CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 86912 of 2024

(Arising out of Order-in-Original CAO No. 04/CAC/PCC(G)/SJ/CBS (Adj) dated 26.04.2024 passed by Principal Commissioner of Customs (General), New Custom House, Mumbai.)

Seaking Clearing Private Limited .....**Appellant**
(CB License No. 11/471)
Office No. 4, First Floor, Shree Sai Hanuman Mandir
Sutar Pakadi, Sahar Village
Andheri (East), Mumbai-400 099.

VERSUS

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

APPEARANCE**:**

Shri N.D. George, Advocate for the Appellant
Shri Deepak Sharma, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/86672/2025

DATE OF HEARING: 21.02.2025
DATE OF DECISION: 21.02.2025

PER : M.M. PARTHIBAN

This appeal has been filed by M/s Seaking Clearing Private Limited, Mumbai (herein after, referred to as 'the appellants'), holders of Customs Broker License No. 11/471 assailing Order-in-Original CAO No. 04/CAC/ PCC(G)/SJD/CBS (Adj) dated 18.10.2021 (herein after, referred to as 'the impugned order') passed by the learned Principal Commissioner of Customs (General), New Custom House, Ballard Estate, Mumbai-I.

2.1. Briefly stated, the facts of the case are that the appellants herein is a Customs Broker (CB) holding a regular CB license issued by the Mumbai Customs under erstwhile Regulation 10 of Customs House Agents Licensing Regulations, 1984 (CHALR) and now Regulation 7(2) of Customs Brokers Licensing Regulations (CBLR), 2018.

2.2 During an investigation conducted by Directorate of Revenue Intelligence, Mumbai Zonal Unit (DRI MZU), enquiry was held with the Consulate General of India, Dubai, UAE on overvaluation of export goods. In a reply letter dated 08.03.2018, it was reported by the said Consulate General that from scrutiny of the documents provided by Federal Customs Authority, Dubai, it appeared that the goods have been cleared with unit values much lower than what was declared to customs authorities in India at the time of export. On the basis of such specific information received from DRI, Mumbai by Customs officers of Special Intelligence & Investigation Branch-Exports [SIIB(X)], Air Cargo Complex carried out further investigation, and it was found that certain exporters are overvaluing the export goods in order to avail higher ineligible drawback. Hence, the department had initiated investigation against such exports done by M/s World Wide Export, Mumbai. Accordingly, detailed investigation was conducted and it was found that there were a number of export consignments cleared under 31 Shipping Bills (S/Bs) during the period 2012-2017 by the said exporters, in which the export proceeds have not been realized involving mis-use of ineligible drawback. Therefore, statements were recorded from the persons concerned with these exports namely Shri Moize Ahmed Ali Angoothiwala, Partner of M/s World Wide Export and Shri Jetil Rajgopal Thottupura, Director of the appellants CB. In his voluntary statement dated 25.04.2022, Shri Jetil Rajgopal Thottupura had stated that their CB firm handled only one export consignment of M/s World Wide Export vide free Shipping Bill (S/B) No. 4709543 dated 15.12.2015 for clearance of imitation Jewellery; the aforesaid export consignment does not involve any export incentive as they had not claimed any such benefit. Further, he stated that the said export consignment was given Let Export Order (LEO) by customs officer on 15.12.2015, but on the basis of the request made by the exporter regarding port issue, the export consignment was allowed back to town without exporting it, after taking approval from the Assistant Commissioner, Shed, ACC, Mumbai and was subsequently exported through JNCH seaport. From the investigation conducted by the SIIB(X) and offence report in the form of SCN dated 24.11.2022 received from SIIB(X), the jurisdictional Principal Commissioner of Customs (General), Mumbai-I had concluded that there is a prima facie case against the appellants for having contravened Regulations 10(d), 10(e), 10(m) and 10(n) of CBLR, 2018. On the above basis, they had initiated show cause proceedings by issue of notice No. 45/2022-23 dated 13.03.2023 for initiating inquiry proceedings under Regulation 17 *ibid*, against violations of CBLR as above.

