CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. 1

Customs Appeal No. 87668 of 2025

(Arising out of Order-in-Original CAO No. 78/2025-26/CAC/PCC(G)/RC/Adj-CBS dated 07.08.2025 passed by Principal Commissioner of Customs (General), New Custom House, Mumbai.)

Merchant & Sons **....Appellant**
(CB License No. 11/678)
Office No. 9, Mohatta Market
Palton Road,
Mumbai-400 001.

VERSUS

Principal Commissioner of Customs (General) **....Respondent**
New Custom House, Ballard Estate,
Mumbai–400 001.

APPEARANCE**:**

Shri N.D. George, Advocates for the Appellant
Shri L. B. D'Coasta, Authorized Representative for the Respondent

CORAM:
HON'BLE MR. S.K. MOHANTY, MEMBER (JUDICIAL)
HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)

FINAL ORDER NO. A/85867/2026

Date of hearing: 27.04.2026
Date of decision: 08.07.2026

PER : M.M. PARTHIBAN

This appeal has been filed by M/s Merchant & Sons, Mumbai (herein after, referred to as 'the appellant'), holders of Customs Broker License No. 11/6778 assailing Order-in-Original CAO No. 78/2025-26/CAC/ PCC(G)/RC/Adj-CBS dated 07.08.2025 (herein after, referred to as 'the impugned order') passed by the learned Principal Commissioner of Customs (General), New Custom House, Ballard Estate, Mumbai-I.

2.1. Briefly stated, the facts of the case are that the appellant herein is a Customs Broker (CB) holding a regular CB license issued by Mumbai Customs under erstwhile Regulation 10 of Customs House Agents Licensing Regulations, 1984 (CHALR) and now Regulation 7(2) of Customs Brokers Licensing Regulations (CBLR), 2018.

2.2 During an investigation conducted by Directorate of Revenue Intelligence, Mumbai Zonal Unit (DRI MZU), on improper availment of export benefits by overvaluation of export goods on the basis of fake/ bogus export documents relating to export consignments of 59 export firms, including M/s Fashion Hub; M/s Ocean International; M/s Haji International and M/s N.S. Inc., it was found that the appellant CB had handled such exports in respect of 990 Shipping Bills (S/Bs) out of the total 1343 S/Bs filed by these exporters. Further, enquiry was held by DRI with the Consulate General of India, Dubai, UAE on overvaluation of export goods. In a reply letter dated 08.03.2018, it was reported by the said Consulate General that from scrutiny of the documents provided by Federal Customs Authority, Dubai, it appeared that the goods have been cleared with unit values much lower than what was declared to customs authorities in India at the time of export. On the basis such investigation conducted by DRI, Mumbai, number of Show Cause Notices (SCNs) were issued by the Commissionerate of Customs, Air Cargo Complex, Mumbai against the exporting firms. For the aforesaid specific four export firms viz. M/s Fashion Hub; M/s Ocean International; M/s Haji International and M/s N.S. Inc., the SCNs dated 15.11.2012, 25.10.2022, 14.12.2022 and 24.12.2022 were issued against them. By treating these SCNs as offence reports, separate proceedings were initiated against the appellant-CB under CBLR, 2018 by issue of SCNs No. 07/2023-24 dated 10.05.2023; No. 08/2023-24 dated 10.05.2023; No. 09/2023-24 dated 10.05.2023 and No.10/2023-24 dated 10.05.2023, in respect of exports relating to exporter firms viz., M/s Haji International, M/s Fashion Hub, M/s N.S. Inc., and M/s Ocean International, respectively.

2.3 The jurisdictional Principal Commissioner of Customs (General), Mumbai-I had in individual SCNs as above, had passed four separate orders for suspension of license of the appellant CB, for forfeiture of security deposit and in imposition of penalty on the appellant. The appellant CB had preferred separate appeals before this Tribunal and in these appeals, the Co-ordinate Bench of this Tribunal had passed the Final Order No.85346-85349/2025 as follows:

> *"2. Separate proceedings, invoking breach of regulation 10 of Customs Brokers Licensing Regulations, 2018, were initiated against the appellant by Principal Commissioner of Customs (General), Mumbai in relation to handling of shipping bills for export of goods, purportedly procured against fake purchase bills, for different groups of persons and, by order [order no. CAO No. 76/CAC/PCC(G)/SJ/CBS-Adj] dated 28th February 2024, the licence was revoked and security*

deposit under regulation 14 of Customs Brokers Licensing Regulations, 2018 besides imposition of penalty of ₹ 50,000 under regulation 18 of Customs Brokers Licensing Regulations, 2018 for the first time. With hardly any time to draw another long breath, three other proceedings were concluded thereafter in orders of 8th March 2024 [order no. CAO No. 80/CAC/PCC(G)/SJ/CBS-Adj], 14th March 2024 [order no. CAO No. 83/CAC/PCC(G)/SJ/CBS-Adj] and 18th March 2024 order no. CAO No. 84/CAC/PCC(G)/SJ/CBS-Adj] respectively.

3. We have heard and Learned Counsel for the appellant and Learned Authorized Representative at length. Though both did attempt to canvass their respective submissions on merit, we do find ourselves in a quandary. For if we did, and it fell to the first appeal to succeed, there would be no purpose to taking up the others as the outcome there would be irrelevant. If the first were to fail in appeal, we would, unless and until one contrary outcome emerged, be engaged in enlarging upon the merit of each mirroring the chain that the licencing authority, unabashedly, took recourse to. For reasons that shall be forthcoming, it does not befit the dignity of an appellate authority to 'play with bones' that the licencing authority presumed to do and little realizing the reflection that it portrays of management of the institution of 'customs brokers' in the jurisdiction. We would have to prioritize the four appeals which would have all the appearances of a game of roulette whatever be the rationale in their ordinal. That is not a game that dispensing of justice should be engaged in.

