



Aadrikaa Law Offices (ALO)- IDT Tax I Arbitration I Litigation

Date: 27.09.2025

CESTAT Kolkata Overturns License Revocation



This Article has been written by Shri Ravi Shekhar Jha, Advocate based in New Delhi. The views expressed are based on his interpretation of the law. He can be reached at his email id intelconsul@gmail.com or on his Mobile +91-9999005379.

In a landmark decision, the Customs, Excise, and Service Tax Appellate Tribunal (CESTAT), Eastern Zonal Bench, Kolkata, has delivered justice to M/s. Auro Logistix, a Customs Broker (CB), by setting aside the revocation of their license, forfeiture of pre-deposit, and imposition of penalties. This decision, pronounced on September 26, 2025, marks a significant moment for Customs Brokers across the country, reinforcing the importance of due process and fair adjudication.

Background of the Case

The appeals filed by M/s. Auro Logistix stemmed from two separate orders passed by the Commissioner of Customs (Airport & ACC), Kolkata. These orders alleged violations of the Customs Brokers Licensing Regulations (CBLR), 2018, and accused the CB of failing to perform due diligence in facilitating export consignments for two exporters—M/s. K.S. Impex and M/s. Ankraj Developers Pvt. Ltd. The allegations primarily revolved around overvaluation of export goods, misuse of GST input tax credit (ITC), and procedural lapses.

The Commissioner had revoked the CB license, forfeited the security deposit, and imposed penalties of Rs. 50,000 in each case. However, M/s. Auro Logistix challenged these orders, asserting that they had complied with all regulations and were not responsible for the alleged violations committed by the exporters.

Key Findings of the Tribunal

After a detailed examination of the facts and regulations, the Tribunal concluded that the allegations against M/s. Auro Logistix were not substantiated. Here are the key findings:

1. **No Violation of Regulation 10(b):** The Tribunal observed that the CB had transacted business personally or through authorized representatives at the Customs station, as required under Regulation 10(b). The allegation of failure to physically verify the exporter and documents was deemed irrelevant in the context of modern virtual transactions.
2. **Compliance with Regulation 10(d):** The CB had advised their clients to comply with the Customs Act and allied regulations. The Tribunal found no evidence to suggest that the CB was aware of any intentional discrepancies in the export documents.
3. **Efficiency Under Regulation 10(m):** The Tribunal held that the CB had discharged their duties with speed and efficiency, as there was no record of delays or inefficiency in processing export documents.
4. **Verification Under Regulation 10(n):** The CB had verified the authenticity of the exporter's credentials, including GSTIN, PAN, IEC, and other documents. The Tribunal noted that these documents were issued by reliable government agencies, and the CB had fulfilled their obligations under Regulation 10(n).
5. **Cooperation Under Regulation 10(q):** The Tribunal found that the CB had cooperated fully with the Customs authorities during the investigation. The allegation of non-cooperation due to the absence of third parties was deemed unsustainable.

Legal Precedents

The Tribunal relied on several judicial precedents, including decisions by the Hon'ble Calcutta High Court and other CESTAT benches, which have consistently held that Customs Brokers cannot be held liable for violations committed by exporters unless there is clear evidence of their involvement.

Impact of the Decision

This decision is a significant victory for Customs Brokers, as it reinforces the principle that they cannot be penalized for actions beyond their control. It also highlights the importance of adhering to procedural fairness and ensuring that penalties are imposed only when violations are substantiated with concrete evidence.

Conclusion

The Tribunal's decision to set aside the revocation of M/s. Auro Logistix's license and penalties is a testament to the importance of justice and due process in regulatory proceedings. It serves as a reminder to Customs authorities to exercise caution and fairness while adjudicating cases against Customs Brokers.

This case will undoubtedly serve as a precedent for similar disputes in the future, ensuring that Customs Brokers are not unfairly penalized for the actions of exporters. M/s. Auro Logistix's perseverance in fighting for their rights has paid off, and their victory is a beacon of hope for the Customs Broker community.

