

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

REGIONAL BENCH - COURT No. I

Customs Appeal No. 86075 of 2022

(Arising out of Order-in-Original CAO No. 130/CAC/PCC(G)/SJ/CBS-Adj dated 27.01.2022 passed by Principal Commissioner of Customs (General), New Custom House, Mumbai.)

Aggressive Shipping & Logistics Private LimitedAppellants

(CB License No. 11/2159)
B-Wing, 619, 6th Floor, Shree Nand Dham
Plot No.59, Sector-11, CBD Belapur
Navi Mumbai – 400 614.

Versus

Principal Commissioner of Customs (General)Respondent

Mumbai Customs Zone-I
New Custom House, Ballard Estate
Mumbai-400 001.

Appearance:

Shri R.K. Tomar, Advocate for the Appellants
Shri C.S. Vinod, 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/85002/2026

Date of Hearing: 31.10.2025

Date of Decision: 06.01.2026

PER : M.M. PARTHIBAN

These appeal has been filed by M/s Aggressive Shipping & Logistics Private Limited, Mumbai (herein after, referred to as 'the appellants' for short) assailing the Order-in-Original CAO No. 130/CAC/PCC(G)/SJ/CBS-Adj dated 27.01.2022 (referred to as 'the impugned order') passed by 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 No. 11/2159 issued by the Mumbai Customs under Regulation 7(1)/7(2) of Customs Brokers Licensing Regulations (CBLR), 2013/2018. An offence report was received consequent

to receipt of intelligence by Directorate of Revenue Intelligence, Sub-Regional Unit, Vapi and resultant search operations conducted by them along with other field formations about mis-utilization of Advance Authorization Scheme by certain importers viz., M/s Ramniklal & Sons, Mumbai along with their supportive manufacturers, whose consignments were cleared by appellants CB by filing Bills of Entry (B/Es) No. 2589579 dated 25.07.2017; B/E Nos. 2664083 & 2664086 both dated 31.07.2017 and B/E No.2801230 dated 10.08.2027.

2.2. On the basis of such offence report received from DRI, 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(a), 10(d), 10(e), 10(m) and 10(n) of CBLR, 2018 [earlier Regulations 11(a), 11(d), 11(e), 11(m) and 11(n) of CBLR, 2013]. Accordingly, he had immediately suspended the CB license of the appellants under Regulation 16(1) *ibid*, vide Order No. 45/2020-21 dated 26.02.2021; and such suspension was continued vide Order No. 08/2022-23 dated 11.05.2022 pending conduct of regular inquiry proceedings; further the department had initiated show cause proceedings by issue of notice No. 08/2021-22 dated 21.05.2021 for initiating inquiry proceedings under Regulation 17 *ibid*, in respect of violations of CBLR as mentioned above. Accordingly, Show Cause Notice (SCN) No.11/2021-22 dated 11.06.2021 was issued against the appellants on the aforesaid charges of violation of CBLR, 2018 and an Inquiry Officer was appointed.

2.3. Upon completion of the inquiry proceedings, an inquiry report dated 13.09.2021 was submitted concluding that all charges for violations against sub-regulations 11(a), 11(d), 11(e), 11(m) and 11(n) of CBLR, 2013 framed against the appellants CB have been proved. After perusal of the appellants' written submission dated 12.03.2021 and upon providing a personal hearing through virtual mode on 14.12.2021, the Principal Commissioner of Customs (General), Mumbai, being the licensing authority had passed the impugned order dated 25.11.2022 under Regulations 17(7) and 18 *ibid*, for revoking CB License of the appellants and for forfeiture of entire amount of security deposit, besides imposition of penalty of Rs.50,000/- on the appellants and asking them to surrender the original CB license issued to them along with all 'F', 'G' and 'H' identity cards issued to them. 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 11(a), 11(d), 11(e), 11(m) and 11(n) of CBLR, 2013 have been countered by them. In respect of obtaining written authorisation from the importer, he stated that the appellants CB did not doubt the genuineness of importer as he was a DEEC license holder; in respect of alleged violation against Regulation 11(d), *ibid*, they claimed that all their clients are regularly advised to comply with the customs laws and regulations, and the department had not adduced any evidence to claim that the appellants CB had failed to advise the importer, as at the time of clearance there was no violation found out and it is only the subsequent DRI investigation alone revealed the misuse of Advance License scheme. In respect of the allegation against violation of Regulation 11(e) *ibid*, the Advocate claimed that there was no mis-declaration in the import or non-compliance as at the time of import, as there is no ground to invoke the claim that the CB appellant had failed to exercise due diligence in ascertaining the correctness of information in imparting the same to their client. In respect of allegation against the CB for violation of Regulation 11(m) *ibid* that he did not discharge his duties with utmost speed and efficiency, he stated that the appellant CB had taken all necessary precautions for expeditious clearance of goods, whereas the allegation against the importer is that they diverted duty free material after its import in the local market without payment of customs duty. Hence, the appellants CB is not responsible for such post import activity which was done without their knowledge or involvement by the importer. As regards violation of Regulation 11(n) *ibid* he stated that the appellants CB had verified the functioning of their client at the declared address by using reliable, independent, authenticated documents. In view of the above, he claimed that they did not contravene the Regulations 11(a), 11(d), 11(e), 11(m) and 11(n) of CBLR, 2013.

