

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

REGIONAL BENCH - COURT NO.2

Customs Appeal No.75610 of 2024

(Arising out of Order-in-Original No.KOL/CUS/A&A/Pr.COMMISSIONER/CBS/06/2024 dated 21.02.2024 passed by Pr.Commissioner of Customs (Airport & ACC), Kolkata.)

M/s. Just Logistics 1,

(60/1, Sarat Bose Lane, Mathpara, Sarat Colony, Kolkata-700081.)

...Appellant

VERSUS

Pr. Commissioner of Customs (Airport & ACC), Kolkata

(15/1, Strand Road, Custom House, Kolkata-700001.)

.....Respondent

APPEARANCE

Shri Arijit Chakraborty, Advocate for the Appellant)

Shri Tariq Suleman, Authorized Representative for the Revenue

**CORAM: HON'BLE SHRI R. MURALIDHAR, MEMBER(JUDICIAL)
HON'BLE SHRI RAJEEV TANDON, MEMBER(TECHNICAL)**

FINAL ORDER NO. 75401/2026

DATE OF HEARING : 09.03.2026

DATE OF DECISION : 19.03.2026

Per : RAJEEV TANDON :

The present appeal has been filed by the appellant being aggrieved with the Order-in-Original No.KOL/CUS/A&A/Pr.COMMISSIONER/CBS/06/2024 dated 21.02.2024 whereby the learned Adjudicating authority has ordered revocation of the Customs Broker's Licence of the appellant. He has also ordered therein forfeiture of full amount of Security Deposit furnished by the Customs Broker, apart from imposing a penalty of Rs.50,000/- on the appellant. The learned

Principal Commissioner in his order has found the appellant in violation of the prescriptions of Regulation 10(d), 10(m) and 10(n) of the Customs Brokers Licensing Regulations (CBLR), 2018 and has therefore ordered as above mentioned.

2. The primary charge against the appellant, stems out of the case of export of 'Human Hair (Unprocessed)' by an exporter, by name M/s. S.S. Impex by undervaluing the same; the appellant being the Customs Broker in the said matter having processed and facilitated exports under cover of Shipping Bill No.7926810 dated 15.01.2021 which was interdicted by the authorities. Conducting detailed investigations into the matter, the department found that in past also several similar consignments of export of Human Hair by the said exporter were undertaken. In some of these export shipments the present appellant was the nominated Customs Broker on record. Through its investigations the department arrived at the conclusion that the exporter in the present matter was not traceable and therefore non-existent. They have thus *inter alia* also held out the Customs Broker to be the Exporter, in the matter.

3. The Ld. Counsel for the appellant, has submitted that it would be a fallacy to claim that the exporter was non-existent. He submits that the DGFT authorities have issued to the exporter a valid IEC No.BOCPB2356H (to which upon query from the Bench, the Ld.Counsel submits that it was still operative). He adds that it was not a case of present appellant being the sole Customs Broker, facilitating the shipments for the said exporter.

He placed on record a list of 184 shipments (as below) in respect of the said goods, as were exported by the said exporter, where services of some other Customs Brokers were availed of by the exporter M/s.SS Impex.

**EXPORT OF HUMAN HAIR UNDER HSN CODE 0501 BY M/s. S.S. IMPEX
[IEC NO.BOCPB2356H] THROUGH **OTHER CBs****

SL. NO.	S/B NO.	S/B DATE
1	1948781	11.02.2019
2	1948789	11.02.2019
3	2032808	14.02.2019
4	2033378	14.02.2019
5	2104856	18.02.2019
6	2134750	19.02.2019
7	2317094	26.02.2019
8	2317096	26.02.2019
9	2498681	05.03.2019
10	3035790	27.03.2019
11	3035957	27.03.2019
12	3035972	27.03.2019
13	3299524	05.04.2019
14	3299525	04.05.2019
15	3299530	05.04.2019
16	3299531	04.05.2019
17	3344401	08.04.2019
18	3346119	08.04.2019
19	3346211	08.04.2019
20	3346214	08.04.2019
21	3372758	09.04.2019
22	3372908	09.04.2019
23	3372910	09.04.2019
24	3424720	11.04.2019
25	3468224	13.04.2019
26	3468229	13.04.2019
27	3520284	16.04.2019
28	3528877	16.04.2019
29	3528899	16.04.2019
30	3531122	16.04.2019
31	3615591	20.04.2019
32	3680623	23.04.2019
33	3680630	23.04.2019
34	3681065	23.04.2019
35	3681066	23.04.2019
36	3722824	25.04.2019
37	3722836	25.04.2019
38	3723127	25.04.2019
39	3808099	29.04.2019
40	3812942	29.04.2019
41	3923030	03.05.2019
42	3923340	03.05.2019
43	3944997	04.05.2019
44	3944999	04.05.2019
45	4019302	08.05.2019
46	4019304	08.05.2019
47	4019306	08.05.2019
48	4019477	08.05.2019
49	4101837	11.05.2019
50	4101912	11.05.2019

