

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

REGIONAL BENCH – COURT No. I

1. Customs Appeal No. 41158 of 2016

(Arising out of Order-in-Original No. 44879/2016 dated 08.02.2016 passed by the Commissioner of Customs, No. 60, Rajaji Salai, Custom House, Chennai – 600 001)

Commissioner of Customs

Chennai VIII Commissionerate,
No. 60, Rajaji Salai,
Custom House,
Chennai – 600 001.

...Respondent

Versus

Mr. S. Murugan

Room No. 7, III Floor,
"RSSR Complex",
New No. 223/1 (Old No. 108/1),
Linghi Chetty Street,
Chennai – 600 001.

...Appellant

With

2. Customs Appeal No. 42264 of 2016

(Arising out of Order-in-Original No. 49570/2016 dated 30.08.2016 passed by the Commissioner of Customs, No. 60, Rajaji Salai, Custom House, Chennai – 600 001)

Mr. S. Murugan

Room No. 7, III Floor,
"RSSR Complex",
New No. 223/1 (Old No. 108/1),
Linghi Chetty Street,
Chennai – 600 001.

...Appellant

Versus

Commissioner of Customs

Chennai VIII Commissionerate,
No. 60, Rajaji Salai,
Custom House,
Chennai – 600 001.

...Respondent

And

3. Customs Appeal No. 42425 of 2016

(Arising out of Order-in-Original No. 49570/2016 dated 30.08.2016 passed by the Commissioner of Customs, No. 60, Rajaji Salai, Custom House, Chennai – 600 001)

Commissioner of Customs

Chennai VIII Commissionerate,
No. 60, Rajaji Salai,
Custom House,
Chennai – 600 001.

...Respondent

Versus

Mr. S. Murugan

Room No. 7, III Floor,
"RSSR Complex",
New No. 223/1 (Old No. 108/1),
Linghi Chetty Street,
Chennai - 600 001.

...Appellant**APPEARANCE:**

For the Assessee : Mr. S. Murugappan, Advocate (Sl.Nos. 2&3)
None (Sl.No. 1)

For the Revenue : Ms. Rajini Menon, Authorised Representative

CORAM:**HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)****HON'BLE MR. AJAYAN T.V., MEMBER (JUDICIAL)****FINAL ORDER Nos. 40667-40669 / 2026**

DATE OF HEARING : 08.04.2026

DATE OF DECISION : 02.06.2026

Per Mr. VASA SESHAGIRI RAO

The present three appeals arise out of Order-in-Original No.44879/2016 dated 08.02.2016 and Order-in-Original No.49570/2016 dated 30.08.2016 passed by the Commissioner of Customs (Chennai-VIII), Chennai under CBLR, 2013. Appeal No. C/42264/2016 has been filed by M/s. S. Murugan challenging forfeiture of security deposit without revocation of licence, while the departmental appeals 41158/2016 & 42425/2016 challenge revocation of suspension and non-revocation of licence despite findings of violations under CBLR, 2013.

2. Briefly stated, M/s. S. Murugan, Chennai, a licensed Customs Broker operating under Chennai and Delhi jurisdictions, came under investigation by DRI, Delhi in connection with alleged fraudulent drawback exports through dummy firms managed by Shri Vikas Sharma and Shri Sushail Sehgal. Proceedings were initiated under CBLR, 2013 alleging violation of Regulations 11(a), 11(b), 11(d), 11(e), 11(n), 17(5) and 17(9). Though the licence was initially suspended on 05.01.2016, the suspension was revoked vide Order-in-Original No.44879/2016 dated 08.02.2016 after post-decisional hearing. Thereafter, Show Cause Notice dated 22.02.2016 was issued proposing revocation of licence, forfeiture of security deposit and penalty. The Inquiry Officer, vide report dated 23.06.2016, held violations of Regulations 11(a), 11(b), 11(n) and 17(9) stand established while dropping the remaining allegations, pursuant to which Order-in-Original No.49570/2016 dated 30.08.2016 came to be passed ordering forfeiture of security deposit without revocation of licence.

3. Aggrieved by the respective orders, the Customs Broker as well as the department filed the present appeals. Since all the appeals arise out of the same investigation and involve common facts and issues, they are taken up together for disposal by this common order.

