

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI**

REGIONAL BENCH – COURT No. I

Customs Appeal No. 40870 of 2025

(Arising out of Order-in-Original No. 09/2025 dated 13.05.2025 passed by the
Commissioner of Customs, Custom House, New Harbour Estate, Tuticorin – 628 004)

M/s. Shalom Forwarders

Door No. 4/152/7, "SHALOM",
State Bank Colony (North),
Tuticorin – 628 002.

...Appellant

Versus

Commissioner of Customs

Tuticorin Commissionerate,
Custom House,
New Harbour Estate,
Tuticorin – 628 004.

...Respondent

APPEARANCE:

For the Appellant : Mr. A.K. Jayaraj, Advocate

For the Respondent : Mr. Anoop Singh, Authorized Representative
Mr. Vineet Goyal, Authorised Representative

CORAM:

HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)

FINAL ORDER No. 40700 / 2026

DATE OF HEARING : 13.04.2026

DATE OF DECISION : 02.06.2026

Per Mr. VASA SESHAGIRI RAO

The present appeal has been filed by M/s.
Shalom Forwarders (hereinafter referred to as "the
appellant"), a licensed Customs Broker holding Customs
Broker Licence No. TTN/16/2010 issued by the Commissioner
of Customs, Tuticorin and valid up to 01.06.2030, assailing

Order-in-Original No. 09/2025 dated 13.05.2025 (hereinafter referred to as "the impugned order") passed under Regulation 17(7) of the Customs Brokers Licensing Regulations, 2018 (hereinafter referred to as "CBLR, 2018"), whereby the licence of the appellant was revoked, security deposit forfeited and penalty imposed for alleged contravention of Regulations 10(n) and 10(j) of the CBLR, 2018. The proceedings arise out of Bill of Entry No.7045785 dated 25.07.2023 filed by the appellant on behalf of M/s. Reloyn Tradex Trading Private Limited for clearance of goods declared as "Slaked Lime" under CTH 25222000. The department alleged that the importer was non-existent/fictitious and that the appellant failed to verify the antecedents and functioning of the importer at the declared address and failed to properly supervise its employees. Following investigation by SIIB officers at JNCH, Mumbai, suspension order dated 25.09.2024 was issued under Regulation 16(1) of CBLR, 2018, followed by Show Cause Notice No.02/2024 dated 20.11.2024 proposing revocation of licence under Regulation 17(1) for alleged violation of Regulations 10(n) and 10(j). After inquiry proceedings and submission of Inquiry Report dated 11.02.2025, the Commissioner passed the impugned order revoking the licence, forfeiting the security deposit and imposing penalty of Rs.50,000/-.

2. Aggrieved by the said order, the present appeal has been filed before this Tribunal.

3. The Ld. Advocate Shri A.K. Jayaraj appeared for the Appellant and the Ld. Authorized Representatives Shri Anoop Singh and Shri Vineet Goyal appeared for the Revenue.

4. The Ld. Counsel appearing for the appellant submitted that the impugned order is wholly unsustainable both on facts and in law and has been passed in violation of principles of natural justice, settled principles governing revocation proceedings under the Customs Brokers Licensing Regulations, 2018 and the binding judicial precedents governing the scope of obligations of a Customs Broker.

4.1 It is contended that the appellant had duly verified the IEC particulars, GST registration, PAN, Aadhaar, Udyam registration and other KYC credentials of the importer through official Government portals before undertaking Customs clearance work and that such verification stands acknowledged even in the impugned order and in the statement of the G-card holder extracted in the appeal paper-book. The learned counsel submits that Regulation 10(n) merely requires reasonable verification through

reliable, independent and authentic documents, data or information and does not impose an obligation of compulsory physical verification of every importer's premises or continuous surveillance over subsequent business activities. In support, reliance is placed upon *Jyoti Customs Broker Services Pvt. Ltd. v. Principal Commissioner of Customs* reported in 2023 (385) ELT 404 (Tri.-Kolkata), *Raid International Services Ltd. v. Commissioner of Customs* reported in 2023 (386) ELT 567 (Tri.-Kolkata), *Him Logistics Pvt. Ltd. v. Commissioner of Customs* reported in 2016 (338) ELT 725 (Tri.-Del.) and *Kunal Travels (Cargo) v. Commissioner of Customs (I&G), IGI Airport, New Delhi* reported in 2017 (354) ELT 447 (Del.), wherein it has been consistently held that verification through Government-issued registrations constitutes substantial compliance under Regulation 10(n) and that Customs Brokers are not expected to undertake roving investigations into every importer/exporter transaction.