51	4137456	13.05.2019
52	4137462	13.05.2019
53	4137467	13.05.2019
54	4245828	17.05.2019
55	4282500	17.05.2019
56	4311798	21.05.2019
57	4311801	21.05.2019
58	4311802	21.05.2019
59	4311807	21.05.2019
60	4314412	21.05.2019
61	4427393	25.05.2019
62	4427607	25.05.2019
63	4428901	25.05.2019
64	4428935	25.05.2019
65	4480422	28.05.2019
66	4480437	28.05.2019
67	4480438	28.05.2019
68	4601889	01.06.2019
69	4601961	01.06.2019
70	4603049	01.06.2019
71	4603102	01.06.2019
72	4624883	03.06.2019
73	4624970	03.06.2019
74	4626466	03.06.2019
75	4727536	07.06.2019
76	4727568	07.06.2019
77	4727599	07.06.2019
78	4727706	07.06.2019
79	4823207	12.06.2019
80	4823212	12.06.2019
81	4901671	15.06.2019
82	4902916	15.06.2019
83	4960651	18.06.2019
84	4960768	18.06.2019
85	4962132	18.06.2019
86	4962288	18.06.2019
87	4962294	18.06.2019
88	5064875	22.06.2019
89	5064878	22.06.2019
90	5064879	22.06.2019
91	1556886	26.06.2019
92	1557728	06.06.2019
93	5185288	27.06.2019
94	5185738	26.06.2019
95	5186251	27.06.2019
96	5281150	02.07.2019
97	5281207	02.07.2019
98	5326562	03.07.2019
99	5327257	03.07.2019
100	5340834	04.07.2019
101	5341433	04.07.2019
102	5342064	04.07.2019
103	5344380	04.07.2019
104	5429591	08.07.2019
105	5430048	08.07.2019

106	5430110	08.07.2019
107	5450048	09.07.2019
108	5450141	09.07.2019
109	5480645	11.07.2019
110	5481608	11.07.2019
111	5481749	11.7.2019
112	5507125	11.07.2019
113	5507322	11.07.2019
114	5580368	15.07.2019
115	5580380	15.07.2019
116	5580384	15.07.2019
117	5601377	17.07.2019
118	5601400	17.07.2019
119	5601404	17.07.2019
120	5670851	17.07.2019
121	5674529	19.07.2019
122	5701751	20.07.2019
123	5706720	20.07.2019
124	5708924	20.07.2019
125	5750513	23.07.2019
126	5752512	23.07.2019
127	5783006	24.07.2019
128	5783962	24.07.2019
129	5865174	27.07.2019
130	5865216	27.07.2019
131	5865922	27.07.2019
132	5866157	27.07.2019
133	5937746	31.07.2019
134	5939034	31.07.2019
135	6011698	02.08.2019
136	6013145	02.08.2019
137	6018609	02.08.2019
138	6090624	06.08.2019
139	6091233	06.08.2019
140	6091729	06.08.2019
141	6092014	06.08.2019
142	7960346	31.10.2019
143	8019884	04.11.2019
144	8059921	05.11.2019
145	8150210	09.11.2019
146	8265984	15.11.2019
147	8275252	15.11.2019
148	8417773	21.11.2019
149	8418968	21.11.2019
150	8708297	04.12.2019
151	8708654	04.12.2019
152	3643997	06.07.2020
153	3644005	06.07.2020
154	3755381	11.07.2020
155	3880907	17.07.2020
156	4042458	24.07.2020
157	4094173	27.07.2020
158	4094181	27.07.2020
159	4096796	27.07.2020
160	4330939	07.08.2020

161	4402774	11.08.2020
162	4502986	16.08.2020
163	4643397	23.08.2020
164	4751873	27.08.2020
165	5037776	08.09.2020
166	5083546	10.09.2020
167	5297493	19.09.2020
168	5301616	19.09.2020
169	5913951	16.10.2020
170	6169447	28.10.2020
171	6220293	30.10.2020
172	6393911	06.11.2020
173	6394488	06.11.2020
174	6515465	12.11.2020
175	6515502	12.11.2020
176	6669986	20.11.2020
177	6670443	20.11.2020
178	6807409	27.11.2020
179	6811132	27.11.2020
180	6813102	27.11.2020
181	6989625	04.12.2020
182	6990310	04.12.2020
183	7126236	10.12.2020
184	7630972	02.01.2021