3.2 Further, learned Advocate stated that the appellants CB did not have any prior knowledge about the fact that the importer is going to mis-use the Advance License conditions or divert the imported materials in the local market. He further stated that for the acts of misdeeds done by the importer and their supporting manufacturers, the appellants CB cannot be held liable. Thus, he claimed that the appellants did not contravene any of the sub-regulations under CBLR, 2013.

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 Bombay, in the respective cases mentioned below:

- (i) *Kunal Travels (Cargo) Vs. Commissioner of Customs* – 2017 (354) E.L.T. 447 (Del.)
- (ii) *Shasta Freight Services Pvt. Ltd. Vs. Pr. Commissioner of Customs, Hyderabad* - 2019 (368) E.L.T. 41 (Telengana) upheld by Hon'ble Supreme Court – 2022 (381) E.L.T. 436 (S.C.)
- (iii) *Aspinwall & Co. Vs. Commissioner of Central Excise, Trichy* - 2001 (132) E.L.T. 644 (Tri.-Chen.) upheld by Hon'ble Supreme Court – 2002 (142) E.L.T. A80(S.C.)
- (iv) *HIM Logistics Private Limited Vs. Commissioner of Customs, Airport & General, New Delhi* - 2016 (338) E.L.T. 725 (Tri.-Del.)
- (v) *Principal Commissioner of Customs (General), Mumbai Vs. Unison Clearing P. Ltd.* - 2018 (361) E.L.T. 321 (Bom)

3.5 In view of the above reasons, learned Advocate pleaded that the case of violation by the appellants arising on account of diversion of imported goods by the importer leading to 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 11 *ibid*, have been examined in detail by the Principal Commissioner. Thus, learned AR justified the action of 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 and stated that these are sustainable in law.

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, 2013 or not. The specific sub-regulations which were alleged to have been violated by the appellants are Regulations 11(a), 11(d), 11(e), 11(m) and 11(n) of CBLR, 2013, and hence there are certain distinct charges framed against the appellants. Since, the import transactions have happened in 2017, prior to CBLR, 2018, we are referring to the relevant provisions as applicable under CBLR, 2013. 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 11. Obligations of Customs Broker: -

A Customs Broker shall -

(a) obtain an authorisation from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Broker and produce such authorisation whenever required by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

...

(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 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 (a) and (d) of Regulation 11 ibid as they did not obtain authorization from the importer and never met them, in order to advise the importer properly on the need to file proper declaration complying with the License conditions. Further, on sub-regulations (e) and (m) of Regulation 11 ibid, the learned Principal Commissioner concluded that they were hands in glove with the importer and assisted them for misuse of license and were not efficient while discharging their duties. They also failed to prove that they had conducted verification of antecedents of the importer. Thus, the adjudicating authority had passed the impugned order confirming all the allegations of violation of above Regulations of CBLR, 2013.

7. We would now take up for examination each of the alleged violations of CBLR, 2013, one by one, as follows. In respect of Regulation 11(a) ibid the adjudicating authority had found that the appellants CB did not obtain authorization from M/s Ramniklal & Sons, the importer, for undertaking customs clearances of imported goods, as Shri Naresh Bhaskar Shinde, Director of the appellants CB had accepted the same in the statement given by him before the investigation authorities. On such failure to obtain authorization in terms of Regulation 11(a) ibid, the appellants CB had stated

that they were assured that the importer would give the authorization along with the documents for clearance of goods. While, they had obtained the other documents required for clearance of imported goods, the appellants CB had failed to obtain the authorization and hence we are of the view that they have violated the requirements of sub-regulation (a) of Regulation 11 of CBLR, 2013.