2.3 Upon completion of the inquiry, a report dated 16.11.2023 was submitted by the Inquiry Authority concluding that all charges framed against the appellants for violation of Regulations 10(d), 10(e), 10(m) and 10(n) of CBLR, 2018 have been held as 'Not proved'. The Principal Commissioner of Customs (General), Mumbai, had not indicated in the impugned order that any disagreement memo against such an inquiry report had been issued for sustaining the allegations levelled in the SCN, as all the charges were held as 'not proved'. However, he being the licensing authority had conducted the adjudication of the case on each of the allegations of violations of the CBLR, 2018 by himself, by offering a personal hearing to the appellants on 15.01.2024 and therefore, to this extent the impugned order is required to be examined on merits even though it had not taken cognizance of the inquiry report. In impugned order dated 26.04.2024, learned Principal Commissioner of Customs (General) had revoked the CB License of the appellants, forfeited entire amount of security deposit, besides imposition of penalty on the appellants under Regulations 17(7), 14 and 18 *ibid*. Feeling aggrieved with the impugned order, the appellants have preferred this appeal before the Tribunal.

3.1 Learned Advocate for the appellants contends that all the allegations of violation of Regulations 10(d), 10(e), 10(m), and 10(n) of CBLR, 2018 in their case have been countered by them. The main argument advanced by the Learned Advocate against the impugned order dated 26.04.2024, is that the appellants had filed only one S/B in respect of the exporter M/s World Wide Export, and even here no export incentive was claimed and finally the export consignment was withdrawn on account of port of export being not in tandem with their export requirement; and the export consignment was sent back to the exporter in the city as per customs procedure. The appellants had obtained necessary authorisation for engaging them and filed the declarations as per the documents provided by the exporter; they do not have anything with respect to valuation of export goods. Further, the export in the lone S/B was duly assessed by the Customs officers and Let Export Order permitting such exports was also given for export out of the country under Section 51 of the Customs Act, 1962, even though on the same day due to port issue it was withdrawn. Hence, he stated that there is no case made out by the Customs on the basis of evidence collected from Dubai Customs authorities as no export was done by them in this S/B.

3.2 Further, learned Advocate stated that the appellants CB did not have any prior knowledge about the fact that the exporter is going to mis-declare or overvalue the goods; they had filed the declaration for export for the S/B as per the documents received through the exporter. He further stated that for the acts of misdeeds done by the exporter, the appellants CB cannot be held liable. Thus, he claimed that the appellants did not contravene any of the Regulations *ibid*. Further, he stated that action for revocation of license taken after more than 8 years for a S/B filed on 15.12.2015 is not legally sustainable in view of the various decisions taken by the Hon'ble High Courts of Bombay, Madras.

3.3 In support of their stand, the learned Advocate had relied upon the following decisions of the Tribunal and the judgement of the Hon'ble High Court of Delhi, in the respective cases mentioned below:

(i) *Sanco Trans Ltd. Vs. Commissioner of Customs, Seaport/ Imports, Chennai* - 2015 (322) E.L.T. 170 (Mad.)

(ii) *KTR Logistics Solutions Pvt. Ltd. Vs. Commissioner of Customs, Chennai &* – 2022 (5) T.M.I. 30 (Bombay High Court.)

(iii) *Commissioner of Customs* Vs. *HIM Logistics Pvt. Ltd.* - 2017 (348) E.L.T. 625 (Tri.- Del.)

(iv) *Sarosh Nagarwala Vs. Commissioner of Customs (Export), Nhava Sheva* - 2017 (358) E.L.T. 542 (Tri. - Mumbai)

(v) *Shasta Freight Services Pvt. Ltd. Vs. Principal Commissioner of Customs, Hyderabad* – 2019 (368) E.L.T. 41 (Telangana)

3.4 In view of the above reasons, learned Advocate pleaded that the case of violation by the appellants for overvaluation of export goods for cancellation of their CB license is not sustainable.

4. Learned Authorised Representative (AR) reiterated the findings made by the Principal Commissioner of Customs (General) in the impugned order and submitted that all the violations under Regulation 10 *ibid*, has been examined in detail by the Principal Commissioner. Thus, learned AR had justified the action taken by the Principal Commissioner of Customs (General) in revocation of the appellant's CB license and for imposition of penalty, forfeiture of security deposit in the impugned order.

By relying upon the decision of the Tribunal in *Atlantic Customs Brokers Vs. Commissioner of Customs (General), Mumbai* – 2023 (11) TMI 486 – CESTAT Mumbai for seeking imposition of penalty, even where the inquiry report had held that the charges framed were not proved, he stated that on the same analogy the impugned order imposing penalty is sustainable.