4. The appellant Customs Broker had only undertaken a total of eight shipments of Human Hair, for the said exporter, as per details below :

SL.NO.	S/B NO.	S/B DATE
1	7313344	18.12.2020
2	7313561	18.12.2020
3	7313652	18.12.2020
4	7455964	24.12.2020
5	7456031	24.12.2020
6	7628348	02.01.2021
7	7768586	08.01.2021
8	7926810	15.01.2021

5. The Ld.Counsel further submits that the exporter also possessed a valid CGST number and which as per his information was very much in existence and operative to the present date, despite the impugned allegation/finding of the department of the exporter being non-traceable. He thus submits that his Customs Broker's Licence has been

arbitrarily revoked and that there is no merit in the order of the Ld.Principal Commissioner forfeiting the security deposit and invoking penalty on him. In support of his contention, the Ld.Counsel also points out that the export of impugned goods (CTH 05010010) is also entitled for various export incentives like Drawback and RoDTEP, and no prudent exporter would seek to minimize/restrict the export incentives admissible to him by undervaluing the export product.

6. It is the contention of the appellant that the Customs Broker licence was suspended on 10.05.2021 vide CB Order No.2/2021 and that vide Order-in-Original dated 06.07.2021, the suspension was confirmed and an enquiry under Regulation 17 of CBLR was initiated. It is their case that a report indicating that the address of the exporter was 'insufficient' cannot be construed to mean that the exporter was non-existent. The fact that the CGST authorities have themselves issued the GSTIN 36BOCPB2356HIZA to their client is a testimony to the very existence of the firm. Apart from the same, the exporter also holds a valid IEC number, i.e. to say at least two distinct government organizations have known and acknowledged the existence of the said firm, if not having certified the same. This as per the appellant is evidence, enough to establish the *bonafides* and the existence of their client. It has been submitted before us by the appellant that the GSTIN of the exporter was valid and active and that the exporter was still undertaking exports of Human Hair, through another Customs Broker

viz. M/s. Wings Logistics at the instance of its sub-agent M/s. The SAK Enterprise (of one Shri Sarfaraz Khan).

7. In support of their defence the appellant has produced before us the KYC documents, as were obtained by the appellant before undertaking any business deals with the impugned exporter. The same are scanned hereinbelow :-



KNOW YOUR CUSTOMER FORM FOR CHA

Name of Company: SS IMPEX
 Principal Place of Business: H.No 43 and 44, MACHA BOLLARAM, ALWAL,
 SECUNDERABAD, HYDERABAD TELANGANA, 500010.
 PAN No: BOCPB2356H IEC No: BOCPB2356H
 Telephone No: Mobile: 9959623643
 Fax No: Email: infowingslogservices@gmail.com

MAILING ADDRESS

Name: SS IMPEX
 Address: H.No 43 and 44, MACHA BOLLARAM, ALWAL,
 SECUNDERABAD, HYDERABAD TELANGANA, 500010.
 City: Secunderabad State: Telangana
 Telephone No: Mobile: 9959623643
 Fax No: Email: infowingslogservices@gmail.com

AUTHORISED SIGNATORY

Name: BHUPATI SRIKANTH
 DOB: 18.05.1994 SEX: Male
 Address: H.No. 43 and 44, MACHA BOLLARAM, ALWAL,
 SECUNDERABAD, HYDERABAD TELANGANA, 500010.
 City: Secunderabad State: Telangana For SS IMPEX
 Telephone No: Mobile: 9959623643
 Fax No: Email: infowingslogservices@gmail.com

DOCUMENTS

DECLARATION FOR CHA

mee seva
faster, faster

మ సేవ
పెద్దది, వేగం

TSGGCC 7760806

GOVERNMENT OF TELANGANA
LABOUR DEPARTMENT
FORM - IV
(See Rule 3 (4))

Renewal of Registration Certificate

Reg. No-SEA/MED/ALO/KP/0102024/2018

This is to certify that Registration certificate No-SEA/MED/ALO/KP/0102024/2018 of **SS IMPEX** has been renewed under the Telangana Shops and Establishment Act 1988 for the period from 01/01/2019 to 31/12/2019

1. Name of the Employer	BHUPATI SRIKANTH
2. Father/Husband's Name	SHANKAR BHUPATI
3. Age of Employer	25
4. Name of Shop / Establishment	SS IMPEX
5. Shop / Establishment Address	H NO:43 AND 44, MACHA BOLYARAM, ALVALWAL MEDCHAL (MALKAJGIRI)
6. Number of Employees	5

Approving Authority

Place: MEDCHAL (MALKAJGIRI)
Renewed Date: 13/12/2018

Signature valid
Signed On 13-12-2018 BY R RENUKA,
(IC ALD MALKAJGIRI, TELANGANA, 500047)

Note: This is a digitally signed certificate and does not require physical signature. This certificate can be verified at <http://labour.telangana.gov.in> by furnishing the registration certificate number mentioned in the certificate.