4.2 It is further submitted that there is no allegation or evidence whatsoever establishing prior knowledge, deliberate connivance, active facilitation, fabrication of documents or pecuniary gain on the part of the appellant and that the proceedings proceed merely on assumptions arising from the allegation that the importer was subsequently found

unavailable at the declared address. Reliance is placed upon *Thawerdas Wadhoomal v. Commissioner of Customs, Mumbai* reported in 2008 (221) ELT 252 (Tri.-Mumbai), wherein it was held that a Customs House Agent cannot be penalized merely because the importer subsequently turns out to be non-genuine when the documents furnished appeared valid on their face.

4.3 The Ld. counsel submits that the entire proceedings are substantially founded upon statements recorded during investigation and conclusions drawn by departmental officers. However, despite repeated requests made during the inquiry proceedings under Regulation 17(4) of CBLR, 2018, effective opportunity of cross-examination of the persons whose statements were relied upon was denied. Reliance is placed upon the judgment of the Hon'ble Supreme Court in *Andaman Timber Industries v. Commissioner of Central Excise* reported in 2015 (324) ELT 641 (SC), and the judgment of the Hon'ble Delhi High Court in *Naman Gupta v. Commissioner of Customs, Airport & General* reported in 2024 (388) ELT 40 (Del.), to contend that denial of cross-examination in proceedings founded upon statements and investigative materials causes serious prejudice and renders the proceedings violative of principles of natural justice.

4.4 The Ld. counsel further submitted that the proceedings as well as the impugned order proceed entirely on assumptions and presumptions without any independent evidence establishing deliberate connivance, conscious knowledge or active involvement of the appellant in any alleged wrongdoing. It is argued that revocation of a Customs Broker licence is an extreme punishment having serious civil and commercial consequences and therefore strict proof of deliberate misconduct is indispensable before such drastic action can be sustained.

4.5 With regard to the allegation under Regulation 10(j), it was submitted that the allegation relating to deletion of WhatsApp chats is wholly speculative and unsupported by evidence. It is specifically argued that even according to the impugned order no deletion occurred after summons were issued or after statements were recorded and that the WhatsApp chats had already been extracted by the department prior to issuance of summons. It is therefore contended that no allegation of concealment or destruction of records can legally survive.

4.6 The Ld. counsel also submitted that the department itself was initially unable to conclusively identify the imported goods and multiple rounds of testing had to be

undertaken before arriving at the final opinion regarding classification. It is pointed out that the goods were initially described merely as white powder, samples were thereafter sent to DYCC/NCH and subsequently re-tested through Bombay Test House Pvt. Ltd., which ultimately opined that the goods "may be considered" as Ammonium Polyphosphate (10-34-0). It is therefore argued that when the department itself required repeated laboratory examinations to ascertain the exact nature of the imported product, it is untenable to allege that the appellant Customs Broker possessed prior knowledge regarding any alleged misdeclaration.

4.7 The Ld. counsel further submitted that the suspension order itself had earlier been stayed by the Hon'ble Madras High Court, Madurai Bench, thereby demonstrating existence of substantial arguable issues requiring judicial consideration. Reliance is also placed upon *Commissioner of Customs (Imports), Chennai v. Sainul Abideen Neelam* reported in 2014 (300) ELT 342 (Mad.), to contend that statements recorded under Section 108, though admissible, cannot automatically be accepted in the absence of corroborative evidence establishing deliberate misconduct.

4.8 On the basis of the aforesaid submissions and the decisions relied upon, the learned counsel prayed that the impugned order dated 13.05.2025 revoking the Customs Broker licence, forfeiting the security deposit and imposing penalty be set aside in toto with consequential reliefs.

5. *Per contra*, the Ld. Authorized Representatives appearing for the Revenue reiterated the findings contained in the SCN, inquiry report and impugned order and further submitted that: -

5.1 That the Customs Broker failed to discharge the mandatory obligations cast under Regulation 10(n) of the CBLR, 2018 relating to verification of antecedents, IEC particulars, identity and functioning of the importer at the declared address.

5.2. That investigation revealed that the importer was non-existent and not functioning at the declared premises and that the appellant failed to exercise due diligence before undertaking Customs clearance activities.