5. We have heard both sides and perused the case records.

6.1 The issue involved herein is to decide whether the appellant Customs Broker has fulfilled all his obligations as required under CBLR, 2018 or not. The specific sub-regulations which were alleged to have been violated by the appellants are Regulations 10(d), 10(e), 10(m) and 10(n) of CBLR, 2018, and hence there are certain distinct charges framed against the appellants. We find that the Regulation 10 *ibid*, provide for the obligations that a Customs Broker is expected to fulfill during their transaction with Customs in connection with import and export of goods. These regulations are extracted and given below as follows:

"Regulation 10. Obligations of Customs Broker: -

A Customs Broker shall -

…

(d) advise his client to comply with the provisions of the Act and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

(e) exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;

…

(m) discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay;

(n) verify antecedent, correctness of Importer Exporter Code (IEC) number, identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information;"

6.2 We find that the Principal Commissioner of Customs had come to the conclusion that the appellants CB had violated the above stated sub-regulations (d), (e) and (n) of Regulation 10 ibid on the following grounds:

(i) the exporter had over valued the goods using fake invoices supplied by Shri Suhel Ansari so as to claim undue export incentives. As the case could only be detected by the investigation carried out by the DRI, MZU, the CB cannot shy away from the responsibilities cast upon them under the Regulation 10(d) of the CBLR, 2018.

(ii) the exporter had indulged in over valuation of goods so as to claim undue export incentives. They tried to justify the value of goods by using fake invoices supplied by Shri Suhel Ansari. The fraudulent export was detected only by investigation by DRI, MZU.

(iii) the CB has an important role with respect of the filing of documents and clearance of the goods. However, in the instant case, he had acted in very callous and negligent way.

(iv) the CB failed miserably to verify even the basic requirements of knowing who is his actual client, and has of course not done any elaborate verification of his client and has not verified the business premises of the exporter.

6.3 However, he held that since the Inquiry Officer in his report has held that the violation of regulation 10(m) of the CBLR, 2018 as having not been proved and as he also observes that there is nothing on record which proves that the CB's conduct in respect of said export clearance had led to delay and inefficiency, he had concluded that the CB had not violated the provisions of Regulation 10(m) of the CBLR, 2018.

7. Firstly, on the facts of the case, we find that the appellants CB though filed one S/B in respect of the export under S/B No. 4709543 dated 15.12.2015 for clearance of imitation Jewellery; the said export consignment did not involve any export incentive and they had not claimed any such export benefit. Further, the said export consignment was given Let Export Order (LEO) permitting its export by the jurisdictional customs officer on 15.12.2015 itself under Section 51 of the Customs Act, 1962. It is only on account of export consignment is to be shipped through different port, a request was made by the exporter and the export consignment was allowed by Assistant Commissioner of Customs, Shed, ACC, Mumbai to be taken back to town without exporting it. Therefore, all the allegations relating to export of goods and claim of undue export incentives for initiating action as concluded by the learned Principal Commissioner in the impugned order is factually not correct. Therefore, the impugned order is passed on the findings which are contrary to the facts, and on this ground alone it is liable to be set aside.

8.1 We find that the case of appellants CB in the present appeal arise from the same set of facts, as was dealt by the Co-ordinate Bench of the Tribunal in the case of *John K Mathew Vs. Principal Commissioner of Customs (General), Mumbai* - Customs Appeal No.87232 of 2023 decided vide Final Order No. 85750/2024 dated 05.08.2024*.* The issue of overvaluation of export goods based on the evidences of the report from Consulate General of India, Dubai etc., are exactly similar to the case already decided by this Tribunal in the above case. In the above referred order, the Tribunal has held that the appellants CB cannot be fastened with the act of omission and commission in relation to a provision in the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 that intended empowering the Central Government to device a schedule of rates of drawback in view of engaging in computation of drawback on each incident of export. It was also held by this Tribunal, in that case, stating it clearly that the benefit, even if 'undue', derived by the exporter is not of such *gravitas* as to merit revocation of license to practice a profession and, more specifically, when the licensing authority itself appears to have discountenanced proper conjecture of the provision of law that supposedly made the impugned goods offending. Accordingly, the Tribunal had set aside the Order of the Principal Commissioner in suspending the appellant's CB license.

