

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH, COURT NO. 1**

CUSTOMS APPEAL NO. 51996 OF 2024

(Arising out of Order-in-Original No.57/VPS/Policy/2024 dated 12.09.2024 passed by Commissioner of Customs, (Airport & General), New Delhi)

M/s. Dehasu Logistics India Pvt Ltd.,
(Formerly M/s. Entire Exim Solutions)
523, DLF Prim Tower, Okhla Industrial Area,
Phase-I, New Delhi-110020

Appellant

Vs.

Commissioner Of Customs-Airport & General
New Customs House, Near IGI Airport,
New Delhi-110037

Respondent

Appearance:

Present for the Appellant: Shri Salil Arora, Advocate

Present for the Respondent: Shri M.K. Shukla, Authorised Representative

CORAM:

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT

HON'BLE MS. HEMAMBIKA R. PRIYA, MEMBER (TECHNICAL)

Date of Hearing/Decision: 15/10/2025

FINAL ORDER NO. 51647/2025

JUSTICE DILIP GUPTA:

The order dated 12.09.2024 passed by the Commissioner of Customs (Airport & General) revoking the customs broker license of the appellant and directing for forfeiture of the security deposit and for imposition of penalty has been assailed in this appeal.

2. This appeal was earlier decided by the Tribunal by an order dated 04.11.2024. The department filed an appeal before the Delhi High Court which has set aside the order passed by the Tribunal and has directed that the matter may be decided before 15.12.2025.

3. Shri Salil Arora, learned counsel for the appellant made two submissions. The first is that the show cause notice is vague as it merely reproduces the order dated 30.12.2023 passed by the Additional Commissioner of Customs in proceedings initiated against the importer and the present appellant under the provisions of Customs Act, 1962 without specifying why action should be taken for violation of provisions of regulation 10 (d), (e), (q) and 13(12) of the Customs Broker Licence in the Regulation 2018¹. The second submissions is that the appellant appeared before the Inquiry Officer and submitted a reply and thereafter, a detailed inquiry report running into 29 pages was submitted holding that the appellant had not violated any of the provisions of the regulations and in fact, had complied with the provisions of the regulations but the Commissioner disagreed with the findings of the Inquiry Officer without providing reasons to the appellant as to why he disagreed and without providing any opportunity to the appellant to submit a representation.

4. Learned counsel, therefore, submitted that the impugned order deserves to be set aside for these two reasons.

1. 2018 Regulation

5. The show cause notice alleges violation of regulations 10 (d), (e), (q) and 13(12) of the 2018 Regulation. The said regulations are reproduced below:

"10. Obligations of Customs Broker.-A Customs Broker shall-
.....

(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;

(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;

(q): co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees.

13. Engagement or employment of persons.-.....

(12) The Customs Broker shall exercise such supervision as may be necessary to ensure proper conduct of his employees in the transaction of business and he shall be held responsible for all acts or omissions of his employees during their employment."

6. The Inquiry Officer has very meticulously examined the violation of these regulations in the enquiry report.

7. In respect of the allegations of violation of 10 (d), the finding recorded is as follows:

"(i) As regards the first issue, I observed that the Customs Broker had filed the total 03 shipping Bills i.e. S/B No. 5596768 dated 02-10-2020, S/B No. 5665016 dated 06-10-2020, S/B No. 5899246 dated 16-10-2020 were filled by M/s Entire Exim Solutions for period 01-Apr-20 to 31-JAN-21 against IEC ADMPN7657B (M/s. Aura Multitrade) & no discrepancies were found during the Custom Clearance of these 3 Export Shipments such as copy of LEO (let export order) is enclosed in support of the findings. I observe that the SCN does not prove beyond doubt that the exporter have violated the Customs Act 1962 in respect of the said SB. On the other hand as the Show Cause Notice does not prove beyond doubt that the Customs Broker was

indeed in the knowledge of the composition of the material being exported and its value as per the market enquiry.

(ii) I also observe that the Custom Broker was advised his client in advance to comply with the provisions of the Customs Act and the Rules and Regulations which is evident by the Authorization Letter (enclosed herewith) received from the client.