5.3 That the appellant also violated Regulation 10(j) by failing to properly supervise the activities of its employees and authorized representatives.

5.4 The Revenue relies heavily upon the Delhi High Court judgment in *Commissioner of Customs v. Shiva Khurana – 2019 (367) ELT 801 (Del.)* and the Andhra Pradesh High Court judgment in *H.B. Cargo Services v. Commissioner of Customs – 2011 (268) ELT 448 (AP)* to contend that Customs Brokers occupy a position of trust in Customs administration and are expected to exercise a high degree of diligence.

5.5 The Revenue submits that once the importer is found to be fictitious and non-existent, the inevitable inference is that the Customs Broker has failed in discharge of statutory obligations.

5.6 It is further contended that Customs Brokers act as vital intermediaries in Customs clearance procedures and therefore any lapse affecting Customs control mechanism warrants strict action including revocation.

6. We have carefully heard the submissions advanced by both sides, examined the appeal records in detail, considered the statutory provisions, and the case Laws cited.

7. Upon such comprehensive consideration, the following issues arise for our determination in this appeal as to: -

- i. Whether the revocation proceedings are vitiated due to denial of cross-examination and violation of principles of natural justice?
- ii. Whether the appellant violated Regulations 10(n) and 10(j) of the CBLR, 2018 and, if so, whether the punishment of revocation, forfeiture of security deposit and penalty is legally sustainable and proportionate?

8. We now proceed to examine the issues framed for determination seriatim.

Whether the revocation proceedings are vitiated due to denial of cross-examination and violation of principles of natural justice?

9. We have carefully considered the rival submissions, records of investigation, show cause notice, inquiry report, impugned order, grounds of appeal and the judicial precedents cited by both sides. Proceedings under the Customs Brokers Licensing Regulations, 2018 have serious civil and commercial consequences, since revocation of a Customs Broker licence affects the broker's business, reputation and not only his livelihood but also of his

employees. Therefore, such proceedings are required to strictly comply with principles of natural justice and procedural fairness.

10. The present proceedings arise out of investigation relating to imports made through Bill of Entry No.7045785 dated 25.07.2023 filed on behalf of M/s. Reloyn Tradex Trading Private Limited, New Delhi. The department alleged that the importer was non-existent at the declared address and that the appellant Customs Broker failed to discharge obligations under the CBLR, 2018, leading to suspension proceedings and issuance of Show Cause Notice No.02/2024 dated 20.11.2024 proposing revocation of licence. The appellant consistently disputed the allegations and sought cross-examination of the persons whose statements, verification reports and investigative findings were relied upon by the department. However, such requests were not granted. Since the impugned proceedings are substantially founded upon those statements and investigation reports, the appellant contended that denial of cross-examination caused serious prejudice. We find considerable force in the said contention.

11. The appellant had specifically sought opportunity to cross-examine Shri Manish Ramesh Kanade, the G-card holder whose statement recorded under Section 108 of the

Customs Act was heavily relied upon by the department, as well as the persons whose verification reports and investigative findings formed the basis of the allegation that the importer was non-existent. In his statement, Shri Kanade stated that KYC documents such as IEC, GST registration, PAN, Aadhaar and Udyam registration were obtained and verified through online portals before undertaking Customs clearance work, but admitted that physical verification of the importer's address had not been carried out. The department also relied upon his statement regarding WhatsApp communications allegedly received from the importer concerning the nature of the imported goods and subsequent deletion of such chats. On the basis of the said statement and investigative reports, the department inferred failure of proper KYC verification, lack of due diligence, possible prior awareness regarding irregularities in the import transaction and alleged concealment/destruction of records under Regulation 10(j) of CBLR, 2018. However, despite repeated requests, opportunity to cross-examine the said persons was not granted.

12. The principles governing cross-examination in adjudicatory proceedings are well settled. Whenever statements recorded behind the back of a noticee are relied upon to establish allegations having adverse civil

consequences, fair procedure ordinarily requires that the noticee be afforded opportunity to test the veracity of such statements through cross-examination. The Hon'ble Supreme Court in *Andaman Timber Industries* authoritatively held that denial of cross-examination when statements are relied upon constitutes serious violation of principles of natural justice. Equally relevant is the judgment of the Hon'ble Madras High Court in *Thilagarathinam Match Works 2019 (1) TMI 619 - MADRAS HIGH COURT* wherein the Court categorically observed that once statements and reports are relied upon in adjudication proceedings, the authors thereof should ordinarily be made available for cross-examination and that such right forms part of fair adjudicatory procedure. The High Court further observed that even where proceedings are adjudicatory in nature and not criminal prosecutions, the right to effectively challenge adverse material remains integral to procedural fairness.