8.2 The relevant paragraphs in the said order are extracted and given below:

> "*6. We find that, insofar as the charges are concerned, the impugned order has put together unrelated facts and rendered findings that, consequently, are illogical and untenable. It is seen that the charge of not having advised the client to comply with Customs Act, 1962 and rules and regulations thereof is not founded on any allegation that advice sought had not been rendered and nor is there an allegation that 'customs broker' is expected to explain the entirety of the law to the client; either the allegation is vague or the obligation is vague with neither contingency furthering the case against the appellant. It is, probably, owing to this conceptual commotion that the licencing authority has proceeded to uphold the charge on the supposition that exporter could not have executed overvalued exports without collusion from the appellant. That bridging of supposition with breach of obligation is too far-fetched to accept. The easiest of misdeclaration to undertake is overvaluation of export goods for the requirement to repatriate export proceeds confers advantage of presumption of correctness of contracted value combined with incomparability of local prices; it would appear that unnecessary premium has been placed on the need of a fellow conspirator for such overvaluation to succeed. The conclusion in the impugned order has nothing to do with obligation and is also not founded on any fact on record. The charge of having breached regulation 10(d) of Customs Broker Licencing Regulations, 2018 has been inappropriately held to be proved.*
>
> *7. Likewise, it is seen that allegation of breach of obligation to exercise due diligence in ascertainment of correctness of any information furnished to the client is not founded on any information sought for by*

the client and not from any accusation of the client that appellant had misinformed them. Instead we find a sweeping presumption that it was owing solely to having failed to ascertain correctness of information that client was emboldened to set out in this act of overvaluation. The licencing authority also appears to have misconstrued the nature of the obligation which is not about dissemination of incorrect information but of failure to ascertain correctness of information which must, necessarily, be built upon information given, either of own volition or on request of client, that was not only not incorrect but communicated without taking steps to ascertain correctness thereof. The notice, inquiry report and impugned order are markedly lacking in such determination. Even as saving grace, there is no factual narration of any information that led to alleged overvaluation. Thus it is that regulation 10(e) of Customs Broker Licencing Regulations, 2018 has been incorrectly held as proved.

8. The alleged breach of obligation to forbear from withholding information contained in any order, instruction or public notice from a client who is entitled to receive them has been established with the finding that details of local procurement said to be prescribed in circular no. 16/2009-Cus dated 25th May 2009 was in breach; however, this fact had not been set out in the notice issued to appellant. There is also no reference to the said circular in the report of the inquiry officer. It would, thus, appear that the inspiration which prompted the licencing authority to refer to this mandate was not tested by offering opportunity at any stage to explain irrelevance of its contents to 'free shipping bills' filed for exports by the appellant or to explain that it had indeed been provided. This is tantamount to introduction of evidence after conclusion of all proceedings in which appellant had participated and is, this, untenable basis for upholding the charge of having breached regulation 10(f) of Customs Broker Licencing Regulations, 2018.

9. The allegation that the appellant had failed to maintain records and accounts has been upheld on the findings that appellant had not responded to summons and had failed to furnish details called for. The contention of appellant right from the beginning had been that no summons had even been issued to them in connection with investigation into the exports of M/s World Wide Export and, at no stage, did the inquiry officer or the licencing authority ever counter this response with any record to the contrary. Indeed, as we have noted supra, it is moot if the suspension would have been revoked in such circumstances. In any case, this obligation does not pertain to response to summons or join in investigations. Moreover, as the appellant has pointed out, the regulation is studiously silent on the period for which the records are required to be preserved and the claim of the appellant that records were trashed has not been countered with any instruction requiring preservation beyond reasonable period. Furthermore, we do not find reference to any stipulation by the officer designated for the purpose in the said regulation which should have been the foundation of this allegation and it was merely the inability of the exporter to furnish detailed records that has been attributed to flawed performance of obligation by the appellant. It would appear that the intent of the obligation has been incorrectly appreciated by the licencing authority; the allegation of having breached regulation 10(k) of Customs Broker Licencing Regulations, 2018 does not sustain.