4. It is disconcerting to notice that, in the short space of just 18 days, the licensing authority found it to possible and, even more, necessary to revoke the same licence and the same security deposit four times thrice the licence. We are unable to conceive of any logic of thought or soundness of reasoning that reveals a purpose to such repeated extinguishment of licence and security deposit even as the immediately preceding extinguishments subsisted. Something akin to flogging a dead horse and a parody, to boot. Reason leads us to infer that it appears to be 'hedging of bets' in the vain hope that the Tribunal would play 'fetch' to that 'stick' which is deplorable.

5. It would appear that the licensing authority was unsure about the justification offered for first extinguishment of the licence and security deposit and resorted to preemptive extinguishment to make a mockery of remedies that must inevitably follow such uncertainty in approach to the disciplinary options in Customs Broker Licencing Regulations, 2018. This is not responsible and responsive discharge of administration of 'customs broker' licences.

6. In view of the above, we have no option but to set aside the impugned orders and restore the proceedings before the licencing authority to decide on revocation of one of them and discard the other three or to decide all four together with due notice to the appellant.".

2.4 On the above basis, the jurisdictional Principal Commissioner of Customs (General), Mumbai-I had taken up all the four cases against the appellant CB together for fresh adjudication. In de novo adjudication of the case, he had concluded that there is a case against the appellant CB

for having contravened Regulations 10(a), 10(d), 10(e), 10(f), 10(k), 10(n) and 10(q) of CBLR, 2018. He further held that the charges against the appellant for violation of aforesaid sub-regulations of CBLR, 2018 have been held as 'Proved'. Accordingly, in impugned order dated 07.08.2025, learned Principal Commissioner of Customs (General) had revoked the CB License of the appellant, forfeited entire amount of security deposit, besides imposition of penalty on the appellants under Regulations 17(7), 14 and 18 *ibid*. Feeling aggrieved with the impugned order, the appellant has preferred this appeal before the Tribunal.

3.1 Learned Counsel for the appellants contends that all the allegations of violation of Regulations 10(a), 10(d), 10(e), 10(f), 10(k), 10(n) and 10(q) of CBLR, 2018 in their case have been countered by them. The main argument advanced by the Learned Counsel against the impugned order dated 07.08.2025, is that in respect of S/Bs filed during 2011-2016, the department had initiated action against the appellant after conducting detailed investigation on various exporters and recording statements from them and other persons concerned. The statements of the appellant CB's partner Shri Nuvaid Merchant were recorded on 20.11.2018, 27.11.2018, 16.12.2021 and 29.12.2021, in respect of four different exporters by the investigation. In these statements, the appellant CB had clearly stated that they taken all the necessary KYC documents from their clients and submitted the same before the customs authorities concerned; the appellant does not have any warehouse to store the export goods; they scrutinize the export documents and prepare check list, verify RITC etc. Learned Counsel further stated the investigation was conducted by DRI in the year 2017 and thereafter transferred the investigation to SIIB (Exports), ACC, Mumbai which had resulted in issue of impugned order. However, he stated that as per CBLR, 2018, any CB is only required to maintain the records and accounts relating to imports/exports for a period of 5 years and therefore they were unable to produce further documents in respect of the above case involving exports of 10 years back transactions to prove their non-involvement in the alleged overvaluation. Furthermore, the letter dated 08.03.2018 of the Consulate General of India, Dubai, U.A.E. based on which various exporters were being held as cleared the goods at lower value than what was declared to Indian Customs, was also not provided by them. Therefore, he submitted besides merits, on the ground of limitation also the action proposed in the impugned order is not liable to sustain.

3.2 Further, learned Counsel stated that the appellant CB did not have any prior knowledge about the fact that the exporters are going to mis-declare or overvalue the goods; they had filed the declaration for export of goods by filing the S/Bs as per the documents received through the exporters. He further stated that in all these exports of about 990 S/Bs, after filing the S/Bs, these were assessed by the proper officer of customs; and the export goods were examined by the docks customs examination officers and Let Export Orders (LEOs) have been given in all these cases. Therefore, he pleaded that the S/Bs have attained finality. For the non-realization of export proceeds involving the acts of misdeeds done by the exporters, for the authenticity of the export goods, the appellant CB cannot be held liable. Thus, he claimed that the appellant did not contravene any of the Regulations *ibid*.

3.3 In support of their stand, the learned Advocate had relied upon the following decisions of the Tribunal and the judgement of the Hon'ble High Court of Delhi, in the respective cases mentioned below:

(i) *ITC Limited Vs CCE, Kolkata* - 2019 (368) E.L.T. 216 (S.C.)

(ii) *The Principal Commissioner of Customs (General), Mumbai Vs. Mehul & Co.*– 2022 (5) TMI 30 – Bombay High Court

(iii) *Akansha Enterprises* Vs. *Commissioner of Customs, Mumbai* - 2006 (203) E.L.T. 125 (Tri, -Del.)

(iv) *K.L. Alaghu Murugappan Vs. Commissioner of Customs, Trichy* - 2004 (163) E.L.T. 352 (Tri, - Chennai)

(v) *John K Mathew Vs. Pr. Commissioner of Customs (General), Mumbai* - Final Order No. A/86809-86810/2024 dated 28.08.2024 and Final Order No. 85750/2024 dated 05.08.2024.

3.4 For the above reasons, the learned Counsel pleaded that the alleged violations by the appellant-CB for overvaluation of export goods by the exporter, and the consequent action for revocation of their CB license and for imposition of penalties on them, are not sustainable.

4. Learned Authorised Representative (AR) reiterated the findings made by the Principal Commissioner of Customs (General) in the impugned order and submitted that all the violations under Regulation 10 *ibid*, has been examined in detail by the Principal Commissioner. Thus, learned AR had justified the action taken by the Principal Commissioner of Customs (General) in revocation of the appellant's CB license and for imposition of penalty, forfeiture of security deposit in the impugned order.

