

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

**WEST ZONAL BENCH**

**CUSTOMS APPEAL NO: 86841 OF 2022**

[Arising out of Order-in-Original No: 020/2022-23 dated 28<sup>th</sup> July 2022 passed by the Principal Commissioner of Customs (General), Mumbai – I.]

**M D Ruparel & Sons**

Toana Apartment, 1-A Sahar Village Road  
Andheri (E), Mumbai - 400099

*... Appellant*

*versus*

**Principal Commissioner of Customs (General)**

New Customs House, Ballard Estate, Mumbai - 400001

*...Respondent*

APPEARANCE:

Shri J C Patel, Advocate for the appellant

Shri Manoj Kumar, Deputy Commissioner (AR) for the respondent

**CORAM:**

**HON'BLE MR S.K. MOHANTY, MEMBER (JUDICIAL)  
HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)**

**FINAL ORDER NO: A / 86016/2023**

DATE OF HEARING: 03/01/2023  
DATE OF DECISION: 28/06/2023

PER: C J MATHEW

This is an appeal of M/s MD Ruparel & Sons against the suspension of customs broker licence no. 11/224 on 23<sup>rd</sup> June 2022

that, by order<sup>1</sup> of Principal Commissioner of Customs (General) and subsequent to post-decisional hearing as prescribed in regulation 16 of Customs Broker Licencing Regulations, 2018, was continued. Agitated by this withholding of access to its business and profession, the appellant seeks revocation of the suspension. As suspension, under regulation 16 of Customs Broker Licencing Regulations, 2018, is not a penalty but a temporary measure, and in permissible circumstances, we are not required to go into the facts that led to the impugned order, which must come up for evaluation of alleged breach of obligations in the inevitably consequential proceedings under regulation 18 of Customs Broker Licencing Regulations, 2018, but only to dwell upon the limited issue of circumstances warranting such peremptory, even if temporary, deprivation of livelihood.

2. Briefly, the appellant had filed bills of entry no. 4963255/07.08.2021 and no. 5466407/16.09.2021 for import of 'air gun pellets dummy' by M/s Firoza Movie International Enterprises that, upon examination and subjecting to forensic test, was found to be 'blank cartridges' that are restricted for import under the Foreign Trade Policy.

3. Learned Counsel for appellant submits that the proceedings were initiated on the assertion of the importer that she was not

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<sup>1</sup> [order no. 020/2022-23 dated 28<sup>th</sup> July 2022]

properly advised by the appellant, and incorrectly so, as earlier importers effected by the same person through another broker had similar amplification in the bills of entry. It was also contended that the licencing authority, by basing the impugned order on apprehension that similar *modus operandi* may be adopted in future, had erred grievously as their impeccable record of operation since 1972 belies any doubts on their diligence in carrying out their professional engagement.

4. Learned Counsel relied upon the decision of the Tribunal in *P Cawasji & Co v. Commissioner of Customs (General), Mumbai [2018 (364) ELT 871 (Tri-Mumbai)]* holding that

*‘5. From the plain reading of the above provision, it is clear that the Commissioner of Customs may in appropriate cases, where immediate action is necessary suspending the licence of a Customs Broker is not mandatory in each and every case, even though, the proceedings under CBLR, 2013 are undergoing by the Commissioner of Customs. Secondly, the suspension can be made only in appropriate cases, where immediate action is necessary.’*

5. We have heard Learned Authorized Representative who submitted that the grounds for suspension had been clearly elaborated in the impugned order and did not warrant interference.

6. The suspension has been ordered for a single alleged misdemeanour of August/September 2021 and that, too, in clearance

of an article that is permissible for import subject to necessary licences. The goods are not a normal item of import requiring close familiarity on the part of the importer. The claim of the appellant to unblemished record of half a century as a professional ‘customs broker’ has not been disputed.

7. The apprehension of similar *modus operandi* that exercised the mind of the licencing authority is, thus, needless. Several months have elapsed since the alleged incident before suspension was resorted to by the licencing authority. Regulation 16 of Customs Broker Licencing Regulations, 2018 may be invoked only when immediate action is warranted and such circumstances did not obviously exist.

8. Accordingly, we set aside the suspension and allow the appeal.

*(Order pronounced in the open court on 28/06/2023)*

**(S.K. MOHANTY)**  
***Member (Judicial)***

**(C J MATHEW)**  
***Member (Technical)***