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

REGIONAL BENCH – COURT NO. 2

Customs Appeal No. 75873 of 2026

(Arising out of CB Order No. 06/2026 dated 04.09.2026 passed by the Pr. Commissioner of Customs (Airport & ACC), Custom House, 15/1, Strand Road, Kolkata – 700 001)

M/s. National Agency **: Appellant**
686, Kulpi Road, Puratan Bazar,
Sukumari Apartment, Block-E, Ground Floor,
Baruipur, Kolkata – 700 144

VERSUS

The Principal Commissioner of Customs, Airport & A.C.C. **: Respondent**
Custom House, 15/1, Strand Road,
Kolkata – 700 001

APPEARANCE:

Shri Sudipta Ghosh, Advocate
for the Appellant
Shri Ashwini Kr. Choudhary, Authorized Representative,
Shri Amaresh Biswas, Authorized Representative,
for the Respondent

CORAM:

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

FINAL ORDER NO.76599/ 2026

DATE OF HEARING: 16.11.2026
DATE OF PRONOUNCEMENT: 18.11.2026

ORDER: [PER SHRI K. ANPAZHAKAN]

The present appeal has been filed assailing the CB Order No. 06/2026 dated 04.09.2026 passed by the Pr. Commissioner of Customs (Airport & ACC), Custom House, 15/1, Strand Road, Kolkata – 700 001, under Regulation 16(2) of the CBLR, 2018, whereby the Ld. Principal Commissioner has ordered for continuation of suspension of the Customs Broker

Licence of M/s. National Agency(herein after referred as the Appellant/CB). The CB License of the Appellant was earlier suspended vide CB Order No. 05/2026 dated 20.08.2026. Vide the impugned order, the Ld. Principal Commissioner has ordered that the suspension of the Appellants CB License shall continue pending inquiry proceedings under Regulation 17 of the CBLR 2018.

2. The facts of the case are that the Appellant is a Customs Broker holding Licence No. N-23, issued by the Principal Commissioner of Customs (Airport & ACC), Kolkata, under the Customs Brokers Licensing Regulations, 2018 (CBLR, 2018). The proprietor of the Customs Broker is Shri Subir Kumar Ray Chaudhuri.

2.1. The officers of DRI, Mumbai Zonal Unit, initiated an investigation into the consignments imported in the name of M/s Mithila Quality Products Private Limited, IEC No. AAMCM5504A, involving suspected smuggling of prohibited/restricted goods through misdeclaration. During the investigation, three consignments were intercepted and examined. On examinations, the said consignments were found to contain prohibited electronic cigarettes, restricted footwear and metal chair parts.

2.2. Out of the three consignments, the Appellant CB filed the Bill of Entry No. 9106211 dated 06.05.2026, for one consignment of goods imported through the Container No. FFAU-5927122. The declaration of the goods filed by the Appellant in the said Bill of Entry was metal Chair parts where as on examination, it was also found to contain restricted foot wear items.

2.3. On the basis of the above said investigation, an Offence/Investigation Report dated 10.07.2026, was issued by the Directorate of Revenue Intelligence, Mumbài Zonal Unit, vide F. No. DRI/MZU/NS-I/INT-63/Enq-22/2026/338, in respect of the Appellant CB. The material contained in the DRI Offence Report prima facie indicated that the Customs Broker's credentials and filing facility were made available to un-authorised persons, resulting in the filing of Bills of Entry in respect of consignments allegedly containing prohibited/restricted goods concealed and mis declared in the import documents. Accordingly, the DRI Offence Report alleged that the Customs Broker has failed to discharge the obligations prescribed under Regulations 10(d), 10(e), 10(n), 10(q) and 13(12) of the CBLR, 2018.

2.4. On the basis of the Offence Report, the Principal Commissioner of Customs (Airport & ACC), held the view that the continued operation of the Customs Broker during the pendency of inquiry may expose the revenue and the customs clearance process to further risk. Considering the manner in which the Customs Broker's credentials were allegedly used and the potential for further misuse of the licence, the Principal Commissioner was of the view that immediate action is necessary to protect the interest of revenue and proper administration of Customs. Accordingly, the Principal Commissioner has issued CB Order No. 05/2026 dated 20.08.2026, suspending the CB License of the Appellant with immediate effect, under Regulation 16(1) of the CBLR, 2018. Later, the CB Order No. 06/2026 dated 04.09.2026 was issued under Regulation 16(2) of the CBLR, 2018, continuing the suspension of the

Appellant's CB License, pending inquiry proceedings under Regulation 17 of the CBLR 2018.