13. In the present case, the adjudicating authority proceeded substantially upon the assumption that the importer was non-existent and that the Customs Broker therefore necessarily failed in discharge of obligations under the CBLR. However, the appellant was denied meaningful opportunity to challenge the correctness of the verification process allegedly undertaken by the investigating

authorities. The right of cross-examination assumes even greater significance in cases where findings are inferential in nature and arise from investigative conclusions rather than direct documentary based admissions. The appellant has specifically disputed the investigative conclusions and has asserted that the importer possessed valid statutory registrations including IEC, GSTIN and PAN at the relevant point of time. In such circumstances, the appellant was fully entitled to test the basis, methodology and correctness of the investigation allegedly conducted to conclude that the importer was fictitious or non-functional.

14. The Revenue contended that proceedings under the CBLR are regulatory proceedings and therefore strict rules of evidence applicable to criminal trials are not attracted. While there can be no dispute regarding the said proposition, it is equally well settled that principles of natural justice are not excluded merely because proceedings are administrative or quasi-judicial. In fact, the greater the civil consequence, the greater the obligation upon adjudicating authorities to ensure procedural fairness. Revocation proceedings under the CBLR are not routine departmental formalities. Such proceedings directly impact the statutory licence and commercial survival of the broker. Therefore, fair hearing requirements cannot be diluted. We further note that

the impugned order does not assign any cogent reasons for rejection of the request for cross-examination. The order merely proceeds upon the investigation record and accepts the departmental conclusions. Such approach, in our considered view, is inconsistent with settled principles governing adjudication under fiscal statutes.

15. We also find merit in the appellant's contention that the Inquiry Officer proceeded substantially on the basis of the statement of Shri Manish Ramesh Kanade and the investigation reports without granting effective opportunity of cross-examination despite repeated requests made during the inquiry proceedings under Regulation 17(4) of CBLR, 2018. The impugned order also does not disclose any cogent reasons for denial of such request

16. It is further relevant that the appellant had challenged even the suspension proceedings before the Hon'ble Madras High Court, Madurai Bench, and the High Court had granted interim stay of the suspension order. Though the said interim order may not conclude the merits of the dispute, it nevertheless demonstrates that the proceedings involved substantial arguable issues warranting judicial consideration and reinforces the necessity for strict adherence to procedural safeguards during adjudication.

17. It is also relevant to note that the appellant specifically alleged that certain statements relied upon by the department were either involuntary or incorrectly interpreted. The appellant further asserted that reliance could not be placed upon such statements without permitting effective testing through cross-examination. These contentions were not properly addressed in the impugned order. The department has also relied upon the inquiry report dated 11.02.2025. However, an inquiry report by itself cannot substitute substantive proof unless the underlying materials are subjected to fair adjudicatory scrutiny.

18. In the present case, the impugned findings are substantially founded upon investigative conclusions and statements which the appellant was denied opportunity to effectively challenge through cross-examination. The cumulative effect of the aforesaid circumstances leads us to conclude that the proceedings suffered from material procedural infirmity.

19. The appellant has also rightly relied upon the decision in *Naman Gupta v. Commissioner of Customs, Airport & General* reported in 2024 (388) ELT 40 (Del.), wherein the Delhi High Court specifically held that denial of

cross-examination in CBLR proceedings causes serious prejudice where the inquiry officer relies upon statements and verification reports without permitting effective rebuttal. The ratio of the said judgment squarely applies to the present case because the inquiry findings substantially proceed upon investigative conclusions and statements which the appellant was denied opportunity to effectively test through cross-examination.

20. We are conscious that every denial of cross-examination may not automatically vitiate adjudication. However, where statements and investigative findings form the foundational basis of adverse action and where such materials are disputed, denial of cross-examination assumes substantial significance. In the present case, the findings of violation under Regulations 10(n) and 10(j) have been substantially inferred from the investigative record relating to the alleged non-existence of the importer. The appellant's inability to test such material through cross-examination has unquestionably caused prejudice. The principles laid down by the Hon'ble Madras High Court in *Thilagarathinam Match Works(Supra)* apply squarely to the present case. Similarly, the broader principles recognized by the Hon'ble Supreme Court in *Andaman Timber Industries v. Commissioner of*

Central Excise – 2015 (324) ELT 641 (SC) fully support the appellant's grievance.