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**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA**

REGIONAL BENCH – COURT NO. 2

Customs Appeal No. 75715 of 2024

(Arising out of Order-in-Original No. KOL/CUS/A&A/Pr. Commissioner/cbs/07/2024 dated 04.03.2024 passed by the Commissioner of Customs (Airport & ACC), Customs House, 15/1, Strand Road, Kolkata -700001)

M/s. Auro Logistix

2/104, Gandhi Colony, 1st Floor
Room No. 4, P.S. Regent Park Kolkata-700 092

: Appellant

VERSUS

The Principal Commissioner of Customs

(Airport & ACC), Custom House,
15/1, Strand Road, Kolkata-700 001

: Respondent

AND

Customs Appeal No. 76009 of 2025

(Arising out of Order-in-Original No. KOL/CUS/A&A/Pr. Commissioner/cbs/10/2025 dated 04.03.2024 passed by the Commissioner of Customs (Airport & ACC), Customs House, 15/1, Strand Road, Kolkata -700001)

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: Appellant

VERSUS

The Principal Commissioner of Customs

(Airport & ACC), Custom House,
15/1, Strand Road, Kolkata-700 001

: Respondent

APPEARANCE:

Shri H. K. Pandey, Advocate for the Appellant
Shri Faiz Ahmed, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI R. MURALIDHAR, MEMBER (JUDICIAL)
HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NOS. 77514-77515/ 2025

DATE OF HEARING: 18.09.2025
DATE OF PRONOUNCEMENT: 26.09.2025

ORDER: [PER SHRI K. ANPAZHAKAN]

Customs Appeal No. 75715 of 2024 has been filed against the Order-in-Original No. KOL/CUS/A&A/Pr. Commissioner/cbs/07/2024 dated 04.03.2024 passed by the Commissioner of Customs (Airport & ACC), Customs House, 15/1, Strand Road, Kolkata, wherein the Customs Broker License issued to M/s. Auro Logistics (herein after referred as the appellant) has been revoked. A penalty of Rs.50,000/- has also been imposed on the appellant.

Customs Appeal No. 76009 of 2025 Order-in-Original No. KOL/CUS/A&A/Pr. Commissioner/cbs/10/2025 dated 04.03.2024 passed by the Commissioner of Customs (Airport & ACC), Customs House, 15/1, Strand Road, Kolkata, wherein the Customs Broker License issued to the appellant has been revoked forfeiture of deposit was also ordered. A penalty of Rs.50,000/- has also been imposed on the appellant.

As the issue involved in both the appeals are the same both are taken up together for decision by a common order.

2. The facts of the cases are that the Appellant is a Customs Broker whose CB licence was revoked vide Order No. KOL/CUS/A & A/Pr. Comm/CBS/07/2024 dated 04.03.2024. Again in a separate proceeding, the order dated 19.06.2025 was passed by the Ld. Principal Commissioner whereby the CB licence was ordered for revocation and forfeiture of deposit was also ordered. A penalty of Rs.50,000/- was also imposed. Taking note of the order dated 04.03.2024, the Ld. Commissioner has ordered that in case any contrary decision is taken by any higher appellate forum, the order dated

19.6.2025 would prevail. Thus, we are taking up both the orders together for decisions in appeal.

3. Both the proceedings were drawn against the appellant under CBLR consequent to two cases of alleged overvaluation of export goods registered against (i) M/s K.S. Impex vide S.B. Nos. 7841532 and 7841217 both dated 12.02.2023 and (ii) M/s Ankraj Developers Pvt. Ltd vide 03 S.Bs. dated 16.02.2023 and 06 S.Bs dated 17.02.2023.

3.1. Based on Sensitization circular dated 29.12.22 regarding possibility of overvaluation of export goods namely Men's leather wallet, Two export consignments [vide shipping bill Nos. 7841532 and 7841217 both dated 16.02.2023] of M/s K.S. Impex, a Chennai based exporter, were subjected to 100% examination. The goods were in consonance with the Invoices in quantity and quality. However, owing to the suspicious higher valuation of the goods, those goods were seized.