(Amended)


Government of India
Form GST REG-06
[See Rule 10(1)]

Registration Certificate

Registration Number :36BOCPB2356H1ZA

1.	Legal Name	SRIKANTH BHUPATI			
2.	Trade Name, if any	SS IMPEX			
3.	Constitution of Business	Proprietorship			
4.	Address of Principal Place of Business	PLOT NO.43 AND 44, MACHA BOLLARAM, ALWAL, SECUNDERABAD, Hyderabad, Telangana, 500010			
5.	Date of Liability				
6.	Date of Validity	From	15/05/2018	To	NA
7.	Type of Registration	Regular			
8.	Particulars of Approving Authority	Telangana Goods and Services Tax Act, 2017			
Signature					
Name		BANALA Rajashekar Reddy			
Designation		Deputy State Tax Officer			
Jurisdictional Office		BOWENPALLY			
9. Date of issue of Certificate		22/12/2018			
Note: The registration certificate is required to be prominently displayed at all places of Business/Office(s) in the State.					

Annexure A




सत्यमेव जयते

Details of Additional Place of Business(s)

GSTIN	36BOCPB2356H1ZA
Legal Name	SRIKANTH BHUPATI
Trade Name, if any	SS IMPEX

Total Number of Additional Places of Business(s) in the State 0


Annexure B




सत्यमेव जयते

GSTIN	36BOCPB2356H1ZA
Legal Name	SRIKANTH BHUPATI
Trade Name, if any	SS IMPEX

Details of Proprietor

1		Name	SRIKANTH BHUPATI
		Designation/Status	PROPRIETOR
		Resident of State	Telangana


 भारत सरकार
 Government Of India
 वाणिज्य और उद्योग मंत्रालय
 MINISTRY OF COMMERCE AND INDUSTRY
 O/o Additional Director General of Foreign Trade
 सयुक्त महानिदेशक विदेश व्यापार का कार्यालय
 Room No.302,3rd Floor,CGO Towers, Hyderabad-500080
 आयातक-निर्यातक कोड (आईईसी) का प्रमाण पत्र
 CERTIFICATE OF IMPORTER-EXPORTER CODE (IEC)
 (This is computer generated certificate.The authenticity of this document may be verified by clicking on 'view Your IEC'
 link on the web site of DGFT i.e. <http://dgft.gov.in>)

1. नाम/User Name	SS IMPEX
2. पता/Address	PLOT NO 43 AND 44 MACHA BOLLARAM ALWAL SECUNDERABAD HYDERABAD TELANGANA-500010
3. उस धारक का नाम, पदनाम/Name and Designation of the signatory applicant	BHUPATI SRIKANTH PROPRIETOR
4. शाखा/इकाई का पता,हो तो/Address of the Branch/Div./Unit if any	Branches Nil
5. आईईसी संख्या/IEC Number	BOCPB2356H
6. जारी करने की तारीख/Date of Issue	28.06.2018
7. स्थाई खाता सं.(पैन)/PAN	BOCPB2356H

स्थान /Place: SECUNDERABAD
 तारीख /Date : 10.12.2018

System generated IEC certificate

(Issued From File No./[09/04/131/51183/AM19/1 तारीख से जारी dated 10.12.2018]
 टिप्पणी/NOTE: यह आईईसी पैन के आधार पर जारी हुआ है।/ This IEC is issued on the basis of PAN.

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భారత ప్రభుత్వం
GOVERNMENT OF INDIA

భూపతి శ్రీకాంత్
Bhupathi Srikanth

జన్మ సంవత్సరం/Year of Birth: 1993
వృత్తి / Moe

9821 3534 8166

ఆధార్ - సామాన్య నివాసి

భారత ప్రభుత్వం
GOVERNMENT OF INDIA

Address: S/O Bhupathi Srikanth
B-2027/C/2, Ramnagar, Near
Ramalayam temple, Ramnagar,
Hyderabad, Andhra Pradesh
500020





Date: 17/01/2019

To
The Deputy Commissioner of Customs,
EDI Section,
N.S.C.B. International Airport,
Kolkata - 700052.