> *10. It has been alleged that the appellant had failed to carry out mandated antecedent checks and verification of the client and the finding of it having been proved is founded on a statement of the exporter that such verification had not been carried out. It was incumbent on the investigation to have confronted the appellant with this accusation but no attempt was made so to do. It is also surprising that after such elapse of time, the exporter was able to recall lack of physical verification even as he was unable to recollect details of purchase channel. Not only does such selective remembrance lack verifiability but also relegates its acceptability to the periphery. In the context of limited benefits derived, and none at all in the consignments handled by the appellant, by the exporter and lack of any evidence of such negligence in the part of the appellant, we are unable to accept the conclusion of not having been diligent in antecedent verification. As we have already premised, it was much too late, and the stakes were much too little, for conducting any worthwhile investigation. To erect such a charge on such fragile foundations is sure recipe for it to fail to find favour. Thus, there is no basis for alleged contravention of regulation 10(n) of Customs Broker Licencing Regulations, 2018, as found in the impugned order, to be affirmed by us.*
>
> *11. The charges of breach of regulation 10 of Customs Broker Licencing Regulations, 2018 do not sustain. There is no case that the goods had not been exported or evidence even that the impugned goods had not been manufactured out of duty paid inputs. The drawback involved in all the exports during the said period by M/s World Wide Export is not of such high order as to warrant penalties and detriments that were heaped upon them in the impugned order and those handled by the appellant were not under any claim at all. In these circumstances, we find ourselves unable to uphold the impugned order which is set aside to allow the appeal."*

Therefore, in the present appeals before us too, the findings of the learned Principal Commissioner in respect of charges against Regulations 10(d), 10(e) and 10(n) of CBLR, 2018 do not sustain, on the same analogy adopted by the Tribunal in the case referred above on similar exports.

9.1 We further find that Co-ordinate Bench of the Tribunal in the case of *Trinity International Forwarders Vs. Commissioner of Customs (Preventive), Jaipur* - (2024) 17 Centax 314 (Tri.-Del) have held customs broker has no locus standi in respect of transaction value of export goods, which is being negotiated by overseas buyer and Indian exporter. Therefore, it was held that the CB in that case is not violated the provisions of CBLR. The relevant paragraphs of the said order are extracted and given below:

> ***"7.*** *We have considered the submissions by both sides on this issue. The case of the Revenue is that the exporter over- invoiced exports to claim ineligible drawback. Drawback is a mechanism of reimbursing to*

the exporter, the taxes and duties which would have been paid or borne by the exporter on the finished goods as well as on the raw materials. Instead of calculating these taxes and duties each case, based on the average incidence of the taxes and duties on each type of goods, a drawback schedule is notified by the Government which indicates the drawback for each type of goods usually as a percentage of the Free on Board[7] value. For some goods, the rate could be on per piece basis and on some goods, the duty could be as a percentage of FOB with a value cap and in such cases even if the FOB value is higher, drawback will be paid only on that amount. The appellant had filed the Shipping Bills as per the documents provided to it by the exporter. According to the Revenue, by filing Shipping Bills with over-invoiced export values, the appellant violated Regulation 11(d). To consider this assertion of the Revenue, we examine the significance of the value in the export documents and who can determine it and if the appellant had any right to determine the value of the goods being exported.

8. *A perusal of the Section 2(2) of the Customs Act shows that the determination of value in the Bill of Entry or Shipping Bill is a part of assessment. It reads as follows:*
(2) "assessment" means determination of the dutiability of any goods and the amount of duty, tax, cess or any other sum so payable, if any, under this Act or under the Customs Tariff Act, 1975 (51 of 1975) (hereinafter referred to as the Customs Tariff Act) or under any other law for the time being in force, with reference to-

> *(a) the tariff classification of such goods as determined in accordance with the provisions of the Customs Tariff Act;*
>
> *(b) the value of such goods as determined in accordance with the provisions of this Act and the Customs Tariff Act;*
>
> *(c) exemption or concession of duty, tax, cess or any other sum, consequent upon any notification issued therefor under this Act or under the Customs Tariff Act or under any other law for the time being in force;*
> *(d) the quantity, weight, volume, measurement or other specifics where such duty, tax, cess or any other sum is leviable on the basis of the quantity, weight, volume, measurement or other specifics of such goods;*
>
> *(e) the origin of such goods determined in accordance with the provisions of the Customs Tariff Act or the rules made thereunder, if the amount of duty, tax, cess or any other sum is affected by the origin of such goods;*
>
> *(f) any other specific factor which affects the duty, tax, cess or any other sum payable on such goods,*

and includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is nil;