5. We have heard both sides and perused the case records.

6.1 The issue involved herein is to decide whether the appellant Customs Broker has fulfilled all his obligations as required under CBLR, 2018 or not. The specific sub-regulations which were alleged to have been violated by the appellants are Regulations 10(a), 10(d), 10(e), 10(f), 10(k), 10(n) and 10(q) of CBLR, 2018, and hence there are certain distinct charges framed against the appellants. We find that Regulation 10 *ibid*, provides for the obligations that a Customs Broker is expected to fulfill during their transaction with Customs in connection with importation and export of goods. These regulations are extracted and given below as follows:

"Regulation 10. Obligations of Customs Broker: -

A Customs Broker shall –

(a) obtain an authorisation from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Broker and produce such authorisation whenever required by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

…

(d) advise his client to comply with the provisions of the Act 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;

(e) exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;

(f) not withhold information contained in any order, instruction or public notice relating to clearance of cargo or baggage issued by the Customs authorities, as the case may be, from a client who is entitled to such information;

(k) maintain up to date records such as bill of entry, shipping bill, transhipment application, etc., all correspondence, other papers relating to his business as Customs Broker and accounts including financial transactions in an orderly and itemised manner as may be specified by the Principal Commissioner of Customs or Commissioner of Customs or the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

…

(n) verify antecedent, correctness of Importer Exporter Code (IEC) number, identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information;

…

(q) co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees."

6.2 We find that the Principal Commissioner of Customs had come to the conclusion that the appellants CB had violated the above stated sub-regulations (a), (d), (e), (f), (k), (n) and (q) of Regulation 10 ibid on the following grounds:

(i) the CB had worked in completely negligent manner and blindly relied only on the documents provided by the exporters.

(ii) the CB himself/themselves did not exercise due diligence with respect to the fact that whether the exporter is complying with all the rules, regulations and notification pertaining to the impugned exports.

(iii) the CB did not advise the exporters about the mandatory compliance for exports and eligibility for drawback claims which resulted in such fraudulent exports;

(iv) the appellant CB failed to bring such non-compliance by the exporters to the notice of the customs department.

The relevant paragraphs of the impugned order, providing the above conclusions which form the basis for revocation of appellant CB's license and for imposition of penalty and forfeiture of security deposit are extracted and given below:

"90. Having perused the facts of all the four cases, I find that it is a matter of fact that the exporters M/s. Fashion Fab, M/s. Ocean International, M/s. Haji International and M/s. N.S. Inc. have overvalued the export goods and claimed/availed undue Drawback in violation of the Drawback Rules. Also, the most of the export consignments of the said exporters have been filed and handled by the CB M/s. Merchant & Sons (CB No. 11/678) as already discussed above.

91. Having perused the Inquiry Reports, all dated 12.12.2023, I find that the CB never responded to the hearing intimations/summonses issued by the inquiry officer and never appeared for defence arguments or submissions. Consequently, the inquiry officer concluded the inquiry proceedings on ex-parte basis and held all the Articles of Charge as 'proved beyond doubt' in all the four cases, as discussed above. I find that the charges of violation of Regulations 10(d), 10(e) & 10(f) of CBLR, 2018, ibid, in case of exporter M/s. Fab India (Case-I); Regulations 10(d), 10(e), 10(f) & 10(n) of CBLR, 2018, ibid, in case of exporter M/s. Ocean International (Case-II); Regulations 10(d), 10(e), 10(f) & 10(n) of CBLR, 2018, ibid, in case of exporter M/s. Haji International (Case-III) and Regulations 10(a), 10(d), 10(e), 10(f), 10(k), 10(n) & 10(q) of CBLR, 2018, ibid, in case of exporter M/s. N.S. Inc. (Case-IV) have been levelled against the CB and all these charges have been 'proved beyond doubt', by the inquiry officer.

92. On a careful perusal of the reasons assigned by the inquiry officer and as extracted above, it is evident that the inquiry officer has conducted a meticulous exercise to examine and appreciate the

evidence on record and came to a categorical finding that the CB was guilty of non-performance of the statutory duties cast upon them under Regulations 10(a), 10(d), 10(e), 10(f), 10(k), 10(n) and 10(q) of CBLR, 2018. In view of the above discussions and under the factual matrix of the present case I am inclined to accept the inquiry officer's reports, as I do not find any sustainable ground for disagreement with the inquiry reports. Here, I rely on the judgement of Hon'ble Tribunal in the case of Him logistics Pvt Ltd vs Commissioner of customs, New Delhi reported in 2015 (325) ELT 793 (Tri-Del) on 07.04.2016 in Custom Appeal No. 50267/2016-CU(DB), wherein it is held that:-

> *"We find that the impugned order passed on disagreement with the inquiry report has not brought out clear sustainable grounds for such extreme action of revocation of license. Violation of CBLR, 2013 has not been brought out as all the points have been elaborately discussed in the inquiry report and no sustainable ground for differing with the same could be made out"*

93. Under the facts and circumstances of the case, I find that it is a matter of fact that 25 Shipping Bills of the exporter M/s. Fashion Fab; 381 Shipping Bills of the exporter M/s. Ocean International; 429 out of 699 Shipping Bills of the exporter M/s. Haji International and 155 out of 238 shipping Bills of the exporter M/s. N.S. Inc. were filed and handled by the charged CB M/s. Merchant & Sons (CB No. 11/678). Also as per investigation records, the exporter has procured the export goods from Domestic Tariff Area (DTA) through Mr. Suhel Ansari and without payment of application taxes and duties. Also, I do not find any visible evidence which could indicates that CB has not co-operated with the Customs and worked in compliance of the obligations casted upon them under CBLR, 2018. The facts of the case indicates that the CB had worked in completely negligent manner and blindly relied only on the documents provided by the exporter and the CB himself/themselves did not exercised due diligence with respect to the fact that whether the exporter is complying with all the rules, regulation and Notifications pertaining to the impugned exports. I have also perused the defence submission dated 23.06.2025 of the CB, submitted by their advocate at the time of personal hearing. However, under the facts and circumstances of the case, 1 find that there if no force in the defence submission of the CB to free them of the charge of contravention of obligations casted upon them under CBLR, 2018. 1 am of the considered view that the responsibility of a Customs Broker plays a crucial role in protecting the interest of the Revenue and at the same time he is expected to facilitate expeditious clearance of import/export cargo by complying with all legal requirements. I also find that it is a matter of fact that the CB had worked in completely negligent manner and relied blindly on the declaration and documents as received and the CB himself/themselves did not exercised due diligence with respect to the fact that whether the exporter is complying with requisite laws pertaining to the impugned exports. I find that in the instant case, the CB did not advise the exporters about the mandatory compliances for exports and eligibility for Drawback claims, which resulted in such fraudulent exports, also the CB did not bring the matter to the notice of the Customs Department. Also, there is no force in defence arguments of the CB, in this regard. The inquiry officer's findings with respect to charge of violation of Regulation 10(a), 10(d), 10(e), 10(f), 10(k),

