

**CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHANDIGARH**

REGIONAL BENCH - COURT NO. I

Customs Appeal No. 60555 of 2024

[Arising out of Order-in-Original No. 01/COMMR/ASR/JSN/CUSTOMS/2024 dated 29.07.2024 passed by the Commissioner of Customs, (Preventive), Amritsar]

M/s Karan Logistics

Flat No.19, Second Floor, A8C,
White House, Viswakarma Colony,
Mehrauli, Badarpur Road,
Delhi-110044

.....Appellant

VERSUS

Commissioner of Customs, Amritsar

Preventive Customs House, Amritsar,
Punjab-143001

.....Respondent

APPEARANCE:

Shri Naveen Malhotra, Advocate for the Appellant

Shri Anurag Kumar, Authorized Representative for the Respondent

CORAM: HON'BLE MR. S. S. GARG, MEMBER (JUDICIAL)

HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 61681/2025

DATE OF HEARING: 16.10.2025

DATE OF DECISION: 18.11.2025

P. ANJANI KUMAR:

M/s Karan Logistics, the appellant, a Customs Broker, filed this appeal, C/ 60555 of 2024 (DB), against the order in original 29.07.2024 passed by Commissioner of Customs, Amritsar, vide which the suspension of their Customs Broker License was confirmed.

2. Brief facts of the case are that an investigation conducted by the Assistant Commissioner of Customs, SIIB, ICD Tughlakabad, revealed that an exporter, M/s Krystfab Enterprises, had fraudulently availed excess Rebate of ₹11,38,921/-, along with applicable interest; the shipping bills for the said exports were filed by the appellant; the attempts to communicate with the exporter failed and the letters were returned undelivered; neither the exporter nor the Customs Broker Appellant responded to the notices; meanwhile, the exporter withdrew all funds from their bank account; it was thus established that the operators defrauded the government. Accordingly, the Commissioner of Customs, Airport & General, New Delhi, issued an Order-in-Original (OIO) dated 03.01.2024, prohibiting the Customs Broker Appellant from working at all customs stations under Delhi jurisdiction under Regulation 15 of CBLR, 2018. Subsequently, the Commissioner of Customs (Preventive), Amritsar, being the licensing authority, initiated proceedings to suspend the License of the Customs Broker Appellant under Regulation 16(1) of Customs Broker Appellant LR, 2018, vide order dated 06.03.2024, and after due process, confirmed the continuation of suspension, vide the impugned order.

3. Shri Navin Malhotra, Learned Counsel for the appellant, submits that Commissioner of customs, Airport and General vide order dated- 03.01.2024, prohibited the working of the Customs Broker Appellant, License No. 11/CHA /ASR/2012, with immediate effect under regulation 15 of CBLR, 2018; a copy of the same was forwarded to the principal Commissioner Amritsar for taking action

under Regulation 16/ Regulation 17 of the CBLR, 2018; accordingly, the principal Commissioner of Customs, Amritsar, suspended the License was on 06.03.2024 by and a personal hearing was accorded on 14.03.2024; a reply was filed on 30.04.2024.

4. Learned Counsel submits that since 2018 the license of the Customs Broker Appellant was under suspension; Two times the license was revoked by the same authority, i.e. Commissioner of Customs, Amritsar; firstly, vide order dated-05.09.2018, and the revocation as set aside by this Hon'ble tribunal vide final order No.- A/60713/2019 – CU-DZB dated- 21.05.2019; secondly vide order in original received on 29.06.2020 which was also set aside by CESTAT vide Final order No.- Final order No.- 60411/2024 dated 09.07.2024. He submits that the License was suspended on 29.07.2024.

5. Learned Counsel relies on the earlier orders passed by this Bench in their own case and the decision in Kunal travels 2017 (354) ELT 447 (Delhi); Ashiana Cargo services- 2014 (302) ELT 161 (Del.) and Naman Gupta - 2024 (388) E.L.T. 40 (Del.). He submits that the obligation of the Customs Broker/CHA under CHALR 2004/ CBLR cannot be stretched and the Customs Broker is not required to undertake a background check of their client and Customs Broker cannot be held liable after the issuance of let export order. He submits that the license of the Appellant is under suspension or under revocation since 2018. He submits that the Customs Broker appellant is out of job for more than 7 years and they have been deprived of livelihood for no fault of them.

6. Shri Anurag Kumar Learned Authorised Representative for the Revenue, reiterates the findings of the impugned order and submits that the present matter pertains to serious violations of the Customs Broker Licensing Regulations, 2018 (CBLR,2018) by the Customs Broker Appellant, compromising the integrity of the customs clearance process and causing significant revenue loss to the public exchequer. He submits that the Customs Broker Appellant has repeatedly violated multiple obligations under Regulation 10 in as much as they failed to Advise the exporter, M/s Krystfab Enterprises, to comply with the provisions of the Customs Act and other allied laws, particularly in relation to the lawful availment of RoSL benefits, as follows.

(i). the appellant also failed to bring the instance of non-compliance to the notice of the customs authorities, as mandated;

(ii). the Customs Broker Appellant did not exercise due diligence to ascertain the correctness of the information submitted for the clearance of cargo; the excess RoSL claim and the subsequent disappearance of the exporter demonstrate a complete failure in verifying the authenticity of the export transactions.

(iii). Customs Broker Appellant failed to verify the identity, Importer Exporter Code (IEC), GSTIN, and functioning of the exporter at the declared address using reliable and authentic documents.

(iv). Customs Broker Appellant did not respond to repeated letters and summons issued by the customs authorities; lack of cooperation on their part hindered the investigation and established a deliberate attempt to avoid accountability.

