CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
MUMBAI

WEST ZONAL BENCH

CUSTOMS APPEAL NO: 86165 OF 2024

[Arising out of Order-in-Original CAO No:10/CAC/PCC(G)/SJ/CBS-Adj dated 21st May 2024 passed by Principal Commissioner of Customs (General), Mumbai Zone–I.]

SYNC Logistics
No.15, 3rd Floor,
Friends Union Premises Co-Op Society Ltd
227, P.D' Mello Road, Near GPO Mumbai 400 001. … ***Appellant***

versus

Principal Commissioner of Customs (General)
New Customs House Ballard Estate, Mumbai – 400 001 ***…Respondent***

APPEARANCE:

Shri Jhamman Singh, Advocate for the appellant

Dr Piyush Badhe Barasu, Deputy Commissioner (AR) for the respondent

CORAM:

HON'BLE MR C J MATHEW, MEMBER (TECHNICAL)
HON'BLE MR AJAY SHARMA, MEMBER (JUDICIAL)

FINAL ORDER NO: 85212/2025

DATE OF HEARING: 03/09/2024
DATE OF DECISION: 19/02/2025

PER: C J MATHEW

This appeal of M/s SYNC Logistics challenges revocation of their customs broker licence[1] under regulation 14 of Customs Brokers Licensing Regulations, 2018, along with forfeiture of security deposit thereon, and imposition of penalty of ₹ 50,000 under regulation 18 of Customs Brokers Licensing Regulations, 2018 on the finding of Principal Commissioner of Customs (General) Mumbai Zone – I in order[2] that the appellant herein had breached regulation 10(k) of Customs Brokers Licensing Regulations, 2018.

2. The proceedings were initiated on the imputation that the appellant had filed two bills of entry – one filed in advance as 3368697/31.03.2021 and other as 3465683/07.04.2021 – for the same set of goods. It is also on record that both had been filed under claim for preferential rate of duty under the India-Japan Comprehensive Economic Partnership Agreement (CEPA). As the first of the bill of entry referred to country of origin certificate no. 200439517262501910 dated 17th March 2021 issued by the Japan Chamber of Commerce and Industry, the appellant was directed to upload the corresponding documents on 31st March 2023.

3. It appears from the records that this query was not responded to on or near about this date. The proper officer assessing the second bill of entry noted that the certificate had been incorporated in an earlier bill of entry and raised a query thereon on 16th April 2021. Only after

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1 [no. 11/2377]
2 [order-in-original CAO no.10/CAC/PCC(G)/SJ/CBS-Adj dated 21st May 2024]

this came to be raised did the customs broker respond on 19th April 2021 to the query on the first bill of entry with the request that the assessment be finalized on merit rate of duty. To the query on the second bill of entry, the customs broker responded with the information that the first bill of had been assessed on merit rate of duty and a further query remained unresponded to.

4. It also appears that proceedings for imposition of penalty under Customs Act, 1962 had been initiated against the customs broker which was concluded against them. That, however, is not of concern to the present proceedings except inasmuch as the inquiry authority, appointed in accordance with the Customs Brokers Licensing Regulations, 2018, took note of for concluding that regulation 10(k) of Customs Brokers Licensing Regulations, 2018 had been breached. The said regulation prescribes that the customs broker should

> *'maintain up to date records such as bill of entry, shipping bill, transhipment application, etc., all correspondence, other papers relating to his business as Customs Broker and accounts including financial transactions in an orderly and itemised manner as may be specified by the Principal Commissioner of Customs or Commissioner of Customs or the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be,*

5. The licensing authority has held that the plea of the importer of the strain caused by the pandemic in 2021 as cause of this confusion

was inadmissible and discarded the plea that there was no deliberate attempt to misuse the facility of advance filing of bill of entry but instead held that

> *'9.3.1 I find that the case pertains to double filing of bill of entry by the CB for the same goods on behalf of the same importer. The CB has taken the plea that the double bill of entry was filed due to working under limited staff during COVID-19 lockdown. I find that the plea of the CB is not admissible as it is mandated to maintain proper records under Regulation 10(k) of CBLR, 2018. When the other aspects of business of the CB were operational, the failure to maintain records cannot be condoned.*
>
> *9.3.2 I further find that the CB has failed to maintain even the email correspondence prior to 21.04.2021. It not only shows carelessness and negligence of the CB but also utter disregard for the CBLR obligations. Also, I find that the case pertains to, the period between 31.03.2021 to 20.04.2021, therefore the said correspondence was deliberately deleted by the CB to evade investigation. This deletion of records is a grave violation of CBLR Regulations. The CB has committed serious infringement, of wiping out of records and hiding of factual information with an intention to derail the investigation. This appears to be done with a clear malafide intent of hiding facts and destroying evidence relevant to the case, which is akin to non-maintenance of records.'*

6. The grounds on which the licensing authority has held that the customs broker to have breached regulation 10(k) of Customs Brokers Licensing Regulations, 2018 does not appear to fit in with the framework of the said regulation which mandate that the enumerated

details be maintained in an orderly and itemized manner as specified by the designated officials. There is nothing on record to establish that a method of maintaining upto date records had been prescribed by any of the said authorities. In the absence of such specifics, there is no standard against which a breach could be noticed and taken cognizance of. The finding that it was not strain of pandemic which caused this double filing of bill of entry and that the absence of any records in the systems of the customs broker was the consequence of deliberate erasure has not been proved and is only surmise. In either situation, there is no finding as to the manner in which regulation 10(k) Customs Brokers Licensing Regulations, 2018 has been breached.

7. In view of the finding above the revocation of licence and other detriments do not survive. The impugned order is set aside to allow the appeal.

(Order pronounced in the open court on 19/02/2025)

(AJAY SHARMA)
Member (Judicial)

(C J MATHEW)
Member (Technical)

**/as*