21. We also find that the adjudicating authority adopted the investigation findings almost in entirety without independent analysis of the appellant's defence. Such mechanical acceptance of investigation conclusions without affording effective rebuttal opportunity undermines the fairness expected in quasi-judicial proceedings. The seriousness of the consequence imposed upon the appellant further accentuates the procedural deficiency. The Customs Broker licence held by the appellant had been renewed and remained valid up to 01.06.2030. Revocation of such licence carries enormous civil and financial implications. Therefore, strict adherence to procedural safeguards was indispensable.

22. The department also relied upon the earlier suspension proceedings under Regulation 16. However, suspension proceedings are merely interim in nature and cannot dilute the requirement of fair adjudication in final revocation proceedings. In the present case, denial of effective opportunity to cross-examine the persons whose statements and investigative findings formed the basis of the proceedings has materially affected the fairness of adjudication. We therefore hold that the impugned

proceedings stand vitiated for violation of principles of natural justice. Nevertheless, since elaborate arguments were advanced on merits, we proceed to examine the substantive allegations as well.

Issue No. (ii) whether the appellant violated regulations 10(n) and 10(j) of CBLR, 2018 and whether the impugned punishment is sustainable?

23. Since the allegations relating to violation of Regulations 10(n) and 10(j) arise out of the same factual matrix and are intrinsically interconnected with the proportionality of punishment imposed, all these issues are taken up together for comprehensive adjudication. Regulation 10(n) obligates a Customs Broker to verify the antecedents, correctness of IEC particulars, identity of the client and functioning of the client at the declared address using reliable, independent and authentic documents or information, whereas Regulation 10(j) casts an obligation upon the Customs Broker not to refuse access to, conceal, remove or destroy any record pertaining to transactions as a Customs Broker. The foundation of the department's case is that M/s. Reloyn Tradex Trading Pvt. Ltd., on whose behalf the impugned Bill of Entry was filed, was allegedly found non-existent at the declared address and therefore the appellant must necessarily be presumed to have failed in discharge of obligations under Regulations 10(n). At the very

outset, it becomes necessary to emphasize that proceedings under the Customs Brokers Licensing Regulations are quasi-judicial proceedings carrying extremely serious civil consequences. Revocation of a Customs Broker licence does not merely amount to imposition of regulatory discipline but results in virtual civil death of the broker's profession and business accumulated over years of commercial functioning. Therefore, allegations warranting revocation must necessarily be established through cogent, reliable and convincing evidence demonstrating either conscious involvement, deliberate connivance, gross negligence of a serious degree or sustained disregard of statutory obligations. Mere procedural irregularities, inferential assumptions or subsequent discovery of irregular conduct on the part of an importer cannot automatically justify the harshest punishment against the Customs Broker under the CBLR framework.

24. The written submissions filed by the appellant specifically disclose that the appellant had verified the IEC particulars, GST registration, PAN, Aadhaar, Udyam registration and other KYC credentials of the importer through official Government portals before accepting the assignment. Significantly, the appellant has pointed out that even the impugned order and the statement of the G-card holder extracted in the appeal paper-book acknowledge such

verification. Therefore, the core allegation against the appellant is not absence of KYC verification but only alleged absence of “physical verification” of the importer’s premises.

25. We are unable to accept the departmental interpretation that Regulation 10(n) mandates compulsory physical verification of every importer’s business premises by the Customs Broker. The Regulation merely requires verification of the functioning of the client at the declared address by using “reliable, independent and authentic documents, data or information”. Once the Customs Broker verifies IEC, GSTIN, PAN and other Government-issued credentials through official sources, the statutory obligation substantially stands fulfilled unless there exists material demonstrating conscious knowledge, collusion or deliberate disregard of suspicious circumstances.

26. We also find merit in the appellant’s contention that Regulation 10(n) does not cast an obligation of perpetual vigilance or continuous surveillance over the importer even after completion of KYC formalities. A Customs Broker cannot reasonably be expected to continuously monitor whether an importer subsequently ceases operations or changes premises. To impose such an impossible obligation would effectively convert the Customs Broker into

an investigative agency rather than a processing intermediary under the Customs Act.