10(n) and 10(q) of CBLR, 2018, ibid, are tenable, acceptable and sustainable and hence I approve the same. In view of the above discussions and under the factual matrix of the present case I am inclined to accept the inquiry officer's report and accordingly I approve the decision of inquiry officer in holding the charges of violation of Regulation 10(a), 10(d), 10(e), 10(f), 10(k), 10(n) and 10(q) of CBLR, 2018, ibid, as proved.

94. I rely on the following judgements and hold that in the instant case, CB, M/s. Merchant & Sons, CB No.11/678 have failed to adhere to the responsibilities as was expected in terms of the Regulations made under CBLR, 2018 (erstwhile CBLR, 2013) and therefore rendered themselves liable for penal action under CBLR, 2018 [erstwhile CBLR, 2013].

94.1 The Hon'ble Supreme Court in the case of Commissioner of Customs V/s. K. M. Ganatra and Co. in civil appeal no. 2940 of 2008 approved, the following observation of Hon'ble CESTAT Mumbai in M/s. Noble Agency V/s. Commissioner of Customs, Mumbai:

> *"A Custom Broker occupies a very important position in the customs House and was supposed to safeguard the interests of both the importers and the Customs department. A lot of trust is kept in CB by the Government Agencies and to ensure made under CBLR, 2013 and therefore rendered themselves liable for penal action under CBLR, 2013 (now CBLR, 2018)".*

94.2 Similarly, in case of M/s Cappithan Agencies Versus Commissioner Of Customs, Chennai-Viii, (2015(10) LCX 0061), the Hon'ble Madras High Court had found that:-

> *"The very purpose of granting a licence to a person to act as a Customs House Agent is for transacting any business relating to the entry or departure of conveyance or the import or export of goods in any customs station. For that purpose, under Regulation 9 necessary examination is conducted to test the capability of the person in the matter of preparation of various documents determination of value procedures for assessment and payment of duty, the extent to which he is conversant with the provisions of certain enactments, etc. Therefore, the grant of licence to act as a Custom House Agent has got a definite purpose and intent. On a reading of the Regulations relating to the grant of licence to act as CHA, it is seen that while CHA should be in a position to act as agent for the transaction of any business relating to the entry or departure of conveyance or the import or export of goods at any customs station, he should also ensure that he does not act as an Agent for carrying on certain illegal activities of any of the persons who avail his services as CHA. In such circumstances, the person playing the role of CHA has got greater responsibility. The very description that one should be conversant with the various procedures including the offences under the Customs Act to act as a Custom House Agent would show that while acting as CHA, he should not be a cause for violation of those provisions. A CHA cannot be permitted to misuse his position as CHA by taking advantage of his access to the Department. The grant of licence to a person to act as CHA is to some extent to assist the Department with the various procedures such as scrutinizing the various documents to be presented in the course of transaction of business for entry and exit of conveyances or the import or export of the goods. In such circumstances, great confidence is reposed in a CHA. Any misuse of such position by the CHA will have far reaching consequences in the transaction of business by the customs*

house officials. Therefore, when, by such malpractices, there is loss of revenue to the custom house, there is every justification for the Respondent in treating the action of the Petitioner Applicant as detrimental to the interest of the nation and accordingly, final order of revoking his licence has been passed."

"In view of the above discussions and reasons and the finding that the petitioner has not fulfilled their obligations under above said provisions of the Act, Rules and Regulations, the impugned order, confirming the order for continuation of prohibition of the licence of the petitioner is sustainable in law, which warrants no interference by this Court. Accordingly, this writ petition is dismissed."

94.3 Further, I rely upon the judgment of Hon'ble CESTAT Delhi in case of M/S. Rubal Logistics Pvt. Ltd. Versus Commissioner of Customs (General) wherein in para 6.1.

Hon'ble Tribunal held as under:

"Para 6.1 These provisions require the Customs Broker to exercise due diligence to ascertain the correctness of any information and to advice the client accordingly. Though the CHA was accepted as having no mensrea of the noticed mis-declaration/under-1 valuation or mis-quantification but from his own statement acknowledging the negligence on his part to properly ensure the same, we are of the opinion that CH definitely has committed violation of the above mentioned Regulations. These Regulations caused a mandatory duty upon the CHA, who is an important link between the Customs Authorities and the importer/exporter. Any dereliction/lack of due diligence since has caused the Exchequer loss in terms of evasion of Customs Duty, the original adjudicating authority has rightly imposed the penalty upon the appellant herein."

95. I find that the principal of natural justice has been complied with as ample opportunities of personal hearing were granted to the CB by the IO. Nevertheless, in the PH held on 24.06.2025, the Advocate of the CB submitted their written defence submission dated 23.06.2025. Therefore, I have proceeded to decide the case on the basis of records, IO report and submissions of the CB.

96. In a regime of trade facilitation, a lot of trust is placed on the Customs Broker who directly deals with the importers/exporters as the department does not have interface with the importers/exporters. Failure to comply with regulations by the CB mandated in the Regulations give room for unscrupulous persons to get away with import-export violations and revenue frauds. The CB mis-used the CB license and failed to bring the matter to the notice of the Customs Authorities. All the persons including the CB involved knowingly abetted/ supported the commercial fraud by way of mis-use of Drawback Scheme. The CB also failed to verify the actual exporters in the instant case. As brought out in discussions above, there is all round failure of the CB. The facts on record prove that CB has violated various provisions of CBLR 2018 with means rea.