4. The Ld. Advocate Shri S. Murugappan for the Customs Broker, submitted that the proceedings were based mainly on allegations arising out of the DRI investigation without independent evidence establishing conscious involvement of the Customs Broker in fraudulent drawback activities. It was argued that export documents were processed on the basis of documents furnished by IEC holders and that the Inquiry Officer himself had dropped allegations under Regulations 11(d), 11(e) and 17(5). The learned counsel further submitted that the adjudicating authority rightly exercised discretion under Regulation 20(7) of CBLR, 2013 by ordering forfeiture of security deposit instead of revocation of licence. Reliance was placed on *Commissioner of Customs v. Trishiv Logistics Pvt. Ltd., 2019 (370) ELT 1055 (Tri.-Chennai)*, to contend that review authorities cannot seek harsher punishment merely on the basis of differing views regarding adequacy of penalty. The learned counsel therefore sought setting aside of forfeiture and dismissal of the departmental appeals.

5. The Ld. Authorized Representative Ms. Rajni Menon appearing for the Revenue, reiterated the findings contained in the inquiry report and review proceedings. It was submitted that the Customs Broker failed to discharge obligations under CBLR, 2013 by permitting customs

clearance activities to be conducted through intermediaries without proper supervision and without adequate verification of exporters and IEC holders. It was further argued that serious violations stood established and that the adjudicating authority erred in not revoking the licence. The learned Authorized Representative also contended that the adjudicating authority prematurely revoked suspension without awaiting completion of the DRI investigation and that forfeiture of security deposit alone was inadequate in the facts of the case.

6. We have carefully considered the rival submissions, perused the records of the case, the inquiry report, review order, Orders-in-Original, grounds of appeal and the judicial precedents relied upon by both sides.

7. Upon consideration, the following issues arise for determination in the present batch of appeals: -

- i. Whether the findings regarding violation of Regulations 11(a), 11(b), 11(n) and 17(9) of CBLR, 2013, are sustainable on the basis of the materials and evidence on record?
- ii. Whether forfeiture of security deposit without revocation of licence under Regulation 20(7) of CBLR,

2013 warrants interference at the instance of either the Customs Broker or the department?

8. We first examine whether violations of Regulations 11(a), 11(b), 11(n) and 17(9) of CBLR, 2013 stand established on the basis of the materials on record. The proceedings arise out of DRI investigation into alleged fraudulent drawback exports through firms linked to Shri Vikas Sharma and Shri Sushail Sehgal. The department alleged that the disputed export clearances were handled through the Customs Broker licence and that the Delhi operations were managed through intermediaries without proper supervision. Reliance was placed on statements recorded under Section 108 of the Customs Act and other investigation records.

9. Upon consideration of the records, we find that the present proceedings under CBLR are concerned with whether the Customs Broker complied with the obligations of due diligence, supervision and verification required under the licensing regulations. Though the case arises out of alleged fraudulent drawback exports, the issue here is whether the Customs Broker failed to discharge its duties under CBLR. In this context, the inquiry report, statements recorded during

investigation and surrounding circumstances assume relevance.

10. The materials on record disclose that export consignments connected with firms subsequently found involved in suspicious drawback activities were handled through the Customs Broker licence of M/s. S. Murugan. Statements recorded under Section 108 from Shri Arun Saxena, Vice President of M/s. Sadguru Freight Forwarders Pvt. Ltd., and Shri Ranjan Tabaji Gopale, partner of the Customs Broker firm, indicate that the Delhi operations relating to customs clearance activities were substantially coordinated through intermediaries and that effective supervision by the licence holder was lacking.

11. The evidence further indicates that exporters connected with the disputed exports were processed through the Customs Broker without adequate verification of antecedents and credentials as contemplated under Regulation 11(n) of CBLR, 2013. The records also disclose that the Customs Broker was not personally supervising the Delhi operations and that customs work was being carried out through Shri Arun Saxena, freight forwarding associate and the G-card holder Shri Dharampal, whose activities were not effectively monitored by the licence holder. These

materials clearly establish deficiencies in supervision and due diligence on the part of the Customs Broker in relation to the Delhi operations.