27. We find substantial support for the aforesaid interpretation from the decisions relied upon by the appellant, particularly *Jyoti Customs Broker Services Pvt. Ltd. v. Principal Commissioner of Customs* reported in 2023 (385) ELT 404 (Tri.-Kolkata), *Raid International Services Ltd. v. Commissioner of Customs* reported in 2023 (386) ELT 567 (Tri.-Kolkata), *Triveni Cargo v. Commissioner of Customs (Airport & General), New Delhi* reported in 2024 (389) ELT (Tri.-Del.), *Him Logistics Pvt. Ltd. v. Commissioner of Customs* reported in 2016 (338) ELT 725 (Tri.-Del.) and *Kunal Travels (Cargo) v. Commissioner of Customs (I&G), IGI Airport, New Delhi* reported in 2017 (354) ELT 447 (Del.). These decisions consistently hold that: -

- i. physical verification of premises is not mandatory under Regulation 10(n);
- ii. verification through IEC, GSTIN and other Government-issued credentials constitutes substantial compliance;
- iii. Customs Brokers cannot sit in judgment over Government registrations issued by statutory authorities; and

- iv. subsequent non-traceability of importers/exporters does not automatically establish violation by the Customs Broker.

28. Particularly instructive is the reasoning in *Jyoti Customs Broker Services Pvt. Ltd., 2023 (6) TMI 201 - CESTAT KOLKATA* wherein the Tribunal held that the Circular No. 9/2010-Cus. dated 08.04.2010 in Para 9 it was held that: -

"9.We find that the CB has taken the documents such as IEC, GSTIN etc. These documents were issued by Government Agencies, which substantiate the existence of the exporters at the relevant time of issue of these documents.

.....

.....

10. The most important documents in these cases are the IEC and the GSTIN – one issued by the same department and the other by the DGFT. The IEC issued by the DGFT has not been disputed at all without which the goods could not have been exported."

29. Likewise, the Tribunal in *Triveni Cargo 2024 (4) TMI 1099 - CESTAT NEW DELHI*: -

"In the factual matrix of this case, we find that the GSTIN issued by the officers of CBIC itself shows the address of the client and the authenticity of the GSTIN is not in doubt. In fact, the entire verification report is based on the GSTIN. Further, IECs issued by the DGFT also show the address. There is nothing on record to show that either of these documents were fake or forged. Therefore, they are authentic and reliable and we have no reason to believe that the officers who issued them were not independent and neither has the Customs Broker any reason to believe that they were not independent.

22. The responsibility of the Customs Broker under Regulation 10(n) does not include keeping a continuous surveillance on the client to ensure that he continues to operate from that address and has not changed his operations. Therefore, once verification of the address is

complete as discussed in the above paragraph, if the client moves to a new premises and does not inform the authorities or does not get his documents amended, such act or omission of the client cannot be held against the Customs Broker."

30. The reasoning adopted in Kunal Travels (Cargo) is also apposite to the facts of the present case. The Delhi High Court categorically held that a Customs Broker acts primarily as a processing agent of documents and is not expected to undertake roving investigation into the genuineness of every importer/exporter transaction unless circumstances exist giving rise to reasonable suspicion. In the present case, no evidence whatsoever has been produced showing that the appellant possessed prior knowledge regarding alleged misdeclaration or that the appellant had any pecuniary interest in the transaction.

31. We find substantial support for the aforesaid view from the decision relied upon by the appellant in *Thawerdas Wadhoomal v. Commissioner of Customs, Mumbai* reported in 2007 (9) TMI 102 - CESTAT, Mumbai, which was subsequently affirmed by the Hon'ble Bombay High Court by dismissal of the departmental appeal as reported in 2008 (7) TMI 953 - Bombay High Court wherein it was held that a Customs House Agent filing documents on the basis of materials furnished by clients cannot be visited with penal consequences where the documents appeared

genuine and where there was no evidence of conscious involvement. Equally, several judicial pronouncements have consistently held that the obligations of a Customs Broker must be interpreted reasonably and pragmatically having regard to the nature of trade facilitation functions discharged by such intermediaries.