7. Learned Authorised Representative rebuts the grounds of appeal of the Customs Broker Appellant as follows

(i). It is incorrect to say that the License was already under suspension since 2017, a fresh suspension in 2024 is infructuous; each violation is independent and the current proceedings are based on a new set of violations involving RoSL fraud, which warrant separate and immediate action;

(ii). it is not correct to say that the necessary details such as shipping bill numbers, dates, or the prohibition order in violation of principles of natural justice; Customs Broker Appellant was given multiple opportunities for personal hearing and written submissions; the details of the case were sufficiently communicated through show-cause notices and the OIO dated 03.01.2024.

(iii). The cases relied upon by the Customs Broker Appellant are distinguishable; violations are not limited to post-clearance acts; Customs Broker Appellant failed in its pre-clearance obligations—KYC, due diligence, and client verification—which directly enabled the fraud.

(iv). The authorities followed due process of Law; suspension order dated 06.03.2024 was issued under

Regulation 16(1); multiple opportunities for personal hearing were given on 14.03.2024, 28.03.2024, 01.05.2024, and 16.07.2024; written and oral submissions of Customs Broker Appellant before confirming the suspension; the action is preventive and protective in nature, aimed at curbing further misuse of the License of the Customs Broker Appellant.

8. Learned Authorised Representative submits that in view of the above violations, due legal action was taken on the appellant under CBLR, 2018 issued in terms of Section 146 of the Customs Act, 1962. He relies on the decision of the Hon'ble Supreme Court in the case of K.M. Ganatra & Co. 2016 (332) ELT 15 (SC) and submits that Customs Brokers occupy a position of trust and are expected to act with utmost responsibility; any contravention of their obligations, even without intent, is sufficient to invite penal consequences.

9. Heard both sides and perused the records of the case. We find that the license of the customs broker was suspended because of his alleged involvement in a case of alleged wrong claim of RoSL by some exporters. It is the case of the Department that the Department having come to know of the excess avilment have sent summons to the exporter and the Customs Broker; both communications returned undelivered; the exporters were found to be not existing in the declared addresses. Therefore, Revenue came to the conclusion that the Customs Broker Appellant was responsible for the alleged excess avilment by the unscrupulous exporters as

he failed to verify the antecedents and exact whereabouts of the exporters and has not shown due diligence in the discharge of his responsibilities as a Customs Broker.

10. We find that it has been held in a number of cases that the Customs Broker need not visit the premises of the exporters and would not have any capability to do a background check of the exporters. What the Customs Broker could do in terms of the CHLR 2018 is to verify on the basis of the documents provided by the exporter. It is not the case of the Department that the documents submitted by the appellants are forged or fake. Under the circumstances, it has to be presumed that the Customs Broker Appellant has verified the whereabouts of the exporters by reasonable means like the examination of the documents like IEC and PAN Card etc. of the exporters. Therefore, Customs Broker Appellant cannot be alleged to have established the bona fides of the exporters which is clearly beyond his mandate. In the instant case, we find that the exporters have filed the necessary shipping bills through the Customs Broker Appellant and presented the goods for the examination by the customs officers, who have given Let Export Order. After satisfying about the exports, RoSL was released in the system and credited to the Bank accounts of the exporters. It is said that the exporters have withdrawn the said amounts. In such circumstances, if at all, one has to question, the actions of all the persons/ agencies involved like the customs officers, Banks etc. become questionable. For this reason, the responsibility cannot be fixed solely on the Customs Broker Appellant as there is no

substantiation of the allegation that the Customs Broker Appellant has not discharged his role as a Customs Broker diligently and has violated the provisions of CHLR 2018 so that the suspension of his license is necessitated.

11. Moreover, we find that the license of the Customs Broker Appellant has been under suspension from 2018 onwards; it was suspended/ revoked twice in the past and this Bench vide final orders cited above has set aside the impugned order therein. We find that as on the day of suspension, the license of the appellants was already under suspension and therefore, a further suspension would not only be redundant but also smacks of vengeance by the Revenue. Moreover, we find that the appellants have been suffering for 07 to 08 years due to continuous suspension of the license. It is not in the interest of justice to subject the Customs Broker Appellant for the un-evidenced and general allegations without specific evidence. We find that Hon'ble Delhi High Court in the case of Ashiana Cargo Services (supra) held that even though it is seen that the Customs Broker has violated the trust operating between the customs authorities and the CHA, it has to be borne in mind that the CHA was unable to work with the license for 07 to 08 years; a penalty must be imposed if certain provisions have been violated; the penalty must, as in any ordered system, be proportional to the violation just as the law abhors impunity for infractions, it cautions against disproportionate penalty; neither extreme is to be encouraged. Hon'ble High Court held that a penalty of revocation of license unjustly restricts the appellant's ability to engage the

business of CHA for a long time; importantly, it skews the proportionality doctrine. We also find that, in the instant case, the Customs Broker Appellant has been singled out without establishing the role of other persons or agencies without evidencing any collusion etc., without which violation of such proportion would not have been possible. We also find that no *mens rea* has been established. Therefore, looking into the relevant factors like knowledge/ *mens rea*, gravity of the infraction, stringency of the penalty/ suspension/ revocation and that the appellant has already suffered for 07 to 08 years, a judicious mind will not but lean in favour of the Customs Broker Appellant. Though, the Authorized Representative submits that the appellant has been a habitual offender, it has to be borne in mind that this Bench has set aside the suspension of the Customs Broker Appellant on two occasions. In the instant case also, in view of the absence of evidence of any *mens rea* on the part of the appellant or collusion with others, we are of the considered opinion that the impugned order cannot be maintained and requires to be set aside without blinking an eye.

12. In view of the above, the appeal is allowed.

(Order pronounced in the open court on 18/11/2025)

(S. S. GARG)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)