3.2. During the course of investigation, inquiry was conducted with the exporter and supplier of the goods. It was alleged that the appellant failed miserably to perform 'due diligence' in as much as he did not accept the documents from the exporter but accepted it from unrelated persons namely Sumit Das and Biplab Chakraborty. Being a Customs Broker he was expected to take extreme precautions in facilitating customs clearance jobs for their clients.

3.2. On enquiry, the supplier Firm M/S. BhagwanJi Enterprise (Prop: Ranjana Thakür) IGSTIN: 19BTOPT1455JIZZI was found non-existing. The matter was referred to the jurisdictional Kolkata South CGST and CX Commissionerate vide letter dated 28.06.2023. In response, the Joint Commissioner (AE), Kolkata South CGST and CX

Commissionerate vide letter dated 30.06.2023 intimated that M/S BhagwanJi Enterprise who had taken registration under GST regime is 'nonexistent and fictitious' and that the registration of M/S. BhagwanJi Enterprise was cancelled and an Alert Circular No. 20/KOL-S/2023 was issued, subsequent to the inquiry. Thus, the supply under invoices BJ/EN/22-23/012 dt.23.12.2022, BJ/EN/22-23/013 dt.26.12.2022, BJ/EN/22-23/014 dt.29.12.2022, BJ/EN/22-23/016 dt.30.12.2022 pertaining to the export goods under Shipping Bill Nos. 7841532 and 7841217, both dated 16.02.2023 were considered as fake. It was alleged that the fabricated supply bills were used by the exporter for the purpose of receiving input tax credit (ITC) benefits to the extent of RS.47,06,402.

3.3. Inquiry was conducted with the exporter M/S. K.S. Impex wherein its proprietor Mr. Khader Sheikh Nasir Ahamed has submitted inter alia that they are engaged in exports of leather articles; they purchased all materials only from one supplier i.e. M/S BhagwanJi Enterprise through one agent by name, Mr. Sushil Kumar Singh (Mob. No. 8583858051.); they are doing only export without payment of duty; there was no direct purchase contract/ order entered with the overseas buyer situated in Dubai and Mexico City; the invoices for purchase made from the supplier, were billed to M/S. R.S. Impex, Chennai and material were shipped to their premises, i.e.3/2, Dhapa Road, Kolkata 700039, the local transportation charges were borne by the supplier, i.e. M/S BhagwanJi Enterprise, and that they did not pay any freight charges for the supplies made by them; that they have not received

any advance payment for the export of the goods till date.

3.4. Enquiry with Sumit Das, revealed inter-alia that he is engaged in providing services pertaining to clearances of EX1M Cargos including logistics support to their clients. On receipt of the clearance jobs, his firm assign it to the CB Firm i.e. M/S Auro Logistix for custom formalities.

4. In respect of the allegation against the CB, the appellant submits that during investigation the exporter was found physically available and admitted to be in the business of export through someone in Kolkata. Further being referred, the GST authorities intimated that M/s BhagwanJi Enterprise who had taken the registration is non-existent and fictitious. An alert circular No.20/KOL-S/2023 dated 03.07.2023 was reportedly issued by the jurisdiction GST Commissionerate to the effect that "M/s BhagwanJi Enterprise was floated solely with intent to take GST registration to pass on illegal benefit of ITC to the recipients of fake invoice." Thus, the appellant submits that it was beyond doubt that the supplier of goods was registered with GST and live till the matter surfaced. Mr. Biplab Chakraborty and Mr Somnath Saha were attached with M/s Phoenix clearing and Forwarding owned by Mr. Sumit Das. Here it is pertinent to note that all the exercises have been taken up by the Department subsequent to the seizure of the questioned export consignment when physically placed for examination and export.