9. *The value of the imported goods in the Bill of Entry is determined as per Section 14 of the Act read with Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 . The value of export goods in the Shipping Bill is determined as per Section 14 read with Customs Valuation (Determination of Value of Export Goods)*

Rules, 2007. Section 14 states that for the purpose of Customs Tariff Act, 1975 (under which the rates of import and export duties are prescribed) or any other law for the time being in force, the value shall be the transaction value, i.e., the value actually paid or payable for import of the goods at the place of importation or export of the goods at the place of exportation subject to some conditions and Rules. In respect of imports, Rule 12 of the Import Valuation Rules authorizes the proper officer to reject the transaction value under certain circumstances and redetermine it based on the value of contemporaneous imports of identical goods (Rule 4), value of contemporaneous imports of similar goods (Rule 5), value arrived at through deductive method (Rule 7), etc. In cases of exports, the proper officer can, under certain circumstances, reject the transaction value under Rule 8 of the Export Valuation Rules and redetermine the value by comparison (Rule 4), through computation (Rule 5) or through a residual method (Rule 6).

***10.** It needs to be noted that when the officer rejects the transaction value and determines the value of the imported goods or export goods under the Rules, he re-determines the value to calculate duty under the Customs Act. He does not and he cannot change the transaction value (be it under FOB, CIF or C&F) which is the consideration paid or payable for the goods as between the importer and exporter. The officer is a stranger to the contract between the importer and exporter and has no locus standi to change the transaction value.*

***11.** Thus, while the transaction value is decided between the exporter and importer, value for determining the duty under the Customs Act is a part of assessment. The power to assess including determining the value lies with the importer/exporter (self-assessment) or with the proper officer (re-assessment). The Customs Broker has neither any authority nor any responsibility to assess the value of the imported goods or export goods.*

***12.** In all the Shipping Bills, exports were allowed by the Customs in the normal course. It is only the subsequent intelligence and investigations by the DRI which revealed the alleged over valuation of exports. The Customs Broker is neither authorized under the Act nor is obligated under the CBLR to re-determine the value of any goods. Transaction value (be it FOB, CIF or C&F) is a matter of negotiation between the overseas buyer and the Indian exporter. It is the consideration which is paid or payable to the Indian exporter by the overseas buyer. The Customs Broker is a stranger to this contract and has no locus standi with respect to the transaction value. Any value determined under the Customs Act is a part of assessment which is the prerogative of the importer/exporter (self-assessment) or the proper officer (re-assessment). The Customs Broker has neither any authority nor any power to determine or re-determine the value for customs purposes either. The Customs Broker also has no authority to inspect or examine the goods and so the possibility of the Customs Broker suspecting that the goods may have been over valued also does not arise."*

9.2 We also find that the Hon'ble High Court of Delhi has held in the case of *Kunal Travels (Cargo) Vs. Principal Commissioner of Customs*

(I&G), IGI Airport, New Delhi reported in 2017 (354) E.L.T. 447 (Del.), have held that the appellants CB is not an officer of Customs who would have an expertise to identify mis-declaration of goods. The relevant portion of the said judgement is extracted below:

> *"The CHA is not an inspector to weigh the genuineness of the transaction. It is a processing agent of documents with respect to clearance of goods through customs house and in that process only such authorized personnel of the CHA can enter the customs house area....... It would be far too onerous to expect the CHA to inquire into and verify the genuineness of the IE Code given to it by a client for each import/export transaction. When such code is mentioned, there is a presumption that an appropriate background check in this regard i.e. KYC etc. would have been done by the customs authorities."*

9.3 From the above, we also find that the above orders of the Tribunal and higher judicial forum are in support of our considered views in this case.

10. In view of the foregoing discussions, we do not find any merits in the impugned order 26.04.2024 passed by the learned Principal Commissioner of Customs (General), Mumbai in revocation of the CB license of the appellants; for forfeiture of security deposit and for imposition of penalty, inasmuch as there is no violation of regulations 10(d), 10(e) and 10(n) of CBLR, 2018, and the findings in the impugned order is contrary to the facts on record.

11. Therefore, by setting aside the impugned order, we allow the appeal in favour of the appellants.

(Operative portion of the order pronounced in the open court)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha