CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

WEST ZONAL BENCH

CUSTOMS APPEAL NO: 85615 OF 2024

[Arising out of Order-in-Original CAO No. 76/CAC/PCC(G)/SJ/CBS-Adj dated 28th February 2024 passed by the Principal Commissioner of Customs (General), Mumbai.]

Merchant & Sons
Office No. 9, Mohatta Market, Palton Road
Mumbai- 400 001 … ***Appellant***

versus

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

WITH

CUSTOMS APPEAL NO: 85629 OF 2024

[Arising out of Order-in-Original CAO No. 80/CAC/PCC(G)/SJ/CBS-Adj dated 8th March 2024 passed by the Principal Commissioner of Customs (General), Mumbai.]

Merchant & Sons
Office No. 9, Mohatta Market, Palton Road
Mumbai- 400 001 … ***Appellant***

versus

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

WITH

CUSTOMS APPEAL NO: 85675 OF 2024

[Arising out of Order-in-Original CAO No. 83/CAC/PCC(G)/SJ/CBS-Adj dated 14th March 2024 passed by the Principal Commissioner of Customs (General), Mumbai.]

Merchant & Sons
Office No. 9, Mohatta Market, Palton Road
Mumbai- 400 001 … ***Appellant***

versus

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

AND

CUSTOMS APPEAL NO: 85676 OF 2024

[Arising out of Order-in-Original CAO No. 84/CAC/PCC(G)/SJ/CBS-Adj dated 18th March 2024 passed by the Principal Commissioner of Customs (General), Mumbai.]

Merchant & Sons
Office No. 9, Mohatta Market, Palton Road
Mumbai- 400 001 … ***Appellant***

versus

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

APPEARANCE:

Shri N D George, Advocate for appellant

Shri Krishna Murari Azad, Assistant Commissioner (AR) for the respondent

CORAM:

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

FINAL ORDER NO: ___ 85346-85349/2025

DATE OF HEARING: 12/09/2024
DATE OF DECISION: 11/03/2025

PER: C J MATHEW

Four appeals of M/s Merchant & Sons, holder of 'customs broker' licence[1] and in proceedings under the Customs Brokers

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[1] [no. 11/678]

Licensing Regulations, 2018, are before us and, surprisingly, the grievance in all of them is identical – revocation of licence and forfeiture of security deposit under regulation 14 of Customs Broker Licencing Regulations, 2018 and penalty of ₹ 50,000 imposed under regulation 18 of Customs Broker Licencing Regulations, 2018 – even as they had, metaphorically speaking, but one life to give and one possession in hand.

2. Separate proceedings, invoking breach of regulation 10 of Customs Brokers Licensing Regulations, 2018, were initiated against the appellant by Principal Commissioner of Customs (General), Mumbai in relation to handling of shipping bills for export of goods, purportedly procured against fake purchase bills, for different groups of persons and, by order[2] dated 28th February 2024, the licence was revoked and security deposit under regulation 14 of Customs Brokers Licensing Regulations, 2018 besides imposition of penalty of ₹ 50,000 under regulation 18 of Customs Brokers Licensing Regulations, 2018 for the first time. With hardly any time to draw another long breath, three other proceedings were concluded thereafter in orders of 8th March 2024[3], 14th March 2024[4] and 18th March 2024[5] respectively.

3. We have heard and Learned Counsel for the appellant and

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[2] [order no. CAO No. 76/CAC/PCC(G)/SJ/CBS-Adj]
[3] [order no. CAO No. 80/CAC/PCC(G)/SJ/CBS-Adj]
[4] [order no. CAO No. 83/CAC/PCC(G)/SJ/CBS-Adj]
[5] [order no. CAO No. 84/CAC/PCC(G)/SJ/CBS-Adj]

Learned Authorized Representative at length. Though both did attempt to canvass their respective submissions on merit, we do find ourselves in a quandary. For if we did, and it fell to the first appeal to succeed, there would be no purpose to taking up the others as the outcome there would be irrelevant. If the first were to fail in appeal, we would, unless and until one contrary outcome emerged, be engaged in enlarging upon the merit of each mirroring the chain that the licencing authority, unabashedly, took recourse to. For reasons that shall be forthcoming, it does not befit the dignity of an appellate authority to 'play with bones' that the licencing authority presumed to do and little realizing the reflection that it portrays of management of the institution of 'customs brokers' in the jurisdiction. We would have to prioritize the four appeals which would have all the appearances of a game of roulette whatever be the rationale in their ordinal. That is not a game that dispensing of justice should be engaged in.

4. It is disconcerting to notice that, in the short space of just 18 days, the licensing authority found it to possible and, even more, necessary to revoke the same licence and the same security deposit four times thrice the licence. We are unable to conceive of any logic of thought or soundness of reasoning that reveals a purpose to such repeated extinguishment of licence and security deposit even as the immediately preceding extinguishments subsisted. Something akin to flogging a dead horse and a parody, to boot. Reason leads us to infer that it appears

to be ‘hedging of bets’ in the vain hope that the Tribunal would play ‘fetch’ to that ‘stick’ which is deplorable.

5. It would appear that the licensing authority was unsure about the justification offered for first extinguishment of the licence and security deposit and resorted to preemptive extinguishment to make a mockery of remedies that must inevitably follow such uncertainty in approach to the disciplinary options in Customs Broker Licencing Regulations, 2018. This is not responsible and responsive discharge of administration of ‘customs broker’ licences.

6. In view of the above, we have no option but to set aside the impugned orders and restore the proceedings before the licencing authority to decide on revocation of one of them and discard the other three or to decide all four together with due notice to the appellant.

7. The appeals are allowed by way of remand.

(Order pronounced in the open court on 11/03/2025)

(AJAY SHARMA)
Member (Judicial)

(C J MATHEW)
Member (Technical)

**/as*