4.1. The appellant submits that no mismatch between the documents prepared for export purpose and those submitted by the exporter have been found. As a C.B., his area of responsibility was

limited to the documents only. He got the job through one C & F Agent M/s Phoneix Clearing and forwarding on commission basis. The allegations, if any, hits only the probability of violation of the provisions of CBLR but not the mischief of Sections 114(iii) and 114 AA of the Customs Act, 1962.

4.2. The Department's case is that by alleged overvaluation, the exporters would have availed undue export incentives. During examination of the goods in docks, it was found in consonance with quantity and quality declared in export documents. Both the exporters were found available and their credentials like GSTIN, PAN, and IEC etc. were found in order. The goods were supplied to the exporters under LUT issued by the jurisdictional GST Officer. However, some of the manufacturer/ sellers of the goods to the suppliers were not found physically available at the given address. Proceedings under the provision of Customs Act, 1962 were initiated against the exporter and the Appellant C.B. is made a party to that proceeding also. In the case against attempted export by overvaluation against M/s Ankraj Developers Pvt. Ltd., in respect of nine Shipping Bills handled by the appellant, the penalty imposed on him by the adjudicating authority has been dropped by the Ld. Commissioner (Appeals) vide OIA dated 31.01.2025.

5. In addition impugned proceedings have been initiated against the Appellant C.B. on the alleged violation of regulation 10 (b), 10 (d), 10 (m), 10(n) and 10(q) of the CBLR, 2018. The appellant submits that the appellant submits that they have not violated the Regulation 10(d), 10(m) or 10 (n) of the Customs Brokers

Regulations, 2018. It is also submitted that the Department has not brought in any evidence to the effect that the appellant was involved any way in the alleged overvaluation of the goods. Accordingly, the appellant has prayed for setting aside the impugned order and allowing their appeal.

6. The Ld. A.R. reiterated the findings in the impugned order.

7. Heard both sides and perused the appeal documents.

8. We observe that two separate proceedings have been initiated against the appellant-CB on the allegation that they have not played their role as a CB in respect of two export consignments exported by (i) M/s K.S. Impex and M/s Ankraj Developers Pvt. Ltd. Two cases of alleged overvaluation of export goods have been registered against the said exporters. The submission of the appellant is that they have no role to play in the valuation of export goods. They filed the documents provided by the exporters with the customs department, In respect of the allegation of overvaluation of export goods namely Men's leather wallets by M/s K.S. Impex, a Chennai based exporter, the appellant submits that the goods were subjected to 100% examination and the goods were found to be in consonance with the Invoices in quantity and quality. However, owing to the suspicious higher valuation of the goods, those goods were seized. They have no role to play in the alleged over valuation. In respect of the alleged overvaluation of export goods by M/s Ankraj Developers Pvt. Ltd., we observe that the penalty imposed on the appellant by the adjudicating

authority has been dropped by the Ld. Commissioner (Appeals) vide OIA dated 31.01.2025.

8.1. In the impugned order it has been held that the CB has violated the Regulations 10(b), 10(d), 10(m), 10(n) and 10(q) of CBLR, 2018 and hence the adjudicating authority has revoked the CB licence, forfeited the predeposit and imposed penalty. Thus, it is required to examine the provisions of the said Regulations to ascertain whether the allegation of violation of the regulations 10(b), 10(d), 10(m), 10(n) and 10(q) of CBLR, 2018 by the Customs Broker are substantiated or not.

9. The impugned order has held that the appellant has violated the provisions of Regulation 10(b) of CBLR. The said Regulation 10(b) reads as under:

10. (b) transact business in the Customs Station either personally or through an authorized employee duly approved by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be.”

9.1. This regulation mandates that the CB has to transact business personally or through his authorized representative. In the present case, we observe that there is no allegation that the Appellant C.B. did not transact the business personally in the Customs station. The allegation is all about no physical verification of exporter and export documents received through third party. The transactions of business in relation to customs Station is the idea behind Regulation 10(b).