8.1 In the instant case, the mis-use of Advance Authorization by the importer was found by the department only on the basis of specific investigation conducted by DRI, subsequent to the clearance of imported goods from the customs control. Furthermore, it is the condition of the license that the duty-free imported goods were diverted in the local market without payment of customs duty which is purely under the domain of the importer to comply with. Hence, the appellants CB cannot be found fault for the reason that they did not advise their client importer to comply with the provisions of the Customs Act, 1962 or allied legislations, as at the time of clearance there was no allegation of any mis-use. Thus, when the customs authorities themselves had cleared the imported goods and were not aware of any future non-compliance or violation by importer, there is no possibility for the appellants CB to be aware of the same, and to bring it to the notice of the Deputy Commissioner of Customs (DC) or Assistant Commissioner of Customs (AC). Thus, we are of the considered view that the violation of Regulation 11(d) *ibid*, as concluded in the impugned order, is not sustainable.

8.2 Learned Principal Commissioner of Customs (General) had come to the conclusion that the CB had violated the provision of Regulation 11(e) *ibid*, on the premise that Shri Naresh Bhaskar Shinde, Director of the appellants CB had assisted the importer in illicitly bringing duty free goods for sale in the domestic market by diverting it, rather than using it in exports. Thus, he claimed that the appellants had colluded with the importer. In the paragraph one above such conclusion in the impugned order, learned Principal Commissioner had stated that the appellants CB had never met the importer, and on the other hand he also stated that they had assisted the importer in defrauding the government revenue. Even in the inquiry report, for concluding that the appellants have violated sub-regulation 11(e) *ibid*, it is stated that the appellants did not ask for any employee/Director's whereabouts from Shri Minesh Shah who came to them for clearance of imported goods. From the facts of the case, it clearly transpires that the DRI investigation against the

importer is that the imported goods under Advance Authorization scheme availing duty free concession were illegally diverted by them in the local market. As the aforesaid post importation violation by the importer did not have any thing contrary at the time of import, it cannot also bind the appellants CB for any violation of the customs clearance of such imported goods. Therefore, we are of the view that the conclusion arrived at by the Principal Commissioner of Customs (General) with respect to Regulation 11(e) *ibid*, is without any basis of documents or facts, and hence the same is not sustainable.

8.3 The learned Principal Commissioner of Customs by relying on the report of the inquiry officer had agreed with his findings that the appellants CB was aware that that the import cargo was to be involved in certain violations thereby about to attract the provisions of Section 111 of the Customs Act, 1962. Thus, he concluded that the appellants CB was not efficient while discharging their duties. From the plain reading of the requirements under Regulation 11(m) *ibid*, it is clear that there should be some grounds of inefficiency or unavoidable delay in clearances of the imported goods. In this regard, there is no complaint from the importer or any other departmental authorities that there was delay or inefficiency in handling the import transactions with Customs. Hence, the conclusion arrived at by the Principal Commissioner of Customs (General) that such omission and commission on the part of the appellants is indicative of inefficiency in the discharge of their duties as Customs Broker and therefore they have violated Regulation 11(m) *ibid* has no legal basis or supported by any factual evidence.

8.4 Learned Principal Commissioner of Customs (General) had come to the conclusion that the CB had violated the provision of Regulation 11(n) *ibid*, on the ground that the appellants were not careful and diligent in undertaking the KYC verification process about the background of exporters. We find from the record, that the appellants CB had obtained the shipping documents along with invoice, packing list, Bill of Lading etc. and valid IEC, DEEC holder certification, Advance Authorization certificates issued by the Ministry of Commerce and verified the existence of the importer through digital mode viz., Certificate of Importer-Exporter Code issued by the Additional Director General of Foreign Trade, Ministry of Commerce and Industry, Government of India. Therefore, there is no sufficient ground made out by the learned

Principal Commissioner in concluding that there is a violation of Regulation 11(n) *ibid* by the appellants CB in this case.

8.5 In this regard, we find that CBIC had issued instructions in implementing the KYC norms for verification of identity, existence of the importer/exporter by Customs Broker in Circular No. 9/2010-Customs dated 08.04.2010, and verification of any two documents among specified documents is sufficient for fulfilling the obligation prescribed under Regulation 11(n) of CBLR, 2018. Thus, we do not find any legal basis for upholding the alleged violation of Regulation 11(n) *ibid* by the appellants in the impugned order.

8.6 We find that in the case of *M/s Perfect Cargo & Logistics Vs. Principal Commissioner of Customs (Airport & General), New Delhi* 2021 (376) E.L.T. 649 (Tri. - Del.), the Tribunal had decided the issue of KYC verification of the importer/exporter by the Customs broker and the requirements specified in the CBLR, 2018.

