are extracted hereunder:

> *"21.3.1 I, in the instant Case, find that Shri. P. M. Vinoth of M/s. V-Unit, Custom Broker arranged another Custom Broker M/s Lotus International Services for filing*

Bill of Entry for clearance by sharing the IEC, KYC and other details of importer and has himself approved the check list given by Shri Kamalakannan without the consent of the importer. The CB cannot absolve itself by claiming that the actual filing was done by another CB, when one of its partners – acting within the scope of the firm – facilitated the filing, approved the checklist, and handled post-clearance documents and invoices.

22. The CB relied upon the Order dated 08.01.2015 passed by Commissioner of Customs (Appeal-II) wherein the Order-in-Original No. 106410/2024 was set aside.

22.1 Here, I find that in the instant Case, it involves two Offence Report:

i. Order-in-Original No. 104579/ 2023 dated 07.02.2024

ii. Order-in-Original No. 106410/ 2024 dated 24.04.2024

22.2 I find that the CB in the first Case (Order-in-Original No. 104579/ 2023 dated 07.02.2024) prima facie violated the provisions of Regulations 10 (a), (d), (c), (f) and (n) of the Customs Brokers Licensing Regulations, 2018. Further any action under CBLR, 2018 is 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.

23. The CB submitted that as per Instruction No. 20/2024-Customs dated 03.09.2024, CB should not be implicated in cases interpretative disputes.

23.1 However, I find that this instruction is not applicable in the present matters. The instant Case goes beyond interpretative disputes involving the acts of filing Bills of Entries on oral instruction of the importer without proper authorisation, failing to verify the functioning of importer at the declared address, lack of supervision of the CB firm over its employee, act of giving false statements before the Officers of Customs during investigation with intention to derail the investigation etc., all of which go far beyond the scope of classification disputes and indicate serious systemic failures and deliberate misconduct.

….

28. Judicial precedents including Commissioner vs. Sri Manjunatha Cargo Pvt. Ltd. and Falcon India vs. Commissioner of Customs-New Delhi have reiterated the principle that Customs Brokers must not merely act as passive agents relying on client declarations but must perform independent verification, especially when red flags are present. In the present matters, such due diligence is conspicuously absent.

> *29.1 The Customs Broker's conduct – across both cases – clearly demonstrates that they failed to uphold the legal and ethical standards expected under the CBLR, 2018. The repeated violations, systemic lapses, misrepresentations, and lack of supervision amount to professional misconduct and establish a case of conduct incompatible with holding a valid Customs Broker licence.*
>
> *30. The evidence on record indicates clearly that the CB has violated the various Regulations of CBLR, 2018 in an absolute negligent manner, facilitated illegal clearances of goods, failed to comply with lawful orders and repeated violations show that the CB, M/s. V Unit has exhibited conduct incompatible with the role of a licensed Customs Broker."*

Appellant has not even countered the above findings in the impugned order. Further in respect of order-in-original No. 104579/2023 dated 07.02.2024 relied upon by Respondent, Commissioner (Appeals) allowed the appeal of importer but rejected the appeal of Appellant herein and in respect of order-in-original No. 106410/2024 dated 24.04.2024, which is also relied upon by Respondent, even the importer's appeal was rejected by Commissioner (Appeals). Board's Instruction No. 20/2024-Customs dated 03.09.2024 cited by Appellant in support of the contention that action against Appellant is not warranted is not relevant to this case as the said instruction does not provide for exonerating the Appellant from the consequences of various violations of CBLR discussed in the impugned order. In fact, Instruction No. 20/2024-Customs dated 03.09.2024 stipulates that "as regard the suspension of licenses of Customs Brokers, Instruction No. 24/2023 dated 18/07/2023 shall continue to be followed” and Instruction No. 24/2023 dated 18/07/2023 stipulates that “Commissioner should also take the care also of recording his/her reasons as to why it is considered an appropriate case where immediate action of suspension is necessary”, which has been scrupulously followed by the Respondent by recording the reasons for immediate suspension of the Customs Brokers license of the Appellant in both the orders, viz. order of suspension dated 12.06.2025 and the impugned order dated 01.07.2025 passed for its continuation. Therefore, there is no merit in the claim of Appellant that they have not committed any irregularity.

20. Role of Appellant in the first case (O-in-O No. 104579/2023 dated 07.02.2024) and second case (O-in-O No. 106410/2024 dated 24.04.2024) has been narrated in paras 4.1, 4.2, 15.1, 15.2 and 15.3 of the order of suspension dated 12.06.2025 and Appellant’s contraventions of CBLR in the said first and second cases have been narrated by the Respondent in paras 16, 16.1, 17 and 17.1 thereof. Thereafter, impugned Order No. 11/2025 dated 01.07.2025 has been passed after duly hearing the Appellant, as prescribed in Regulation 16(2) of CBLR. Therefore, the contention of Appellant that the Respondent pre-concluded their guilt is contrary to facts.

21. In view of the above discussion and findings, both the issues in this appeal are decided in favour of Revenue and against the Appellant. The appeal is rejected and the impugned order is upheld. As such, the stay petition is also rejected.

(Order pronounced in open court on 23.01.2026)

Sd/-	Sd/-
(VASA SESHAGIRI RAO)	**(P. DINESHA)**
MEMBER (TECHNICAL)	MEMBER (JUDICIAL)

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