Dear Sir/Madam

Sub:AD Code Certificate

We, Certify that M/s. SS IMPEX-Regd.Office-Plot no 43 & 44, Macha Bollarm, Near Susheela Ice Factory, Alwal, Secunderabad,Pin-500010. is maintaining a current account bearing 018363300003139 with Yes Bank Ltd.Hitech cityBranch, since 8th-01-2019

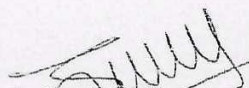
IEC Code of customer is: BOCPB2356H

Authorized Dealer Code of YES Bank Ltd: 0410005-6000009
IFSCode: YESB0000183

This certificate is issued at the request of the customer with no liability on part of the bank or any of its employees.

Thanking You,

For YES Bank Limited

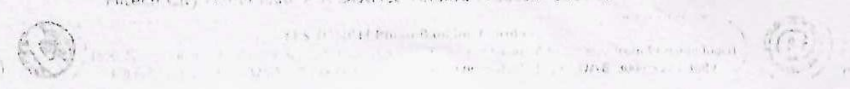

Authorized Signatory

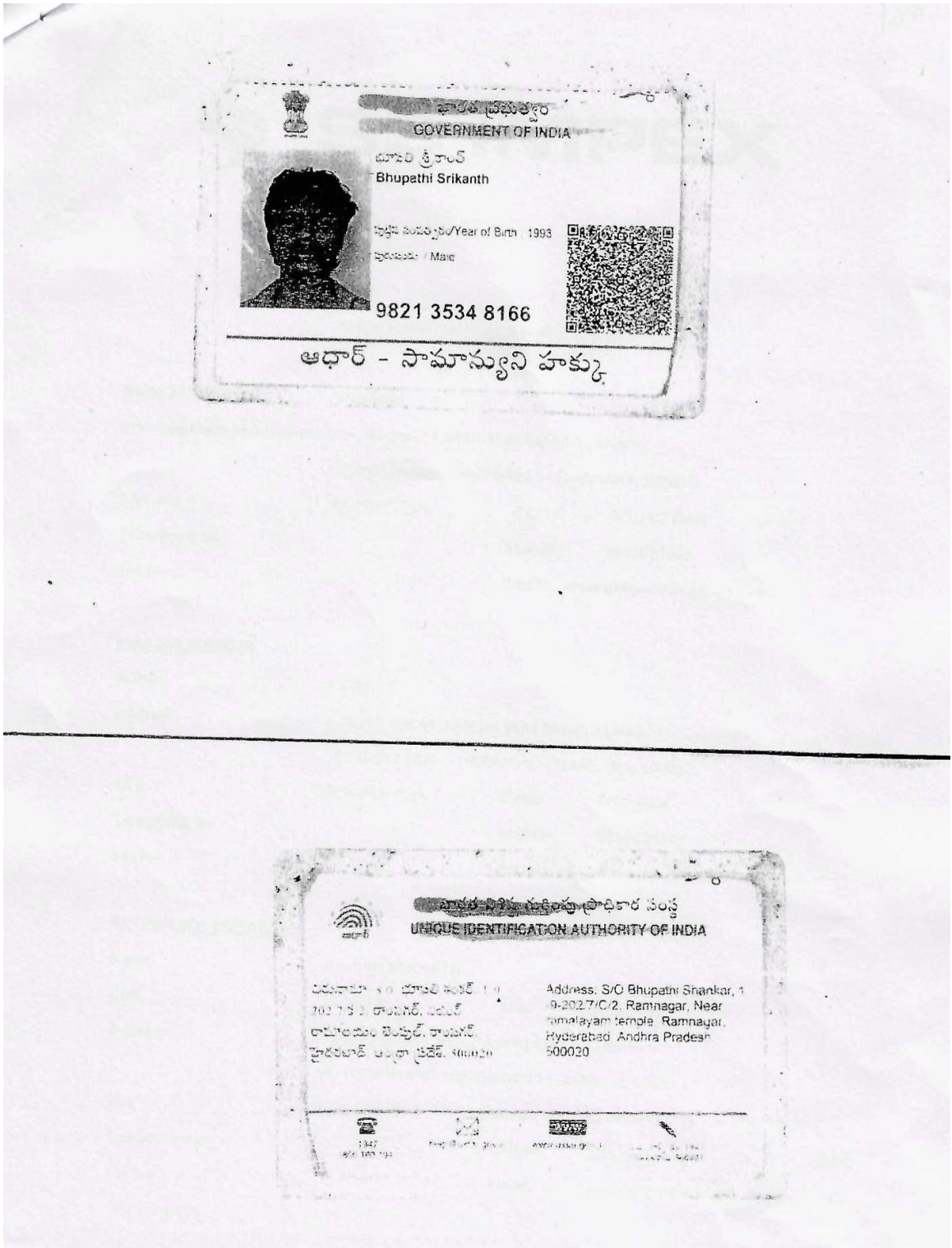


SHIVA RAMA KRISHNA .B
Emp. ID: SBE4622046
Cust. ID: 3125706

YES BANK Ltd., Ground Floor, Sun Towers, Sector-1, HUDA Techno Enclave of Madhapur Village,
HITECH CITY, Hyderabad, P. R. District, Andhra Pradesh - 500081