97. I also hold that the charges held as proved in inquiry are acceptable and tenable under the facts and circumstances of the case and certainly warrant penal action against the CB. If CB, M/s Merchant & Sons CB

No.11/678 had acted in a diligent manner and had performed his duties efficiently, the improper attempt to export impugned goods would not have taken place. The above evidence on record clearly indicates that the CB has indulged in nefarious activities and thereby I am of the firm belief and opinion that the CB has failed to discharge duties cast on them under 10(a), 10(d), 10(e), 10(f), 10(k). 10(n) and 10(q) of CBLR, 2018 and are liable for penalty. Therefore, there is an apprehension that the Custom Broker may adopt similar modus operandi in future and department cannot remain oblivious to the danger posed by such an eventuality. Accordingly, I am inclined to revoke the CB Licence and pass the following order:

ORDER

98 1. Principal Commissioner of Customs (General), in exercise of the power conferred upon me under Regulation 17(7) of the CBLR, 2018 (erstwhile Regulation 20(7) of CBLR, 2013), pass the following order:

(i) I hereby impose penalty of Rs. 50,000/- (Rupees Fifty Thousand only) on Mis. Merchant & Sons (PAN No. AAEFM0675K) (CB No. 11/678) under Regulation 18 of the CBLR, 2018 (erstwhile Regulation 22 of CBLR, 2013).

(ii) I hereby order for forfeiture of entire amount of security deposit furnished by the CB M/s. Merchant & Sons (PAN No. AAEFM0675K) (CB No. 11/678), under Regulation 14 of the CBLR, 2018 (erstwhiel Regulation 18 of CBLR, 2013).

(iii) The CB License held by M/s. Merchant & Sons (PAN No. AAEFM0675K) (CB No. 11/678) is ordered to be revoked under Regulation 14 of the CBLR, 2018 (erstwhiel Regulation 18 of CBLR, 2013).

(iv) I hereby order that the CB surrender the original License as well as all the 'F', 'G' & 'H' cards issued there under immediately.

This order is passed without prejudice to any other action which may be taken or purported to be taken against the Customs Broker and their employees under the Customs Act, 1962, or any other act for the time being in force in the Union of India."

7.1 Firstly, on the facts of the case, we find that the appellants CB having filed various S/Bs in respect of the exports undertaken by M/s Fashion Hub; M/s Ocean International; M/s Haji International and M/s N.S. Inc., on whose exportation of goods, certain irregularities have been found out under the Customs Act, 1962, the jurisdictional customs authorities have initiated separate show cause proceedings against the respective exporters and the appellant CB, vide SCNs dated 15.11.2002, 25.10.2022, 14.12.2022 and 24.12.2022. These SCNs have been treated as 'offence report' in terms of Regulation 17 ibid, for issue of four separate SCNs No.07/2023-24, No.08/2023-24, No.09/2023-24 and

No.10/2023-24, all dated 10.05.2023 to the appellant CB, for initiating regular inquiry proceedings under the CBLR, 2018. It is also a fact on record that inquiry reports dated 12.12.2023, submitted by the inquiry officer nominated under Regulation 17 ibid, indicate that the appellant CB did not respond and participated in such inquiry proceedings and the inquiry reports were submitted on ex-parte basis by holding that all charges have been 'proved beyond doubt'. On the basis of such findings in the inquiry reports, the learned Principal Commissioner had accepted these inquiry reports by stating that he does not find any sustainable ground for disagreement with those inquiry reports. Whereas, the requirement of Regulation 17 of the CBLR, 2018 is to conduct detailed inquiry proceedings as per the procedure prescribed therein. These include the following are the various steps involved therein in passing an order under Regulation 17 ibid:

(i) Issue of Show Cause Notice to a CB against whom action has been proposed under CBLR

(ii) On the basis of written reply submitted by the CB, determine the grounds which have been accepted by him and those which have not been admitted by the CB, and appoint an Inquiry Officer to inquire into such grounds which are not admitted

(iii) Inquiry officer to take into account all necessary evidence, oral or documentary for ascertaining the correct position

(iv) opportunity for cross-examination of the persons examined in support of the evidence against the CB

(v) Preparation of the inquiry report containing the findings of the inquiry officer

(vi) Obtaining written representation from the CB, if he wishes to submit any grounds against the inquiry report

(vii) Principal Commissioner of Customs to consider the inquiry report, CB's representation and provide an opportunity of personal hearing before passing an adjudication order on the inquiry proceedings

(viii) Imposition of specific penalties against 'F' card holder, in case the Principal Commissioner comes to a conclusion for such imposition, duly following the procedure as above.

7.2 In the present case, even though the learned Principal Commissioner had recorded in the impugned order that he had taken into account the defence submission dated 23.06.2025 which was reiterated

at the time of personal hearing, no specific date on which personal hearing having been conducted has been mentioned in the impugned order. Further, such submissions made by the appellant CB have neither been discussed with respect to any fact or documentary evidence to establish the violation of various sub-regulations of Regulation 10 ibid. Instead, the learned Principal Commissioner had simply accepted the inquiry officer's reports on the basis that such inquiry officer had conducted a meticulous exercise to examine and appreciate the evidence on record and came to a categorical finding that the appellant CB was guilty of non-performance of statutory duties cast upon him under the various sub-regulations 10(a), 10(d), 10(e), 10(f), 10(k), 10(n) and 10(q) of CBLR, 2018. Thus, it is very clear that the learned Principal Commissioner, as a licensing authority, had not independently examined the various allegations levelled against the appellant CB, before passing the impugned order in adjudication of the inquiry proceedings, as provided for under Regulation 17 ibid.