2.5. The present appeal has been filed by the Appellant against this CB Order No. 06/2026 dated 04.09.2026.

3. The Appellant submits that the impugned order confirming the suspension of the appellant's customs broker license, is fundamentally illegal and unsustainable, as the same is a non-speaking order. The Appellant submits that the authority while passing the impugned order did not consider the submissions made during the post decisional hearing stage which pointed out the illegalities and infirmities committed while suspending the license as the same is contrary to the timeline set for such suspension vide Circular No. 9/2010-Cus dated 08.04.2010, which is mandatorily binding upon the department.

3.1. The Appellant submits that there is suppression of fact in the Investigation Report forwarded by the Mumbai Customs which alleges that the proprietor did not attend the summons. However, the records says otherwise. The Appellant attended the summons and his statement was also recorded.

3.2. The Appellant further submits that the allegations of contravention of provisions of Regulations 10(d),10(e), 10(n), 10(q) and 13(12) revolve around the statement of two persons namely Shri Harichandra Pandurang Kadam, the G-Card holder operating under the Customs Broker Licence and Smt. Jyoti Sujay Salunkhe, an employee of the importer which are not part and parcel of the purported Offence Report/Investigation Report.

Their statements are the sole evidence relied upon by the department to allege the contraventions and suspend the license. However, their statements were not supplied to the Appellant. Such non-disclosure of statements which are relied upon by the Department, is a gross violation of principles of Natural Justice in a quasi-judicial proceeding under CBLR, 2018.

3.3. The Appellant submits that they have been vicariously made liable for other two mis declared consignments of the same importer for which the appellant neither filed the Bill of Entry nor they were authorised by the importer to handle the consignments.

3.4. Thus, the Appellant submits that the order of suspension at the first place, based on such misconceived allegations set out in the purported Investigation Report, is ex-facie bad and illegal. So, its continuation vide the impugned order, which has been passed without adhering the Principles of Natural Justice, is liable to be set aside.

4. The Ld. A.R. submits that the conduct of the CB was of serious nature and directly concerns the integrity and security of the customs clearance system. The continued operation of the Customs Broker during the pendency of inquiry may expose the revenue and the customs clearance process to further risk. Accordingly, he submits that the Ld. Principal Commissioner has rightly suspended the License pending Inquiry. Thus, he supported the impugned order continuing the suspension.

5. Heard both sides and perused the appeal documents.

6. We find that Regulation 16(1) provided for suspending the License of a CB and Regulation 16(2) requires the Proper Officer to pass a speaking order to continue the suspension of the License. We find that Board has issued Circular No. 9/2010-Cus dated 08.04.2010, prescribing specific timeline for issuing the suspension order under Regulation 16(1) and passing the speaking order under Regulation 16(2) for continuing the suspension. For ready reference, the relevant portion of the said Circular is extracted below:

> "(v) Time limit for completion of suspension proceedings against CHA licensee under regulation 22:
>
> ....
>
> 7.2 In cases where immediate suspension action against a CHA is required to be taken by a Commissioner of Customs under regulation 20(2), there is no need for following the procedure prescribed under Regulation 22 since such an action is taken immediately and only in justified cases depending upon the seriousness or gravity of offence. However, it has been decided by the Board that a 'post-decisional hearing should be given in all such cases so that errors apparent, if any, can be corrected and an opportunity for personal hearing is given to the aggrieved party. Further, Board has also prescribed certain time limits in cases warranting immediate suspension under Regulation 20(2). Accordingly, the investigating authority shall furnish report to the Commissioner of Customs who had issued the CHA license (Licensing authority), within thirty days of the detection of an offence. **The Licensing authority shall take necessary immediate suspension action within fifteen days of the receipt of the report of the investigating authority.** A post-decisional hearing shall be granted to the party within fifteen days from the date of his suspension. The Commissioner of Customs concerned shall issue an Adjudication Order, where it is possible to do so, within

fifteen days from the date of personal hearing so granted by him."

[Emphasis supplied]

6.1. The submission of the Appellant is that the Ld. Principal Commissioner has not followed the time line prescribed in the Circular, which is mandatorily binding upon the department. As the Principal Commissioner has not followed the timeline prescribed, the CB Order No. 05/2026 dated 20.08.2026 issued to suspend the CB License of the Appellant is void abinitio.