018363300003139





8. It is also on record that the appellant had filed a Writ Petition before the hon'ble High Court of Calcutta (No.WP (A) 17215 OF 2022) as the enquiry proceedings were being procrastinated by the authorities

for no apparent reason. The hon'ble High Court vide the order in the said Writ Petition had noted as under :

".....This situation cannot be allowed to continue as such action of the authorities, seems to be mala fide and arbitrary in nature.

Accordingly, the authorities are directed to complete the disciplinary proceedings within a period of three months from date after appointing a new officer for completing the said investigation."

9. A perusal of the High Court's order would however reveal that the hon'ble High Court found the action of the authorities in holding up the disciplinary proceedings as 'arbitrary', with no proper explanation given as to why the enquiry could not be carried out, within the timelines as prescribed. It had held the Revenue's contention of transfer of officer as 'not a good ground' and has therein recorded as below :

"The factual matrix of the case is that the petitioner was suspended for violating certain provisions of the CBLR, 2018 which was confirmed subsequently by the authorities. However, the authorities are failed to complete the disciplinary proceedings within the period provided. In fact, it is to be noted that the period would have come to a conclusion in the month of August 2021 but no progress whatsoever has been made with regard to the enquiry till the date of filing of this writ petition, that is, on July 28, 2022.

From a bare perusal of the writ petition, the affidavits exchanged between the parties and the submissions made by the parties, it is clear that the authorities are sitting over the matter and flouting the time limit mandated by the above Regulations. There is plethora of judgements on the point whether the period is mandatory or not. High Courts have held on different points of view on the matter of identical nature. However, without delving into the same, this Court is of the opinion that even if the period of 90 days is not mandatory keeping the disciplinary proceeding

pending for over nine months after completion of the 90 days, is an arbitrary action on the part of the authorities. No proper explanation has been given as to why the enquiry could not be carried out and the flimsy ground of transfer of an officer concerned, is not a good ground. Till date no enquiry report is on record. This situation cannot be allowed to continue as such action of the authorities, seems to be mala fide and arbitrary in nature.

Accordingly, the authorities are directed to complete the disciplinary proceedings within a period of three months from date after appointing a new officer for completing the said investigation."

10. It was in this backdrop that the department was directed to complete the impugned inquiry within a period of three months from the date after appointing a new officer for completing the said investigation as the original inquiry officer was posted outside the jurisdiction upon his transfer. The hon'ble High Court had further allowed the appellant to continue to work till the completion of the inquiry and passing of the order by the authorities concerned, whereafter the outcome of the decision arrived at by the quasi-judicial authority would set course for the Customs Brokers business activities.

11. The Ld.Counsel has further pointed out that the entire exercise undertaken by the department lacks application of mind and has been mechanically undertaken with no cognizance being taken of the submissions made by the appellant before the Inquiry Officer. He submits that the appellant vide their letter dated 19.01.2024, addressed to the Principal Commissioner, had pointed out that inspite of the reply dated 03.09.2021, furnished in the matter the Inquiry

Officer had proceeded on the erroneous premise that no reply to the show cause notice was furnished. He was thus clear that the said authority had cursorily and in a casual, routine and a pre mediated manner undertaken the said inquiry without even bothering to take cognizance of their submissions and their part of the say in the matter. As is apparent and quite obvious, at this juncture, we would simply like to observe that the Inquiry Officer's report suffers from an incurable infirmity and hence invalidated. It therefore cannot be of any consequence, as its determination indeed is shallow and without taking due note of the defence's claim. The Id. Counsel further points out that despite having pointed out the aforesaid to the Disciplinary Authority, the said Disciplinary Authority chose not to relook thereinto or get the matter investigated afresh and overlooking the said submission completely relied upon a fallacious Inquiry Officer's report.

12. The Ld.AR, appearing on behalf of the Revenue, in support of his contention has submitted that no foreign remittance has been received in respect of the shipments made vide impugned export as per the information available on the DGFT's website and therefore the impugned shipments were *malafide*, there being no genuine exporter.

