## CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL MUMBAI

## WEST ZONAL BENCH

### CUSTOMS APPEAL NO: 85941 OF 2024

[Arising out of Order-in-Original No: 29/CAC/PCC(G)/SJ/CBS Adj dated 13th July.2023 passed by the Principal Commissioner of Customs (General), Mumbai.]

**Foram Forwarders**
A-701/702, Groma House, Sector 19 Plot No. 14-C
Vashi, Navi Mumbai – 400 705 … ***Appellant***

*versus*

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

*APPEARANCE:*

Shri Ashwini Kumar Prabhakar, Advocate for the appellant

Shri Ranjan Kumar, 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: 85520/2025**

DATE OF HEARING: 09/10/2024
DATE OF DECISION: 08/04/2025

*PER: C J MATHEW*

M/s Foram Forwarders, holder of customs broker licence no. 11/1828, was proceeded against under Customs Broker Licensing

Regulations, 2018 for alleged breach of regulation 10(d), regulation 10(e) and regulation 10(n) of Customs Broker Licensing Regulations, 2018 while handling 11 shipping bills of M/s Shakumbari Ji Exports and resting claim for drawback of ₹ 16,43,304 on declaration that goods valued at ₹ 10,74,38,636 had been exported. The investigation encompassed the attempt by two exporters, M/s Shakumbari Ji Exports and M/s Shri Nath Ji Exports, who, between 2014 and 2016, effected shipments valued at ₹ 47,89,13,684 on which drawback of ₹2,64,96,529 was claimed.

2. Of the entire amount so claimed, a mere 6% was attributable to the consignments handled by the customs broker and the claim was rejected on the ground of non-conformity with the bar in section 76 of Customs Act, 1962 of entitlement where market price was less than drawback claimed. Thus, the proceedings which culminated in revocation of the licence and forfeiture of security deposit under regulation 14 of Customs Broker Licensing Regulations, 2018 and imposition of penalty of ₹ 50,000 under regulation 18 of Customs Broker Licensing Regulations, 2018 in order[1] of Principal Commissioner of Customs (General), Mumbai thus, *prima facie,* appears to be overkill in the light of cause of non-eligibility to drawback as well as the magnitude of the claim.

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[1] [order-in-original no. 29/CAC/PCC(G)/SJ/CBS Adj dated 13th July.2023]

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

4. We find that the enquiry authority appointed under Customs Broker Licensing Regulations, 2018 held that the three charges of breach of obligation were not proved. Notwithstanding that, the licensing authority went ahead and disposed off the proceedings in the manner set out *supra*. We find that, while the licencing authority, following the report of the enquiry officer exonerating the customs broker, is not precluded from arriving at contrary view by relying upon the imputations in the notice as well as evidence gathered during enquiry, nonetheless, the principles of natural justice and conventional practice dictate that the customs broker be placed on notice of intention to take such contrary view stand through the disagreement memo. Else, with show cause notice negated by the enquiry report, it is as good as commencement of proceedings to the detriment of a person without the preliminary of a notice. From the records, we do not find any evidence of such disagreement memo having been served and, consequently, the proceedings are tainted to that extent.

5. In the absence of compliance with necessary steps before proceeding to revocation of licence and forfeiture of security deposit, the outcome thereof stands vitiated. It would, therefore, be appropriate for that vital step to be undertaken and, for this purpose, we set aside

the impugned order to enable the licensing authority to adhere to principles of natural justice.

6. The appeal is accordingly disposed off.

*(Order pronounced in the open court on 08/04/2025)*

**(AJAY SHARMA)**
***Member (Judicial)***

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

**/as*