32. The Revenue has strongly relied upon the judgment of the Hon'ble Delhi High Court in *Commissioner of Customs v. Shiva Khurana* reported in 2019 (367) ELT 550 (Del.) and the judgment of the Hon'ble Andhra Pradesh High Court in *H.B. Cargo Services v. Commissioner of Customs* reported in 2011 (268) ELT 448 (AP) to contend that Customs Brokers are expected to exercise a high degree of due diligence while undertaking Customs clearance work. There can indeed be no dispute that Customs Brokers occupy a position of trust and are expected to act responsibly and diligently in discharge of their statutory obligations. However, the aforesaid decisions cannot be read to mean that every subsequent irregularity committed by an importer or exporter automatically establishes misconduct on the part of the Customs Broker irrespective of the surrounding facts and circumstances. Each case necessarily turns upon its own factual matrix and the nature of evidence establishing

conscious involvement, complicity or gross negligence on the part of the Customs Broker.

33. In Shiva Khurana (*supra*), the Hon'ble Delhi High Court itself clarified that the obligations under Regulation 13(o) of the CHALR, 2004 [*pari materia* to Regulation 10(n) of CBLR, 2018] are to be understood in the context of the Customs Broker functioning as an agent and not as a Revenue investigator. The Court specifically observed that the duty cast upon the Customs Broker is limited to verification through reliable and authentic documents and that a Customs Broker cannot ordinarily be expected to conduct independent and in-depth investigations into the actual existence or business activities of every importer/exporter unless suspicious circumstances exist warranting further inquiry. The Hon'ble High Court also distinguished H.B. Cargo Services (*supra*) on facts by noting that the said case involved active complicity and grave misconduct on the part of the Customs Broker, including issuance of blank signed shipping bills for monetary consideration. No such allegation of active connivance, pecuniary gain, fabrication of documents or deliberate facilitation exists in the present case. Consequently, the ratio of H.B. Cargo Services cannot be mechanically extended to the facts of the present dispute.

34. In the present case, the department has not produced any material whatsoever establishing that the appellant fabricated or manipulated any document, was aware of any alleged misdeclaration or irregularity, shared financial benefits arising from the import transaction, advised or facilitated evasion or ignored any obvious suspicious circumstance available on record. Significantly, even the examination conducted by SIIB officers revealed that the containers contained white coloured powder packed in jumbo bags and no concealment was reportedly found during the examination process, as specifically referred to by the appellant in the statement of facts filed in appeal. The impugned order substantially proceeds upon the singular circumstance that the importer was allegedly not functioning at the declared address. In our considered view, cannot, by itself, establish deliberate or conscious violation of Regulation 10(n), particularly when the Customs Broker had verified the statutory registrations and KYC particulars through official sources. We also find considerable substance in the appellant's submission that the standards now sought to be imposed by the department are neither expressly prescribed in the Regulation nor uniformly practicable in trade operations. A Customs Broker handling transactions across multiple Customs stations cannot realistically be

expected to physically inspect and verify every importer's premises in the absence of suspicious indicators. The law does not compel performance of impossibilities.

35. We also find force in the appellant's submission that the allegation relating to deletion of WhatsApp chats and consequent violation of Regulation 10(j) is entirely speculative and unsupported by cogent evidence. The written submissions specifically state that the WhatsApp chats had allegedly been extracted by the department even prior to issuance of summons and prior to recording of statement. The department has not produced any evidence demonstrating deliberate destruction, concealment or removal of records after commencement of investigation.

36. Significantly, the impugned order itself apparently records that no deletion occurred after summons were issued. In the absence of evidence showing wilful destruction of evidence sought by Customs authorities, invocation of Regulation 10(j) merely on assumptions cannot be sustained. Proceedings resulting in revocation of licence require proof of clear and deliberate misconduct and not mere suspicion or conjecture.

37. We further note that the appellant had been operating under a valid licence renewed up to 01.06.2030 and had been permitted to transact business at various Customs locations under Form-C permissions. The record does not indicate any previous major infraction or habitual misconduct attributable to the appellant.

38. Further, the appellant has explained that operations at Mumbai were conducted through authorized personnel and that subsequently the Mumbai branch itself had been closed and Form-C permissions surrendered. In regulatory jurisprudence, supervisory failure sufficient to justify licence revocation must necessarily involve grave negligence or deliberate indifference demonstrably affecting the integrity of Customs administration. Mere inability to detect a subsequently discovered irregularity committed by an importer cannot, without more, amount to violation warranting revocation.