7.3 Furthermore, it is also on record at paragraph 87 of the impugned order, that on the basis of DRI's investigation in the exports undertaken by one M/s Lorgan Lifestyle Limited, Pune, who were engaged in bogus exports through Mundra Port by preparing manual shipping bills on which actual export of goods had not been taken place and for such exports they had procured fake purchase bills from one Shri Suhel Ansari, similar investigation was conducted with 59 other exporter firms for whom it was alleged that such fake bills were supplied by Shri Suhel Ansari. However, there are no specific findings in the impugned order by the learned Principal Commissioner, or reference to any other findings given by the investigation agency viz., SIIB of customs authorities, for coming into a conclusion that the exports which were handled by the appellant involved fake exports of similar modus operandi, for revocation of the appellant CB's license. Therefore, the impugned order for revocation of CB license and for imposing penalty, forfeiture of security on the appellant CB is not proper and cannot stand legal scrutiny, and therefore on this ground alone it is liable to be set aside.

8.1 We find that the case of appellants CB in the present appeal arise from the same set of facts, as was dealt by the Co-ordinate Bench of the Tribunal in the case of *John K Mathew Vs. Principal Commissioner of Customs (General), Mumbai* - Customs Appeal No.87232 of 2023 decided

vide Final Order No. 85750/2024 dated 05.08.2024. The issue of overvaluation of export goods based on the evidence of the report from Consulate General of India, Dubai etc., are exactly similar to the case already decided by this Tribunal in the above case. In the above referred order, the Tribunal has held that the appellants CB cannot be fastened with the act of omission and commission in relation to a provision in the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 that intended empowering the Central Government to device a schedule of rates of drawback in view of engaging in computation of drawback on each incident of export. It was also held by this Tribunal, in that case, stating it clearly that the benefit, even if 'undue', derived by the exporter is not of such *gravitas* as to merit revocation of license to practice a profession and, more specifically, when the licensing authority itself appears to have discountenanced proper conjecture of the provision of law that supposedly made the impugned goods offending. Accordingly, the Tribunal had set aside the Order of the Principal Commissioner in suspending the appellant's CB license.

8.2 The relevant paragraphs in the said order are extracted and given below:

> *"6. We find that, insofar as the charges are concerned, the impugned order has put together unrelated facts and rendered findings that, consequently, are illogical and untenable. It is seen that the charge of not having advised the client to comply with Customs Act, 1962 and rules and regulations thereof is not founded on any allegation that advice sought had not been rendered and nor is there an allegation that 'customs broker' is expected to explain the entirety of the law to the client; either the allegation is vague or the obligation is vague with neither contingency furthering the case against the appellant. It is, probably, owing to this conceptual commotion that the licencing authority has proceeded to uphold the charge on the supposition that exporter could not have executed overvalued exports without collusion from the appellant. That bridging of supposition with breach of obligation is too far-fetched to accept. The easiest of misdeclaration to undertake is overvaluation of export goods for the requirement to repatriate export proceeds confers advantage of presumption of correctness of contracted value combined with incomparability of local prices; it would appear that unnecessary premium has been placed on the need of a fellow conspirator for such overvaluation to succeed. The conclusion in the impugned order has nothing to do with obligation and is also not founded on any fact on record. The charge of having breached regulation 10(d) of Customs Broker Licencing Regulations, 2018 has been inappropriately held to be proved.*
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> *7. Likewise, it is seen that allegation of breach of obligation to exercise due diligence in ascertainment of correctness of any information furnished to the client is not founded on any information sought for by*

the client and not from any accusation of the client that appellant had misinformed them. Instead we find a sweeping presumption that it was owing solely to having failed to ascertain correctness of information that client was emboldened to set out in this act of overvaluation. The licencing authority also appears to have misconstrued the nature of the obligation which is not about dissemination of incorrect information but of failure to ascertain correctness of information which must, necessarily, be built upon information given, either of own volition or on request of client, that was not only not incorrect but communicated without taking steps to ascertain correctness thereof. The notice, inquiry report and impugned order are markedly lacking in such determination. Even as saving grace, there is no factual narration of any information that led to alleged overvaluation. Thus it is that regulation 10(e) of Customs Broker Licencing Regulations, 2018 has been incorrectly held as proved.

8. The alleged breach of obligation to forbear from withholding information contained in any order, instruction or public notice from a client who is entitled to receive them has been established with the finding that details of local procurement said to be prescribed in circular no. 16/2009-Cus dated 25th May 2009 was in breach; however, this fact had not been set out in the notice issued to appellant. There is also no reference to the said circular in the report of the inquiry officer. It would, thus, appear that the inspiration which prompted the licencing authority to refer to this mandate was not tested by offering opportunity at any stage to explain irrelevance of its contents to 'free shipping bills' filed for exports by the appellant or to explain that it had indeed been provided. This is tantamount to introduction of evidence after conclusion of all proceedings in which appellant had participated and is, this, untenable basis for upholding the charge of having breached regulation 10(f) of Customs Broker Licencing Regulations, 2018.

9. The allegation that the appellant had failed to maintain records and accounts has been upheld on the findings that appellant had not responded to summons and had failed to furnish details called for. The contention of appellant right from the beginning had been that no summons had even been issued to them in connection with investigation into the exports of M/s World Wide Export and, at no stage, did the inquiry officer or the licencing authority ever counter this response with any record to the contrary. Indeed, as we have noted supra, it is moot if the suspension would have been revoked in such circumstances. In any case, this obligation does not pertain to response to summons or join in investigations. Moreover, as the appellant has pointed out, the regulation is studiously silent on the period for which the records are required to be preserved and the claim of the appellant that records were trashed has not been countered with any instruction requiring preservation beyond reasonable period. Furthermore, we do not find reference to any stipulation by the officer designated for the purpose in the said regulation which should have been the foundation of this allegation and it was merely the inability of the exporter to furnish detailed records that has been attributed to flawed performance of obligation by the appellant. It would appear that the intent of the obligation has been incorrectly appreciated by the licencing authority; the allegation of having breached regulation 10(k) of Customs Broker Licencing Regulations, 2018 does not sustain.