(iii) Hence after going through the case records, statements and submissions made by the Customs Broker at the time of personal hearing I observe that the said Customs Broker have not violated Regulation 10(d) of the CBLR 2018 in as much as he advise the said exporter to comply with the provisions of the Act & Rules made thereunder. Hence, I found this article of charge cannot be established/proven."

8. In respect of the allegation of violation of regulation 10(e), the Inquiry Officer has recorded the following findings:

(i) I observe that there were no discrepancies found in the Export shipments handled by the said Custom Broker regarding the three export Shipments for this client (M/s. Aura Multitrade).

(ii) Since the said SCN fall short to prove the Customs Broker have not fulfilled the obligations cast upon them under the provisions of CBLR, 2018 and contravened/violated the provisions of Regulation 10(e) of the CBLR, 2018, I observe that due to the reasons mentioned in para 48.1.supra, I am of the view that the Show Cause Notice does not prove beyond doubt the violation of Regulation 10(e) of the CBLR, 2018."

9. In respect to the allegation of violation of regulation 10(q), the Inquiry Officer has recorded the following findings:

(i) As regards to the said issue I observe that summons were issued to M/s Entire Exim Solutions (Now M/s Dehasu Logistics India Pvt. Ltd); M/s Dehasu Logistics India Pvt Ltd in their reply letter to the summons dated 25/08/2022 stated that their old license was in the name of 'M/s Entire Exim Solutions' and that it was finally surrendered to Delhi Customs and does not exist anymore. That only one G-Card was issued by Mumbai Customs to Shri Rajesh Chodnekar on that license and that he also had the Power of Attorney. They provided information of Shri Rajesh Chodnekar mainly his local address among other things.

(ii) I observe that the SCN fall short to prove that why the department did not try to communicate with the noticee either via Email or by Phone call, despite of having all the contact details of this Noticee, such as Mobile No. & Email ID even then the letters were returned back to the Department without being received by this Noticee & later on the noticee promptly join the

inquiry. Therefore, in light of the above, I am of the view that the allegation of violation of Regulation 10(q) cannot be proven beyond doubt."

10. In respect to the allegation of violation of regulation 13(12), the Inquiry Officer has recorded the following findings

"13(12)(i) As regards to the issue I observe that the person employed by the Noticee namely Shri Rajesh Chodnekar was Custom Department approved G-Card Holder and due diligence before approving him had been done by the Customs Department.

(ii) Further, the Noticee Custom Broker had executed a power of attorney in favour of the G-Card Holder in the format prescribed by the Mumbai Commissionerate & an "Appointment Agreement" (enclosed herewith) was also executed in compliance of all the obligations under CBLR, 2018.

(iii) Since the facts and circumstances on record are contrary to the charges cast under the said SCN against the said Custom Broker, therefore I am of the view that the allegation of violation of Regulation 13(12) of the CBLR, 2018 cannot be proven beyond doubt."

11. After having recorded the aforesaid findings, the Inquiry Officer concluded that the appellant had complied with the provisions of the 2018 Regulations. The relevant findings are as follows:

"Conclusion of the inquiry report: -

49. Since, in light of the facts and circumstances narrated herein-above, it is crystal clear that there is no negligence on the part of the noticee (CB) in complying with the obligations specified under CBLR, 2018. Hence, I concluded that M/s Dehasu Logistics India Pvt. Ltd. (formerly, M/s Entire Exim Solutions), Customs Broker had complied with the provisions of CBLR, 2018 & the allegation of violation of Regulation of CBLR, 2018 cannot be established beyond doubt."

12. Though the aforesaid enquiry report was provided to the appellant by a communication dated 19.03.2024 and the appellant was asked to submit representations, if any, within 30 days, but the appellant was not apprised of the reasons, if any, for disagreement with the enquiry report.

13. The Commissioner has without providing the appellant reasons for disagreement with the report submitted by the Inquiry Officer has disagreed with the enquiry report and has revoked the Customs Broker license of the appellant. It was necessary for the Commissioner to follow the said procedure to ensure compliance of the principle of natural justice.