"34. The basic requirement of Regulation 10(n) is that the Customs Broker should verify the identity of the client and functioning of the client at the declared address by using, reliable, independent, authentic documents, data or information. For this purpose, a detailed guideline on the list of documents to be verified and obtained from the client is contained in the Annexure to the Circular dated April 8, 2010. It has also been mentioned in the aforesaid Circular that any of the two listed documents in the Annexure would suffice. The Principal Commissioner noticed in the impugned order that any two documents could be obtained. The appellant had submitted two documents and this fact has also been stated in paragraph 27(a) of the order. It was obligatory on the part of the Principal Commissioner to have mentioned the documents and discussed the same but all that has been stated in the impugned order is that having gone through the submissions of the Customs Broker, it is found that there is no force in the submissions. The finding recorded by the Principal Commissioner that the required documents were not submitted is, therefore, factually incorrect.

35. The Principal Commissioner, therefore, committed an error in holding that the appellant failed to ensure due compliance of the provisions of Regulation 10(n) of the Licensing Regulations."

8.7 Further, 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.), 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."

8.8 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 in respect of compliance with Regulation 11(n) *ibid*/ 10(n) of CBLR, 2018.

9. Furthermore, we have also examined the submission made by the learned AR that the appellants CB had admitted that they had not obtained authorization from the importer and therefore action is required to be taken against them by relying on the case law of *Commissioner of Customs Vs. K.M. Ganatra & Co.* in Civil Appeal No.2940 of 2008 reported in 2016 (332) E.L.T. 15 (S.C.). We find that in the above referred case of *K.M. Ganatra & Co.* (supra), the Hon'ble Supreme Court had affirmed the decision of the Co-ordinate Bench of this Tribunal. Therefore, in order to appreciate the importance of the role of Customs Broker/Custom House Agent and the timely action which could prevent the customs duty evasion/frauds, we rely on the above judgement of the Hon'ble Supreme Court. The relevant paragraph of the said judgement is extracted below:

"15. *In this regard, Ms. Mohana, learned senior counsel for the appellant, has placed reliance on the decision in Noble Agency v. Commissioner of Customs, Mumbai 2002 (142) E.L.T. 84 (Tri. - Mumbai) wherein a Division Bench of the CEGAT, West Zonal Bench, Mumbai has observed:-*

"The CHA occupies a very important position in the Customs House. The Customs procedures are complicated. The importers have to deal with a multiplicity of agencies viz. carriers, custodians like BPT as well as the Customs. The importer would find it impossible to clear his goods through these agencies without wasting valuable energy and time. The CHA is supposed to safeguard the interests of both the importers and the Customs. A lot of trust is kept in CHA by the importers/exporters as well as by the Government Agencies. To ensure appropriate discharge of such trust, the relevant regulations are framed. Regulation 14 of the CHA Licensing Regulations lists out obligations of the CHA. Any contravention of such obligations even without intent would be sufficient to invite upon the CHA the punishment listed in the Regulations...."

We approve the aforesaid observations of the CEGAT, West Zonal Bench, Mumbai and unhesitatingly hold that this misconduct has to be seriously viewed."

In view of the above discussions and on the basis of the judgement of the Hon'ble Supreme Court in the case of *K.M.Ganatra* (supra), we find that

the appellants could have been proactive in fulfilling their obligation as Customs Broker in obtaining proper authorization in representing them in clearance of the imported goods before the Customs authorities. Thus, to this extent we find that imposition of penalty for failure in not being proactive for fulfilling of regulation 12(a) of CBLR, 2018 is appropriate and justifiable.

10. In view of the foregoing discussions, we do not find any merits in the impugned order passed by the learned Principal Commissioner of Customs (General), Mumbai in revoking the license of the appellants and for forfeiture of security deposit, inasmuch as there is no violation of regulations 11(d), 11(e), 11(m) and 11(n) of CBLR, 2013 and the findings in the impugned order is contrary to the facts on record. However, in view of the failure of the appellants to have acted in a proactive manner in fulfillment of the obligation under regulation 11(a), we find that it is justifiable to impose a penalty of Rs.10,000/- against the appellants, which would be reasonable and would be in line with the judgement of the Hon'ble Supreme Court in the case of K.M.Ganatra supra, in bringing out the importance of crucial role played by a Customs Broker.

11. Therefore, by modifying the impugned order to the extent as indicated above at para 10, we allow the appeal in favour of the appellants.

(Order pronounced in the Open court on 06.01.2026)

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

**(M.M. Parthiban)
Member (Technical)**