Transaction of business in customs station in case of exports is filing of shipping bills along with the invoice, packing list, checklist and all other requisite documents. Though in today's era of virtual transactions/online processing, physical presence in customs house for transacting the business is not required, the Appellant presence in processing the export documents at the customs station is not disputed. Thus, we hold that the allegation of violation of the provisions of Regulation 10(b) against the appellant is not substantiated.

10. The impugned order has held that the appellant has violated the provisions of Regulation 10(d) of CBLR. The said Regulation 10(d) reads as under:

"10. (d) advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, 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."

10.1. In the present case, we observe that the export documents were found in order except a mismatch of vehicle number in supplier's e-way bill. There was no mismatch of quantity and quality of the export goods. There is nothing on record which prove that the appellant acquired any knowledge about any intentional change in the documents forwarded by the exporter. Thus, we hold that the allegation of violation of the provisions of Regulation 10(d) against the appellant is not substantiated.

11. The impugned order has held that the appellant has violated the provisions of Regulation 10(m) of CBLR. The said Regulation 10(m) reads as under:

10(m) "The C.B. shall discharge his duties as a customs broker with utmost speed and efficiency and without any delay."

11.1. The charge against the C.B. is that he did not cross check/verify the details mentioned in his possession. However, the fact on record does not support that there was any delay on part of the Appellant and that he did not discharge his duties with desired speed and efficiency. Thus, we hold that the allegation of violation of the provisions of Regulation 10(m) against the appellant is not substantiated.

12. The impugned order has held that the appellant has violated the provisions of Regulation 10(n) of CBLR. The said Regulation 10(m) reads as under:

10(n) " C. B. shall verify correctness of Importer Exporter code(IEC) No., GSTIN, Identify of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information."

12.1. We observe that the existence of the exporter is not doubt. It is on record that the C.B. was in possession of IEC, GSTIN, Aadhar card and PAN card of the exporter. The authenticity of all the documents submitted by the appellant is established. We observe that

genuineness of these documents are sufficient compliance of the regulation 10(n). Thus, we hold that the allegation of violation of the provisions of Regulation 10(n) against the appellant is not substantiated.

13. The impugned order has held that the appellant has violated the provisions of Regulation 10(n) of CBLR. The said Regulation 10(q) reads as under

10(q): The CB shall cooperate with the Customs Authorities and shall join investigation promptly in the event of an inquiry against them or their employees.

13.1. We observe that the Ld Adjudicating Authority has not agreed fully with the findings of the I.O. that the CB has extended their cooperation and appeared before the I.O., as and when they were called. Accordingly, he held that the allegation under Rule 10 (q) was sustainable. In this regard, we observe that the disagreement was due to the finding that the CB did not bring Mr Biplob Chakraborty and Mr Somnath Saha, who allegedly accompanied him to the office of M/s Ankraj Developer Pvt Ltd to receive KYC documents of M/s K.S. Impex from Mr Pankaj Agarwal as promised; and that he could not produce the envelope in which the said documents were purportedly received the KYC documents of M/s K.S. Impex. In this regard, we observe that the Appellant cannot be held responsible for non-appearance of third person before the Customs Authorities and based on such allegation contravention of Regulation 10 (q) of the CBLR cannot be said to be sustained. We find that the appellant CB has cooperated with

the investigation and offered his assistance at all times. As there is no allegation of non cooperation on the part of the appellant, we hold that the allegation of violation of the provisions of Regulation 10(q) against the appellant is not substantiated.

14. We observe that the appellant relied upon various decisions of the Tribunals and High Courts in support of their contention that the CB cannot be held responsible for the violations of overvaluation etc. committed by the exporter.