6.2. The list of dates with events furnished by the Appellant is extracted in a Tabular Form below:

Sl No.	**Date**	**Events**
1.	06.05.2026	Bill of Entry No. 9106211 dated 06.05.2026 was filed by the appellant Customs Broker against Container No. FFAU5927122 for the goods declared as Metal Chair Parts imported by M/s Mithila Quality Products Private Limited, IEC No. AAMCM5504A.
2.	15.05.2026	The consignment was seized under Section 110 of the Customs Act, 1962 after finding restricted footwear concealed as has been alleged along with declared metal

		chair parts valued at approximately Rs. 21.46 lakh.
3.	21.05.2026	1st Summons was issued by DRI, Mumbai Zonal Unit to the proprietor of the Customs Broker Firm for appearance on 25.05.2026.
4.	22.05.2026	The proprietor of the appellant CB firm informed the DRI that since the G-card holder Shri Harichand Pandurang Kadam is authorized to look after the business of the Mumbai Customs and the BE was filed by him he would appear on the scheduled date.
5.	01.06.2026	2nd Summons was issued to the proprietor for appearance on 03.06.2026.
6.	03.06.2026	The proprietor of the CB firm again informed the DRI, Mumbai through e-mail that the G-card holder would appear and all his credentials were sent.
7.	12.06.2026	Since the G-card holder was found

		reluctant to share details about the consignment and deceived the CB firm by handling the consignment in his personal capacity he was disengaged by the appellant firm which he accepted on the very next date.
8.	19.06.2026	3rd Summons was issued to the proprietor of the CB firm for appearance on 23.06.2026.
9.	23.06.2026	The proprietor could not attend the summons on the scheduled date as his brother-in-law passed away which was informed to the DRI.
		Further, the Mumbai Customs was informed to not allow any consignment filed using the credentials of the Customs Broker firm.
10.	09.07.2026	4th Summons was issued to the proprietor for appearance on 13.07.2026.
11.	10.07.2026	Despite issuing 4th Summons to

		the proprietor DRI did not wait further and sent the purported Offence Report/Investigation Report to Kolkata Customs for initiating proceeding against the appellant.
12.	13.07.2026	The proprietor of the appellant CB firm attended the summons on the scheduled date and his depositions were recorded.
13.	27.07.2026	The said purported Offence Report dated 10.07.2026 was received by the Kolkata Customs.
14.	20.08.2026	Vide CB Order No. 05/2026 dated 20.08.2026 the license of the Customs Broker firm was suspended in terms of Regulation 16(1) of the CBLR, 2018 by Ms. Aarti Saxena, Commissioner of Customs (Airport & ACC).

6.3. From the above Table, we find that The DRI Offence Report dated 10.07.2027 was received by the Office of the Principal Commissioner of Customs on 27.07.2026. Under Regulation 16(1) of the CBLR, 2018, suspension order with immediate effect, if

required, is to be passed within a period of 15 days from the date of receipt of the Offence Report. Thus, the suspension Order in this case under Regulation 16(1), should have been issued on or before 11.08.2026. However, we find that the CB Order No. 05/2026 suspending the License was issued only 20.08.2026, which is beyond the time limit prescribed in the Circular.

6.4. In the case of Krishna Shipping and Allied Services Vs Commissioner of Customs, Kandla, (2024) 19 Centax 321 (Tri.Ahmd), it has been held that the time line prescribed in the Circular No. 9/2010-Cus dated 08.04.2010, is mandatory in nature and the suspension Order issued in violation of the time line makes the order void abinitio. The relevant portion of the said Order is extracted below:

> ***23.2*** *In view of the foregoing and also the fact that no contrary decision by Hon'ble High Court of Gujarat has been brought to our notice by either side on mandatory and declaratory nature of the time lines prescribed as well as to indicate that Board Circular No/. 09/2010-Cus at 8-4-2010 has been withdrawn or superseded, we have no difficulty in observing as deduced from decisions above that time lines are mandatory conditions and need to be observed including those prescribed in the Board Circular of 09/2010-Cus as indicated above. In the instant case since there is a breach of time lines prescribed by the Board, we therefore hold that in the facts of the case the suspension done is bad in law. We, therefore order revocation of suspension. At this stage we are not expressing any views on merits as well as further legal points raised by the appellant, since in any case, we have upheld their relief entitlement.*

6.5. The same view has been held in the case of Chatterji & Co. Versus Commissioner of Customs (Airport & Admin), Kolkata, (2024) 18 Centax 537 (Tri.-Cal). The relevant portion of the said decision is extracted below for ready reference:

> **5.** We find that the Licence of the appellant was initially suspended *vide* CB Order No. 36/2019 dated 1-5-2019 under Regulation 16(1) of the CBLR, 2018. Later, *vide* the impugned order, the suspension came to be confirmed under Regulation 16(2) of the CBLR, 2018. As per Regulation 17(1), a Notice in writing is required to be issued by the Principal Commissioner or Commissioner of Customs within a period of ninety (90) days from the date of receipt of the offence report. However, even after the lapse of almost four years, no such proceedings have been initiated in the present case.
>
> **5.1** We observe that the timeline prescribed under the CBLR, 2018 is mandatory in nature and must be strictly adhered to. If the timeline prescribed is not followed, suspension of Licence cannot continue further. We observe that this view has been held by the Hon'ble Delhi High Court in the case of *M/s. LEO Cargo Services* v. *Commissioner of Customs, Airport & General, New Delhi* [2022 (382) E.L.T. 30 (Del.)] wherein the Hon'ble High Court has observed as under: -
>
> "12. From a perusal of the record, the following facts are evident. An Offence Report dated 10-5-2018 was received in the office of the Commissioner of Customs on 18-5-2018, on the basis of which the show cause notice dated 10-8-2018 was issued by the respondent. Although, a copy of the Offence Report was not filed, the show cause notice states that the Offence Report dated 10-5-2018 was received in the office of respondent on 18-5-2018; causing an eight days' internal delay which is not attributable to the appellant. Regulation 17(1) sets forth that the notice "shall"