12. Though the learned counsel for the appellant contended that there is no conclusive evidence establishing conscious participation of the Customs Broker in the alleged fraudulent drawback activities, we are unable to accept the contention that the proceedings are based merely on assumptions. The evidence on record sufficiently establishes failure of due diligence, supervision and verification expected under Regulations 11(a), 11(b), 11(n) and 17(9) of CBLR, 2013. Even in the absence of conclusive evidence of deliberate collusion, permitting customs work to be carried out through inadequately supervised intermediaries and failure to properly verify exporters constitute serious lapses attracting disciplinary action under CBLR.

13. At the same time, we find that the evidence on record falls short of conclusively establishing deliberate collusion, sharing of drawback amounts, receipt of illegal gratification or conscious participation of the Customs Broker in the alleged fraudulent drawback scheme. Significantly, the Inquiry Officer himself did not sustain allegations under Regulations 11(d), 11(e) and 17(5). The proceedings under

CBLR therefore essentially establish serious lapses relating to supervision, verification and due diligence rather than deliberate involvement in fraudulent exports.

14. The appellant relied upon the decision of this Tribunal in *Commissioner of Customs, Chennai-VIII v. Trishiv Logistics Pvt. Ltd.*, reported in 2019 (4) TMI 1049 (Tri.-Chennai), to contend that once the adjudicating authority exercised discretion under Regulation 20(7) of CBLR, 2013 by ordering forfeiture of security deposit instead of revocation, the departmental review proceedings seeking enhancement of punishment were unsustainable. We find considerable merit in the said contention. The decision in *Trishiv Logistics Pvt. Ltd.* clearly recognizes that Regulation 20(7) confers discretion upon the adjudicating authority either to revoke licence or impose lesser penal consequences depending upon the gravity of violations established in a given case. Therefore, the departmental appeals seeking revocation merely on the ground that forfeiture was inadequate cannot be sustained.

15. However, the reliance placed upon *Trishiv Logistics Pvt. Ltd. (Supra)* does not assist the appellant in seeking total exoneration. The evidence on record sufficiently establishes failure of supervision, permitting customs work to

be conducted through inadequately supervised intermediaries and non-compliance with obligations under Regulations 11(a), 11(b), 11(n) and 17(9). The records clearly disclose abdication of supervisory responsibility by the licence holder in relation to the Delhi operations. In disciplinary proceedings under CBLR, such failures are sufficient to justify regulatory action even in the absence of conclusive evidence establishing deliberate fraud or criminal conspiracy.

16. Insofar as Order-in-Original No. 44879/2016 dated 08.02.2016 is concerned, we find that the adjudicating authority revoked the suspension of licence after post-decisional hearing and upon consideration of the available materials at the relevant point of time. Mere pendency of investigation by DRI, Delhi could not by itself justify indefinite continuation of suspension in the absence of conclusive material establishing active involvement of the Customs Broker in the alleged fraudulent exports. We therefore find no infirmity in the order revoking suspension of licence and consequently the departmental appeal challenging the said order is liable to be rejected.

17. As far as Order-in-Original No. 49570/2016 dated 30.08.2016 is concerned, we find that the adjudicating

authority independently examined the inquiry report, statements recorded during investigation and surrounding circumstances before concluding that violation of Regulations 11(a), 11(b), 11(n) and 17(9) stood established. At the same time, the adjudicating authority consciously refrained from revoking the licence after noticing absence of conclusive evidence establishing deliberate collusion or conscious involvement of the Customs Broker in the alleged drawback fraud. Instead, discretion under Regulation 20 *ibid* of CBLR, 2013 was exercised by ordering forfeiture of security deposit. In the facts and circumstances of the present case, such exercise of discretion cannot be said to be arbitrary, disproportionate or contrary to law.

18. In view of the foregoing findings, we uphold the findings regarding violation of Regulations 11(a), 11(b), 11(n) and 17(9) of CBLR, 2013 and also uphold the exercise of discretion by the adjudicating authority under Regulation 20 *ibid* of CBLR, 2013 in ordering forfeiture of security deposit without revocation of licence. Consequently, the appeal filed by M/s. S. Murugan stands dismissed and the departmental appeals challenging revocation of suspension and non-revocation of licence are also dismissed. Order-in-Original No.44879/2016 dated 08.02.2016 and Order-in-Original No.49570/2016 dated 30.08.2016 are upheld.

Consequential reliefs, if any, shall follow in accordance with law.

(Order pronounced in open court on 02.06.2026)

Sd/-
(AJAYAN T.V.)
MEMBER (JUDICIAL)

MK

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)