13. We find that the basis for holding the aforesaid goods as undervalued is largely on the basis of discreet market survey conducted by the authorities and an email received from the Flex Council. It is settled law that any evidence collected at the back of the other party cannot form the basis of substantiation of a charge. Contrary to this settled legal principle, in the present case such evidence forms the

mainstay of the revenue's case. Be that it may, the fact of a discreet market enquiry without associating the exporter or their representative is thus simply meaningless and has to be discounted. Likewise, an email said to state (RUD 6) *inter alia* that Lal/Dye variety of Raw Human Hair was available in the local market for Rs.2,000/- to Rs.3,500/- per kg., but was not exported to Myanmar, can at best serve as a guide but cannot be a key reference, to nail the appellant. The fact that the department could not lay their hands on the exporter despite his holding valid IEC and GSTIN and having undertaken a series of exports during the period February 2019 to January 2021 through another Custom House cannot be simply brushed aside and cannot lead to the conclusion regarding violation of Regulations 10(d), 10(m) and 10(n) of the CBLR, 2018. For records we reproduce hereinbelow, the said legal provisions : :-

Customs Brokers Licencing Regulations, 2018

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;

(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, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents,, data or information;

14. Before adverting to the course of enquiry initiated by the department, that resulted initially in the suspension and finally the revocation of the Customs Broker's Licence besides other pecuniary liabilities fastened on the appellant, we are of the view that the present case of the department is based completely on assumptions and surmises. The Revenue has no shred of evidence to specifically pinpoint that the appellant was the exporter *per se* himself, even if he may not be found foul of any legal provisions. Moreover, it baffles imagination as to when the exporter is entitled to financial incremental benefits and incentives doled out by the government like RoDTEP & Drawback what an exporter would stand to gain by undervaluing the goods. This essential question remains unanswered even by the department. It appears that *prima facie*, not being able to lay their hands on the exporter, the revenue has arrived at a fanciful assumption that the exporter and the Customs Broker were one and the same person and carved out twin identities of the appellant.

15. Presuming wide scale undervaluation by the appellant Broker, alleging him to be an exporter of the undervalued goods, the authorities had in terms of Regulation 16(1) suspended the licence of the Customs Broker with immediate effect with an opportunity of post-suspensional hearing on 19.05.2021.

16. We note and as established from records that the authorities below have not applied themselves at all, to the matter at hand, and have senselessly in utter disregard of the principles of natural justice arrived at conclusions that pose more questions which belie an answer.

We also note that while the appellant has pointed out that the impugned order was violative of the hon'ble High Court's directions of the timelines set out, we find that the learned Adjudicating authority's contentions in Para 15 and 16 are completely devoid of logic and reasoning. While the learned Adjudicating authority has gone by the premise that the hon'ble High Court had directed to complete the disciplinary proceedings within a period of three months from the date after appointing a new officer for completing the said investigations, we are of the considered view that it cannot be interpreted to state that the timeline spelt out by the hon'ble High Court would have two subdivisions - (i) open ended and with infinite timeline, prior to the appointment of the Enquiry Officer and (ii) limited to three months timeline, after appointment of a new investigations/Inquiry Officer. The reasoning in para 15 of the learned Adjudicating authority's order is therefore not only completely fallacious but outright atrocious and inconceivable given by the specific directions of the hon'ble High Court. It is no more than perhaps a mere subterfuge to hold on for gross delays and inaction on their part, by the department. Moreover, the findings of the learned Adjudicating authority in para 16 of the order with regard to holding on to the premise that the Customs Broker did not submit any written reply to the show cause notice, despite having been specifically informed to the contrary, in writing, leaves no room to arrive at the only plausible and irresistible conclusion that the Disciplinary Authority too had not appropriately applied himself to the job at hand.

17. It is nowhere mandated in law that the Customs Broker is required to personally verify physically the details as may have been made available to them by their clients. It has been innumerable held by courts that a Customs Broker is not warranted in law to physically visit the exporters' premises. When various government agencies with a huge paraphernalia of the organization at their beck and call, have identified the exporter by way of allotting him an independent and distinct identity, the Customs Broker cannot be adversely implicated and inferred so. All that the law warrants the Customs Broker is to take reasonable precautions to ascertain the identity of his client. The KYC documents as obtained by the appellant, to our mind were sufficient enough to meet the requirements in law. In the maze of phenomenal evidence of both private entities as well as Government bodies having issued various documents to establish the existence of the exporter, it does not behove the authorities to discredit their own agencies without any positive piece of testimonial/documentation/proof or evidence.