14. This precise issue was examined by the Delhi High Court in "**Him Logistics**". It was held that though the Principal Commissioner is not bound to accept the inquiry report if it is in favour of the customs broker, but if he disagrees with the same, then in such a situation the Commissioner should apprise reasons for disagreement so that a reply can be filed. The relevant paragraphs of the judgment are reproduced below:

"**14.** The answer to question no.(i) is clearly that the Principal Commissioner or Commissioner of Customs, as the case may be, is not bound to accept the inquiry report, if it is in favour of the Custom Broker and he can disagree with the same.

15. Coming to question no. (ii). The opportunity of hearing, as contemplated by Regulation 20, envisages that the Customs Broker should be provided the material, which is to be used against him for passing an adverse order, so he is in a position to rebut, qualify or explain the same and show cause against the proposed adverse action. **In case only favourable material is provided to the Customs Broker and the adverse material or the reasons for disagreement are withheld from him, then, the entire exercise would be a futility as he would not be provided with an opportunity to rebut, qualify or explain the same and show cause against the proposed adverse action. When an inquiry report is in favour of the Customs Broker and completely exonerates him and the Principal Commissioner of Customs or the Commissioner of Customs, as the case may be, intends to disregard the**

inquiry report on the basis of any material available or reason, then the principles of natural justice require that the said material/reasons must be communicated to the agent to enable the agent to rebut, qualify or explain the same and to show cause against the proposed adverse action. In the absence of communication of adverse material/reasons, the Customs Broker would not be aware of the proposed adverse action and would not be able to show cause against the same and there would be failure of compliance with the principles of natural justice, as envisaged by Regulation 20 of CBLR, 2013.

16. In the present case, the inquiry report is in favour of the petitioner and exonerates him. Mere communication of the inquiry report, which is in favour of the petitioner and without communication of adverse material and/or reasons for difference, would not enable the petitioner to rebut, qualify or explain the adverse material and show cause against the proposed adverse action. **Principles of natural justice required that before an adverse decision was taken against the petitioner, the petitioner should have been communicated the adverse material/reasons for disagreement. The fact that the reasons for disagreement were not communicated to the petitioner prior to the adverse decision being taken by the Commissioner of Customs, there was clearly a violation of principles of natural justice.** The Commissioner of Customs should have recorded the reasons for disagreement and forwarded the same to the petitioner for his comments before passing the impugned order. Because of failure to do so, the impugned order is clearly in violation of the principles of natural justice.

17. The decision of the full Bench of the Bombay High Court in the case of M/s. Delta Logistics v. Union of India (Supra) relied upon by the Respondent, does not help the case of the respondent as in the said case, the only question before the Full Bench was whether the Commissioner of Customs is bound by the findings recorded in the inquiry report, if the finding was in favour of the CHA or could he disagree with the findings recorded in the inquiry report and pass such orders, as he deems fit. The Full Bench answered the question holding that the Commissioner was empowered to disagree with the findings recorded in the inquiry report and was not bound to accept the same even if the

same were in favour of the CHA. The Full Bench was not considering the question whether the principles of natural justice required the Commissioner to record adverse material and communicate the same to the Customs Broker.

18. We answer question no. (ii) by holding that where the Principal Commissioner or Commissioner of Customs, as the case may be, intends to disagree with the inquiry report, that is in favour of the Customs Broker, then it is mandatory for him to communicate the adverse material/reasons for disagreement to the Custom Broker and require him to show cause/represent against the proposed adverse order."

(emphasis supplied)

15. As it was incumbent upon the Commissioner to have apprised the appellant of the reasons for disagreement with the report of the Inquiry Officer, the impugned order, in view of the decision of the Delhi High Court in **Him Logistics**, has to be set aside.

16. It would, therefore, be not necessary to examine the contention of the appellant as the show cause notice is vague as specific violation of the regulations have not been alleged.

17. The impugned order dated 12.09.2024 is, accordingly, set aside and the appeal is allowed.

**(JUSTICE DILIP GUPTA)
PRESIDENT**

**(HEMAMBIKA R. PRIYA)
MEMBER (TECHNICAL)**