14.1. We find that this view has been taken by the Hon'ble Calcutta High Court in the case of B.K. Clearing Agency in CUSTA/20/2023/ IA NO: GA/1/2023. The relevant part of the said decision is reproduced below:

The next allegation against the respondent was that they violated the regulation 10(d) of the CBLR which mandates that Customs broker has to advise his clients to comply with the provisions of the Customs Act, 1962 and in the case the clients fail to comply with the provisions of the said Act, the Customs broker will be held responsible and may result in cancellation or suspension of the license. The Tribunal took note of the factual position that 81 shipping bills have been cleared during the period June 19 to December 2020 and none of those shipping bills came to the adverse notice of the department. More importantly, the Tribunal has rightly noted the fact that the shipping

bill in question which has led to the cancellation of the license of the respondent was not filed by the respondent but was filed by Just Logistic-1, which was a company owned by Arup Ghosh. Therefore, the Tribunal was right in coming to the conclusion that there was no evidence available on record to substantiate the allegation that the respondent has not advised their clients properly. Therefore, the finding rendered by the Tribunal in this regard stands affirmed. The next allegation against the respondent was with regard to the violation of Regulation 10(m) which mandates that the Customs broker should perform his duties efficiently and with utmost skill. Noting the facts the Tribunal, in our view, rightly held that there was no record to prove that the respondent has not performed its duties efficiently or in an expeditious manner. 5 Therefore, we find that the conclusion of the Tribunal that the respondent has not violated Regulation 10(m) of the CBLR 2018 is affirmed. The next allegation against the respondent is with regard to Regulation 13(2) which mandates that Customs broker has to supervise and ensure proper conduct of his employees in the transaction of the business and in the event of any violation the Customs broker will be held responsible for all acts and omissions of its employees. The Tribunal took note of the fact that Arup

Ghosh, the G-Card holder and authorised representative of the respondent, has handled the clearance work for the exporter M/s. S. S. Impex, Hyderabad and the department has not raised any objection in this regard. Furthermore, as noted previously, the shipping bill in question was not filed by the respondent but was filed by Just Logistic-1 and, therefore, the Tribunal rightly held that the respondent cannot be held liable for any violation that might have been committed by Just Logistic-1. Therefore, the finding rendered by the Tribunal in this regard also stands affirmed. The next allegation against the respondent was with regard to violation of Regulation 10(n) of the CBLR 2018, which mandates that Customs broker has to verify the correctness of the i.e. Code, GSTIN and the functioning of the client at the declared address using reliable, independent and authentic data, documents or information. The appellant had contended before the Tribunal that they have made due verification as required under Regulation 10(n) and has obtained the documents list as i.e. Code, GSTIN etc from independent and reliable sources and had authentic documents and data. The Tribunal examined this aspect of the matter and has found that all those documents are not in dispute and have been issued by various Government agencies and entities, which

would go to 6 substantiate the existence of the exporter at the relevant time when these documents were issued. The Tribunal has also taken note of the other facts and also examined as to in what manner the Customs broker can proceed to verify the authenticity and the reliability of the documents pertaining to his clients. After taking note of various decisions on this aspect rendered by the Tribunal as well as the fact that proper due diligence has been done by the respondent qua their client M/s. S. S. Impex, Hyderabad accepted the case of the appellant. Thus, we find that Learned Tribunal on a deep appreciation of the factual position has granted relief to the appellant and we find no grounds to interfere with the orders passed by the Tribunal. Accordingly, the appeal fails and is dismissed.

14.2. This Tribunal, Calcutta has taken the same view in the case of M/s. IWW Logistics Private Limited Vs Principal Commissioner of Customs (Airport & ACC, vide Final Order 75317 / 2025, dated 12.02.2025.

15. In view of the above findings and by relying on the decisions cited supra, we hold that the allegations of violation of the regulations 10(b), 10(d), 10(m) , 10(n) and 10(q) of CBLR, 2018 by the Customs Broker has not been substantiated. Accordingly, we hold that the impugned orders (both the orders) revoking the license of the appellant CB is not sustainable.

15.1. As the allegations against the CB are not substantiated, we hold that the forfeiture of pre deposit and imposition of penalty on the appellant in the impugned order are not sustainable and hence we set aside the same.

16. In view of the above findings, we set aside the impugned orders and allow the appeals filed by the appellant with consequential relief, if any, as per law.

(Order Pronounced in Open court on 26.09.2025)

(R. MURALIDHAR)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

RKP