issue within "ninety days from the date of receipt of offence report." If calculated from 10-5-2018, the SCN would have been delayed, however, since the show cause notice states that the document was received only on 18-5-2018, the SCN issued on 10-8-2018 is stated to have been issued within time.

12.1 Once an Offence Report is issued, the time period as provided in the CBLR commences. The scheme of these Regulations is such that even a delay in one or more sub-regulation(*s*) of Regulation 17 of CBLR, 2018 will have a cascading effect on the subsequent timelines, causing a consequential delay at each stage.

12.2 The Inquiry Report submission under sub-regulation (5) of Regulation 17 was to be done within 90 days of the date of issue of SCN *i.e.* within 90 days from 10-8-2018. However, the Inquiry Report was delayed and only issued beyond the period of 90 days, on 6-12-2018. Hence, there was a delay of 28 days under Regulation 17(5). The proceedings that commenced from 18-5-2018, *i.e.*, the date of receipt of the Offence Report, culminated in the passing of a final order dated 4-2-2019 of cancellation of the customs broker licence of the appellant.

12.3 We would like to state here that the provisions of sub-regulation (4) of Regulation 17 were given a complete go-by, by not allowing the customs broker any opportunity to cross-examine the persons examined in support of the grounds forming the basis of these proceedings. The Inquiry Officer has declined the cross-examination of the witnesses by the customs broker on an incorrect understanding of Regulation 17(4) of CBLR, 2018. In view of the fact that the appellant is not pressing this question of law, we do not propose to say anything further in this regard.

. . .

13.4 It has been similarly held by this Court that orders of the CESTAT are unsustainable in law if the time limit stipulated in the CBLR Regulations has not been complied with. Reliance is placed upon *Sunil Dutt* v. *Commissioner of Customs (General)* reported as 2016 SCC Online Del. 6687 = 2016 (337) E.L.T. 162 (Del.) and *Commissioner of Customs (Sea Port/Import), Chennai* v. *Sancos Trans Ltd.* reported as 2016 (334) E.L.T. 274 (Mad.).

…….

14. It can be seen that the timelines as prescribed under various Regulations in CBLR, 2018, have been consistently held by the Courts as mandatory in nature. Each timeline is sacrosanct, and the idea of prescribing a time limit by statute becomes redundant if not adhered to. Therefore, it is not just the overall timeline of 270 days (as set forth in the Circular No. 9/2010, dated 8-4-2010) that needs to be followed, but also each and every timeline as prescribed in the CBLR, 2018.

14.1 Timelines cannot be overlooked by Revenue by citing reasons on merits. We are bound by the decisions, as discussed above, passed by the Coordinate Benches of this Court and other High Courts, which state that each timeline is sacrosanct.

…….

15. Accordingly, we allow the appeal and *set aside* the impugned order dated 1-10-2019 passed by the CESTAT. Consequently, the proceedings involving revocation of the appellant's custom broker license, forfeiture of its security deposit and imposition of penalty, will also stand set aside."

6.6. Thus, by following the ratio of the decisions cited supra, we hold that CB Order No. 05/2026 issued on 20.08.2026, beyond the time limit prescribed in the Circular, is void abinitio. Hence, the

CB Order No. 06/2026 dated 04.09.2026 issued subsequently under Regulation 16(2) of the CBLR, 2018, to continue the suspension of the License of the Appellants CB is also legally not sustainable Thus, we hold that, the CB Order No. 06/2026 dated 04.09.2026 is liable to be set aside. Accordingly, we set aside the CB Order No. 06/2026 dated 04.09.2026, as the original CB Order No. 05/2026 issued on 20.08.2026 was void abinitio.

6.7. We are making it clear that the impugned order is set aside only on account of the procedural infraction committed without following the time line prescribed in the Circular. We are not expressing any opinion on the merits of the case and the evidences available to implicate the Appellant in the alleged offence.

7. In view of the above findings, we set aside the impugned order and allow the appeal filed by the Appellant with consequential relief, if any, as per law.

(Order Pronounced in Open court on 18.11.2026)

(R. MURALIDHAR)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

RKP