

CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI

PRINCIPAL BENCH – COURT NO. – I

Customs Appeal No. 52319 of 2024

[Arising out of Order-in-Original No. 45/ZR/Policy/2024 dated 27.06.2024 passed by the Commissioner of Customs (Airport & General), New Delhi]

M/s. R.K. Logistics

RZA 16/4A, 2nd Floor,
Flat No. – 107, Street No.-10,
Raj Nagar-IIInd, Palam Colony,
New Delhi - 110077

...Appellant

VERSUS

**Commissioner of Customs
(Airport & General), New Delhi**

New Custom House,
New Delhi - 110037

...Respondent

APPEARANCE:

Shri Kishore Kunal and Shri Anuj Kumar, Advocates for the Appellant
Shri Nikhil Mohan Goyal, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. C.J. MATHEW, MEMBER (TECHNICAL)

DATE OF HEARING: 08.12.2025
DATE OF DECISION: **17.12.2025**

FINAL ORDER NO. 51918/2025

C.J. MATHEW

M/s R K Logistics, holder of customs broker license (R-70/DEL/CUS/2016), aggrieved by the fastening of every punitive measure available in Customs Broker Licensing Regulations (CBLR), 2018 on conclusion of proceedings initiated against them for alleged breach of regulations 10 (d), 10 (e), 10 (n) and 10 (q) therein in connection with exports effected by M/s Himratan Exports and M/s Krystafab Enterprises, is in appeal before us against order of Commissioner of Customs (Airport & General), New Delhi. It would appear that the sum and substance of the alleged irregularity in the

exports was limited to unrecovered excess disbursement under the Rebate of State Levies (RoSL), intended to neutralise the incidence of taxes imposed by the constituent States of the Union on 'garments' and 'made-ups' from the budgetary allocation of the Government of India in the Ministry of Textiles, and sanctioned, as agency function, by Central Board of Indirect Taxes & Customs (CBIC) on exports with recoveries of excess to be effected on finalisation of actual entitlement by the operational Ministry. It would appear that excess, of varying amounts, had been pending generally and 'custom brokers' were addressed for furnishing progress of recoveries, along with appropriate interest, from their clients within stipulated time limit. From the records, it is seen that the exports, purportedly handled by the appellant herein, were identified as having pendency of 'excess' of ₹ 171, with interest, and ₹ 1,13,892, with interest, respectively from the two exporters. The revocation of the license and imposition of penalty of ₹ 50,000 was loaded on the notional fiscal loss *supra* alleged to stem from failure to respond to the communication *supra*

2. At the earlier hearing, it appeared to the bench that the appellant, representing himself and apparently troubled by an earlier revocation and forfeiture of security deposit owing to alleged ineligibility for license, was unable to do justice to his own cause and the bench sought assistance of Shri Kishore Kunal, learned Counsel, as *amicus curiae*, for taking up disposal.

3. Learned Counsel submitted that the proceedings had been initiated without application of mind and the impugned order demonstrative of everything that an order under the Customs

Broker Licensing Regulations (CBLR), 2018 ought not to be. Narrating the background in brief, he pointed out that there was no allegation about the authenticity of the export or existence of the exporter and that, at no stage, did imputation of misconduct even whisper that the amounts, even if not being duties leviable under law, were not recoverable for want of availability of the exporter. According to him, the system in vogue entailed sanction - tentatively and upon completion of exports - on the basis of value declared which, after computation of entitlement by Ministry of Textiles, was to be limited thereto with excess to be recovered and he contended that there was no legal sanction for holding the appellant responsible either for the tentative availment or for payout of excess.

4. He pointed out that the genesis of the proceedings, being communication of 29th September 2023 on the 'anomaly', *i.e.*, the excess drawn by M/s Himratan Exports, and purportedly, to the appellant though at an unconnected address, sufficed to conjecture that another 'custom broker' under the same name and style had been licenced and which, obviously, remained unanswered leading to the initiation of the present proceedings. It would appear that, on receipt of the notice, the appellant had intimated about incorrect address in the said communication and denied handling goods of the said exporters; and, similarly, in response to the notice of enquiry with the designated authority. Learned Counsel was emphatic that it was incumbent upon both the licensing authority and the designated enquiry authority to have necessary investigations undertaken before proceeding further with the

process prescribed in Custom Broker Licensing Regulations, 2018 for revocation of licence.

5. It was also canvassed by Learned Counsel that the alleged breaches were not tested for subsisting in the light of disavowal of the exports, as well as the exporters, by the appellant herein. It was contended that the findings on breach of regulation 10 (d) and 10 (e) of Custom Broker Licensing Regulations, 2018 was not sustainable in the absence of any imputation of either not having advised exporters who were not their clients or not having ascertained the correctness of the information imparted to exporters who were not their clients. He argued that the findings on non-ascertainment of antecedents were similarly not be fastened onto the appellants herein. According to him, the alleged breach of regulation 10 (q) of Customs Broker Licensing Regulations, 2018, intended as obligation binding on the customs broker to cooperate in any investigations in an enquiry against them or their employees and not an enquiry as formal proceedings for punitive measures under the Custom Broker Licensing Regulations, 2018, was held out on the back of disinclination of the appellant herein to intimate the true identity of the exporter during the proceedings before the inquiring authority.

6. Learned Authorised Representative took us through the provisions invoked, the facts narrated and the conclusions arrived at in the impugned order.

7. We find that the appellant herein had drawn attention of both the licensing authority as well as the enquiry authority to their apparent lack of any connection with the impugned exports. It was

also pointed out by them that, even with the impugned shipping bills bearing 'code' assigned to them, the exporters were not clients of theirs and neither were the exports handled by them. Admittedly, the address to which the notice of anomalies was dispatched did not connect with them. Neither were the shipping bills made available for the appellant herein to make effective rebuttal by recourse to facts contained therein. Learned Counsel has properly pointed out that, while summary of dues pertaining to M/s Himratan Export was accompanied only by schedule of shipping bills, the summary pertaining to the other was devoid even of that let alone the actual shipping bills with both or either.

8. We are unable to appreciate the manner in which the licensing authority concluded, in the face of denial by the appellant, that the sketchy facts available on record sufficed to uphold the charge of having breached several of the obligations in the Regulations governing operation as customs broker. Moreover, in the light of clear rebuttal of the address to which enquiry about recovery of excess had been dispatched as being theirs, it behoved the licensing authority to ascertain connection of the impugned address with a custom broker other than the appellant therein. In the light of denial of any connection with the exporters, it behoved the licensing authority to verify the foundational documents connecting the appellant with the exporters. In circumstances of shakiness of the foundations on which the charges were directed against the appellant herein, the findings are totally devoid of reason and merit. Without going into any other aspect of the enquiry as well as the reasons furnished for revocation of the

custom broker license and imposition of penalty, the threshold insufficiency of verifiable facts in the allegations demands that the impugned order be not allowed to sustain. The appeal is, in consequence, allowed.

9. Before parting with matter, we must place on record the dedicated prosecution of the appeal by the designated *amicus curiae*, Shri Kishore Kunal, Advocate ably supported by Shri Anuj Kumar, Advocate, and the sincere efforts taken by them to study the papers and prepare the defence on several counts covering jurisdictional, legal and factual aspects which enabled us to dispose of this appeal with, what we believe to be, appropriate sense of justice and equity.

[Order pronounced in the open court on **17.12.2025**]

(JUSTICE DILIP GUPTA)
PRESIDENT

(C.J. MATHEW)
MEMBER (TECHNICAL)

HK