39. The appellant has also raised an important contention regarding the nature of the imported goods themselves. The records disclose that even the department was initially unable to conclusively identify the goods and multiple rounds of testing were conducted. Initially, the goods were described merely as white powder; thereafter

samples were tested by DYCC/NCH; and subsequently re-testing was undertaken through Bombay Test House Pvt. Ltd., which ultimately opined that the goods “may be considered” as Ammonium Poly-phosphate (10-34-0). This sequence assumes considerable significance because when the investigating authorities themselves required repeated laboratory examinations to ascertain the exact nature and classification of the imported product, it becomes unsafe to infer that the appellant Customs Broker possessed prior knowledge regarding the alleged misdeclaration. The department’s own uncertainty regarding the composition and classification of the goods substantially weakens the allegation of conscious involvement or connivance on the part of the appellant.

40. We further find merit in the appellant’s submission that no evidence has been produced establishing *mens rea*, active facilitation, pecuniary gain or deliberate collusion by the appellant in the alleged import irregularity. The jurisprudence governing revocation of Customs Broker licences consistently emphasizes that extreme punishment such as revocation cannot be sustained in the absence of evidence demonstrating conscious and deliberate misconduct. Mere procedural lapses, inferential assumptions

or subsequent irregularities attributable to the importer cannot justify civil consequences of such severity.

41. The appellant's reliance upon *Commissioner of Customs (Imports), Chennai v. Sainul Abideen Neelam* 2013 (3) TMI 263 - MADRAS HIGH COURT is also well founded. The said judgment reiterates the settled principle that statements recorded under Section 108, though admissible, cannot automatically be treated as conclusive unless supported by independent corroborative evidence. In the present case, the impugned order substantially proceeds upon statements and investigative assumptions without adequate corroborative material demonstrating deliberate wrongdoing by the appellant Customs Broker.

42. We also cannot lose sight of the doctrine of proportionality. Revocation is the severest punishment contemplated under the CBLR framework and is ordinarily justified only in cases involving fraud, deliberate facilitation of smuggling, forged documents, repeated violations or conduct fundamentally incompatible with continuation as a licensed Customs Broker. In the present case, there is no evidence of active collusion, fabrication of documents, participation in undervaluation or smuggling, monetary benefit derived by the appellant or repeated and habitual

violations. Consequently, even assuming *arguendo* that there existed some procedural inadequacy in verification standards adopted by the appellant, the punishment of total revocation would nevertheless be shockingly disproportionate. Administrative punishment affecting vested commercial rights must maintain rational nexus with the gravity of misconduct proved. The doctrine of proportionality, now firmly embedded in administrative law jurisprudence, forbids imposition of excessive punishment unsupported by the nature of established misconduct. The Hon'ble Supreme Court in *Om Kumar v. Union of India* reported in (2001) 2 SCC 386 recognized proportionality as an integral component of administrative law review where punishment imposed is excessively disproportionate to the misconduct established. The cumulative circumstances of the present case clearly demonstrate that the department has failed to establish grave misconduct warranting revocation of licence. We therefore hold that the alleged violations under Regulations 10(n) and 10(j) are not established in the manner required by law for sustaining the extreme penalties imposed under the impugned order and consequently the revocation of licence, forfeiture of security deposit and imposition of penalty are liable to be set aside.

43. In view of the foregoing detailed findings, we hold that: -

- i. the impugned proceedings are materially vitiated by violation of principles of natural justice on account of denial of effective cross-examination;
- ii. the appellant had substantially complied with the obligations under Regulation 10(n) by verifying IEC, GSTIN, PAN and other KYC credentials through reliable and authentic Government-issued documents and portals;
- iii. Regulation 10(n) does not mandate compulsory physical verification or perpetual surveillance of the importer by the Customs Broker;
- iv. the allegation under Regulation 10(j) regarding deletion of WhatsApp chats is unsupported by cogent evidence;
- v. no material has been produced establishing deliberate connivance, conscious facilitation, *mens rea* or active involvement of the appellant in the alleged misdeclaration;
- vi. the impugned order proceeds substantially on assumptions and inferential conclusions rather than legally sustainable evidence; and
- vii. the extreme punishment of revocation, forfeiture of security deposit and penalty is wholly unsustainable both on facts and in law.

44. Consequently, the impugned Order-in-Original No.09/2025 dated 13.05.2025 is set aside in toto and the appeal is allowed with consequential reliefs, if any, in accordance with law.

(Order pronounced in open court on 02.06.2026)

Sd/-
(AJAYAN T.V.)
MEMBER (JUDICIAL)

MK

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)