10. It has been alleged that the appellant had failed to carry out mandated antecedent checks and verification of the client and the finding of it having been proved is founded on a statement of the exporter that such verification had not been carried out. It was incumbent on the investigation to have confronted the appellant with this accusation but no attempt was made so to do. It is also surprising that after such elapse of time, the exporter was able to recall lack of physical verification even as he was unable to recollect details of purchase channel. Not only does such selective remembrance lack verifiability but also relegates its acceptability to the periphery. In the context of limited benefits derived, and none at all in the consignments handled by the appellant, by the exporter and lack of any evidence of such negligence in the part of the appellant, we are unable to accept the conclusion of not having been diligent in antecedent verification. As we have already premised, it was much too late, and the stakes were much too little, for conducting any worthwhile investigation. To erect such a charge on such fragile foundations is sure recipe for it to fail to find favour. Thus, there is no basis for alleged contravention of regulation 10(n) of Customs Broker Licencing Regulations, 2018, as found in the impugned order, to be affirmed by us.

11. The charges of breach of regulation 10 of Customs Broker Licencing Regulations, 2018 do not sustain. There is no case that the goods had not been exported or evidence even that the impugned goods had not been manufactured out of duty paid inputs. The drawback involved in all the exports during the said period by M/s World Wide Export is not of such high order as to warrant penalties and detriments that were heaped upon them in the impugned order and those handled by the appellant were not under any claim at all. In these circumstances, we find ourselves unable to uphold the impugned order which is set aside to allow the appeal."

8.3 Therefore, in the present appeal before us too, the findings of the learned Principal Commissioner in respect of charges against Regulations 10(d), 10(e), 10(f), 10(k) and 10(n) of CBLR, 2018 do not sustain, on the same analogy adopted by the Tribunal in the case referred above on similar exports.

9.1 As regards the allegation against the Regulation 10(a) ibid, the appellants had submitted that during the time of recording his statement on 29.12.2021, they have provided the KYC details and the authority letter given by the exporter. Further, Shri Nuvaid Merchant partner of the appellant CB had also given on various dates viz., on 20.11.2018, 27.11.2018, 16.12.2021 had given voluntary statements before the investigation authority stating that in respect of the exporter N/s Fashion Feb, the proprietor Shri Mohamed Jaffer had approached personally for clearance of their exports and they had obtained requisite documents viz. invoices, packing lists, SDF forms and other annexures on the basis of which they had filed various shipping bills. Therefore, it cannot be said

that the appellant CB was lacking in producing documents showing their authorization to act as CB, for filing the declarations before the customs authorities and that he did not cooperate with the customs department.

9.2 In this regard, we also find that on the above issue, the Tribunal in the case of *K.S. Sawant & Co.*(supra) had already held that accepting the documents through logistics operator is not barred by CBLR. The relevant paragraph of the said order is extracted below:

> *"5.1 From the records, it is clear that the business in respect of the client M/s. Advanced Micronics Devices Ltd., was brought in by Shri Sunil Chitnis, who claims himself to be a sub-agent of the appellant CHA. The statements of Shri Badrinath and Shri Sunil Chitnis amply proves this fact. The question is, merely because the appellant procured the business through an intermediary who is not his employee, can it be said that he has sub-let or transferred the business to intermediary. The Tribunal in the case of Principal Commissioner of Customs v. Chhaganlal Mohanlal & Co. Ltd. [2006 (203) E.L.T. 435 (Tri. - Mum.)], held that if the Customs clearance has been done through intermediary and business was got through intermediary, the same is not barred by the provisions of CHALR, 2004 and it cannot be stated that the appellant has sub-let or transferred his licence. In the case of Krishan Kumar Sharma v. Principal Commissioner of Customs, New Delhi reported in 2000 (122) E.L.T. 581 (Tri.), this Tribunal held that the mere fact of bills raised on the intermediary cannot be held against the CHA firm to prove that the CHA licence was sub-let or transferred. Therefore, in the light of the judgments cited above, the charge of violation of Regulation 12 is not established. As regards the violation of Regulation 13(a), the adjudicating authority himself has observed that the "I have no doubt to say that the CHA might have obtained the authorisation but it is surely not from the importer. Therefore, the authorisation submitted is not a valid one". This finding is based on a presumption. Obtaining an authorisation from the importer does not mean that the same should be obtained directly; so long as the concerned import documents were signed by the importer, it amounts to authorisation by the importer and, therefore, it cannot be said that there has been a violation of Regulation 13(a). … The question now is whether revocation of licence is warranted for such a violation. In our view, the punishment should be commensurate with the gravity of the offence. Revocation is an extreme step and a harsh punishment, which is not warranted for violation of Regulation 13(b). Accordingly, we are of the view that forfeiture of security tendered by the appellant CHA is sufficient punishment and revocation is not warranted. Accordingly, we set aside the order of the revocation and direct the Principal Commissioner of Customs (General) to restore the CHA licence subject to the forfeiture of entire security amount tendered by the CHA."*

9.3 Therefore, in the absence of any document to prove the claim of having not obtained necessary authorisation from the exporters, which involve mis-declaration of export goods, the findings given by the learned Principal Commissioner of Customs in the impugned order for violation of

Regulation 10(a) ibid is difficult to be proved for fastening such liability on the appellants CB. Further, learned Principal Commissioner had not given any specific findings for violation of Regulation 10(q) ibid to state that the appellant CB failed to co-operate with customs authorities in the inquiry against them or their employees. On the contrary, he had recorded at paragraph 93 as "*Also, I do not find any visible evidence which could indicate that CB has not co-operated with the Customs*…..". It is also fact on record that statements of the appellant CB's partner Shri Nuvaid Merchant were recorded on 20.11.2018, 27.11.2018, 16.12.2021 and 29.12.2021, in respect of different exporters by the customs investigation authorities. However, with respect to the inquiry proceedings alone it is indicated that the appellant CB failed to respond to the hearing intimations and never appeared before them. Therefore, to this extent of non-participation in inquiry proceedings, the appellant CB is liable for penalty for violation of regulations 10(q) of the CBLR, 2018.