18. We find that the Revenue is in utter default of the timelines as stipulated under Regulation 17 in the processing of enquiries and execution of their action. At best the support drawn by the authorities to arrive at the fact of the exporter being non-existent/non-traceable is no more than a hearsay evidence. Various questions like foregoing of admissible export incentives, were the department's claim of undervaluation justiciable, or reasons for a far larger number of exports made through other Customs Brokers amongst several others remain unanswered. There is not a shred of evidence to suggest initiation of

action for cancellation of the IEC/GSTIN number allotted by government bodies, given the finding of the Id. adjudicating authority. Moreover for arguments sake, were the authority's contention held to be valid there is nothing to establish the non-discriminatory nature of their action, in partaking legal recourse only against an individual Customs Broker, though tangible and substantial evidence is furnished, to establish their claim that the said non-existent exporter was regularly exporting goods during the period indicated above through different Customs Brokers and through another gateway port.

19. As per the department's own case it is on record that at least 81 shipments having been initiated by the said exporter.

20. We also note that the export of un-processed 'Raw Human Hair' does not call for payment of any export duties. The department has not been able to demonstrate or comprehend any rightful and logical basis for such allegation of under-valuation in the present matter (that of course being a separate subject of enquiry and not related to the violation of Regulation 10(d), 10(m) and 10(n) of CBLR). At its very best we find the impugned order under challenge to be grossly perverse and discriminatory and the action of the authorities baseless, senseless without application of mind and without a shred of evidence to establish their claim of the non-existent of the exporter, and therefore holding that the Customs Broker is in himself the exporter. All allegations of violating Regulation 10(d), (m) and (n) of the CBLR, 2018, thus fall flat on its face and we do not find the appellant to be in default thereof.

21. Apart from the merits of the case we find enough case law support as well, drawn from the ratio of the law as laid down by this Tribunal in the case of **Perfect Cargo & Logistics v. C.C. (AIRPORT & GENERAL) [2021 (376) E.L.T. 649 (Tri.-Del.)]**, wherein it was held that the Regulation merely requires a Customs Broker to obtain an authorization from their client. The Tribunal in the said order had held that –

"..... Basic requirement of Regulation 10(n) ibid is that Customs Broker needs to verify identity of client and functioning of client at declared address by using, reliable, independent, authentic documents, data or information.

It has been held by the Tribunal in the said case that if the documents furnished by the exporter importer prima facie appear to be *bonafide*, there is no reason for the Customs Broker to undertake a detailed verification so as to verify the contention of the said documents.

This aspect of documentation has not been adversely challenged by the Revenue in the present appeal.

22. The Hon'ble Delhi High Court in the case of **Kunal Travels (Cargo) v. CC (I & G), IGI AIRPORT, New Delhi [2017 (354) E.L.T. 447 (Del.)]** with regard to the obligations of a Customs Broker in no less uncertain terms, observed that the Customs Broker –

".....are processing agent of documents for clearance of goods through Customs House – They are not inspector to weigh genuineness of transaction, and there is no obligation to look into information from exporter/importer – it is onerous to expect CHA to inquire into and verify genuineness of IE Code given by client

for each import/export transaction – When such code is mentioned, there is presumption that appropriate background check in this regard would have been done by Customs authorities.”

23. It is therefore clear that the authorities have transferred the inappropriateness of their investigations and fastened the appellant herein with various liabilities for their own failures, levelled unsubstantiated charges and undertook lackadaisical and callous investigations. There certainly can be no presumption in law, all the more so as the given set of evidence nowhere lead to conclude that the appellant Customs Broker acted in deliberate defiance of the legal provisions or with malicious intent. No intent to defraud Revenue has also been forthcoming from the claims of the authorities, nor could the same have been inferred, leading to the revocation of CHA's licence and forfeiture of Security Deposit apart from invocation of penalty. Action of the authorities is therefore high handed and completely unjustified and needs to be set aside. We also note that the appellant having fulfilled the compliance requirements as laid down vide CBEC's Circular 9/2010-CUS dated 08.04.2010, did not warrant issuance of a notice in that regard.

24. The order of the lower authority being void of merits, needs to be set aside and the licence of the Customs Broker restored forthwith. The forfeited amount of Security Deposit as well as the penalty imposed on the appellant would also be liable to be returned by the Revenue authorities.

25. Ordered accordingly.

26. Before concluding, we would like to state, that the authority, in strictly eschewing such meritless and frivolous litigation would do much greater service to the exporting community in execution of its avowed objective of seamless facilitation of trade, besides ensuring that the public perception of the organization does not take a beating.

(Order pronounced in the open court on March 19, 2026.)

Sd/
(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/
(RAJEEV TANDON)
MEMBER (TECHNICAL)

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