9.4 We further find that Co-ordinate Bench of the Tribunal in the case of *Trinity International Forwarders Vs. Commissioner of Customs (Preventive), Jaipur* - (2024) 17 Centax 314 (Tri.-Del) have held customs broker has no locus standi in respect of value of export goods, which is being negotiated by overseas buyer and Indian exporter. Therefore, it was held that the CB in that case is not violated the provisions of CBLR. The relevant paragraphs of the said order are extracted and given below:

> ***"7.*** *We have considered the submissions by both sides on this issue. The case of the Revenue is that the exporter over- invoiced exports to claim ineligible drawback. Drawback is a mechanism of reimbursing to the exporter, the taxes and duties which would have been paid or borne by the exporter on the finished goods as well as on the raw materials. Instead of calculating these taxes and duties each case, based on the average incidence of the taxes and duties on each type of goods, a drawback schedule is notified by the Government which indicates the drawback for each type of goods usually as a percentage of the Free on Board[7] value. For some goods, the rate could be on per piece basis and on some goods, the duty could be as a percentage of FOB with a value cap and in such cases even if the FOB value is higher, drawback will be paid only on that amount. The appellant had filed the Shipping Bills as per the documents provided to it by the exporter. According to the Revenue, by filing Shipping Bills with over-invoiced export values, the appellant violated Regulation 11(d). To consider this assertion of the Revenue, we examine the significance of the value in the export documents and who can determine it and if the appellant had any right to determine the value of the goods being exported.*
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> ***xxx xxx xx xxx***

9. *The value of the imported goods in the Bill of Entry is determined as per Section 14 of the Act read with Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 . The value of export goods in the Shipping Bill is determined as per Section 14 read with Customs Valuation (Determination of Value of Export Goods) Rules, 2007. Section 14 states that for the purpose of Customs Tariff Act, 1975 (under which the rates of import and export duties are prescribed) or any other law for the time being in force, the value shall be the transaction value, i.e., the value actually paid or payable for import of the goods at the place of importation or export of the goods at the place of exportation subject to some conditions and Rules. In respect of imports, Rule 12 of the Import Valuation Rules authorizes the proper officer to reject the transaction value under certain circumstances and redetermine it based on the value of contemporaneous imports of identical goods (Rule 4), value of contemporaneous imports of similar goods (Rule 5), value arrived at through deductive method (Rule 7), etc. In cases of exports, the proper officer can, under certain circumstances, reject the transaction value under Rule 8 of the Export Valuation Rules and redetermine the value by comparison (Rule 4), through computation (Rule 5) or through a residual method (Rule 6).*

10. *It needs to be noted that when the officer rejects the transaction value and determines the value of the imported goods or export goods under the Rules, he re-determines the value to calculate duty under the Customs Act. He does not and he cannot change the transaction value (be it under FOB, CIF or C&F) which is the consideration paid or payable for the goods as between the importer and exporter. The officer is a stranger to the contract between the importer and exporter and has no locus standi to change the transaction value.*

11. *Thus, while the transaction value is decided between the exporter and importer, value for determining the duty under the Customs Act is a part of assessment. The power to assess including determining the value lies with the importer/exporter (self-assessment) or with the proper officer (re-assessment). The Customs Broker has neither any authority nor any responsibility to assess the value of the imported goods or export goods.*

12. *In all the Shipping Bills, exports were allowed by the Customs in the normal course. It is only the subsequent intelligence and investigations by the DRI which revealed the alleged over valuation of exports. The Customs Broker is neither authorized under the Act nor is obligated under the CBLR to re-determine the value of any goods. Transaction value (be it FOB, CIF or C&F) is a matter of negotiation between the overseas buyer and the Indian exporter. It is the consideration which is paid or payable to the Indian exporter by the overseas buyer. The Customs Broker is a stranger to this contract and has no locus standi with respect to the transaction value. Any value determined under the Customs Act is a part of assessment which is the prerogative of the importer/exporter (self-assessment) or the proper officer (re-assessment). The Customs Broker has neither any authority nor any power to determine or re-determine the value for customs purposes either. The Customs Broker also has no authority to inspect or examine the goods and so the possibility of*

the Customs Broker suspecting that the goods may have been over valued also does not arise."

10.1 We also find that the Hon'ble High Court of Delhi has held in the case of *Kunal Travels (Cargo) Vs. Principal Commissioner of Customs (I&G), IGI Airport, New Delhi* reported in 2017 (354) E.L.T. 447 (Del.), have held that the appellants CB is not an officer of Customs who would have an expertise to identify mis-declaration of goods. The relevant portion of the said judgement is extracted below:

"The CHA is not an inspector to weigh the genuineness of the transaction. It is a processing agent of documents with respect to clearance of goods through customs house and in that process only such authorized personnel of the CHA can enter the customs house area..... It would be far too onerous to expect the CHA to inquire into and verify the genuineness of the IE Code given to it by a client for each import/export transaction. When such code is mentioned, there is a presumption that an appropriate background check in this regard i.e. KYC etc. would have been done by the customs authorities."

10.2 From the above, we also find that the orders of the Tribunal and higher judicial forum are in support of our considered views in this case.

11. In view of the foregoing discussions, we do not find any merits in the impugned order 07.08.2025 passed by the learned Principal Commissioner of Customs (General), Mumbai in revocation of the CB license of the appellants; for forfeiture of security deposit and for imposition of penalty, inasmuch as there is no violation of regulations 10(a), 10(d), 10(e), 10(f), 10(k) and 10(n) of CBLR, 2018, and the findings in the impugned order are contrary to the facts on record. However, we find it as a proper and fit case for imposition of penalty of Rs.10,000/- for violation of regulations 10(q) of CBLR, 2018 inasmuch as the appellant CB did not participate in inquiry proceedings by customs.

12. Therefore, by setting aside the impugned order, we partly allow the appeal in favour of the appellant.

(Order pronounced in the open court on 08.07.2026)

(S.K. MOHANTY)
MEMBER (JUDICIAL)

(M.M. PARTHIBAN)
MEMBER (TECHNICAL)

Sinha