CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
MUMBAI
WEST ZONAL BENCH

Customs Appeal No. 86161 of 2026

(Arising out of Order-in-Original No. 05/2026-27 dated 20.05.2026 passed by the Principal Commissioner of Customs (Gen), New Custom House, Mumbai, Zone-I)

Capricorn Logistics Pvt. Ltd. **.....Appellant**
13-13A, KeyTou Indl. Estate,
220 Kondivita Road,
Andheri (East), Mumbai

VERSUS

Principal Commissioner of Customs (General), Mumbai **.....Respondent**
New Custom house, Ballard Estate,
Mumbai

APPEARANCE:

Shri Prakash Shah, Sr. Advocate a/w Shri Suyog Bhave & Shri Mohit Rawal, Advocates for the appellant
Shri Dinesh Nanal, DC (AR) for the respondent

CORAM:
HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)
HON'BLE MR. A K JYOTISHI, MEMBER (TECHNICAL)

FINAL ORDER No: 86000/2026

DATE OF HEARING : 14.07.2026
DATE OF DECISION : 10.08.2026

Per: AJAY SHARMA

This appeal has been filed challenging the order dated 20.5.2026 passed by the Principal Commissioner of Customs, CBS (General), New Customs House, Mumbai, Zone-I under

Regulation 16(2) of the Customs Broker Licensing Regulation, 2018 *(hereinafter referred to as "CBLR")* whereby the suspension of Appellant's Customs Broker License, initially ordered under Regulation 16(1), has been directed to continue.

2. The appellant is a Customs Broker for more than 24 years and had been issued Customs Broker License by the Commissioner of Customs, Mumbai under Regulation 7(2) of CBLR.

3. The case against the appellant is that the Directorate of Revenue Intelligence *(hereinafter referred to as "DRI")* got information that a container imported in the name of M/s. C.K. International, mis-declared to contain "Household Items and Cleaning Product", had reached M/s. ICTPL Globicon CFS on 9.4.2026 and the goods contained therein were being unauthorisedly removed from the Customs area by the members of the syndicate. Upon which, the DRI officers rushed to the CFS and secured the container and the imported goods, which were in the process of being transferred to another vehicle/truck. The examination conducted on 12.4.2026 revealed that the entire consignment actually comprised of Chinese origin "Fireworks/Firecrackers", having a market value of approx. Rs.3.99 Crores.

4. Preliminary investigation by DRI indicates that the smuggling and subsequent attempted clandestine removal of the firecrackers from the CFS was orchestrated by a syndicate,

which allegedly included a person named Sandeep Shukla-employee of the appellant herein and holds a company ID in the name of the appellant but neither possesses a 'G' card nor an 'H' card as mandated by CBLR for the customs related works.

5. For the aforesaid alleged mis-declaration and smuggling of the Chinese original fireworks/firecrackers, while forming the opinion that the appellant was careless in his duties and knowingly helped in clearing the mis-declared goods, which is a gross offence and violation of Regulations 10(b), 10(k), 10(q), 13(12) and 14(c) of CBLR and also that the appellant is unfit to transact any business at Mumbai customs and also in other customs stations, the license of the appellant was suspended with immediate effect vide order dated 22.4.2026 by the competent authority by exercising powers under the provisions of Regulation 16(1) of CBLR.

6. In the very same initial suspension order dated 22.4.2026 as stated above, an opportunity for a personal hearing to the appellant was also scheduled for 07.05.2026 at 12 pm. But one day prior to the scheduled hearing i.e. on 6.5.2026, the appellant received the intimation from the Commissioner-competent authority stating that the post-decisional hearing fixed on 7.5.2026 has been postponed to 12.5.2026 and on the said date i.e. on 12.5.2026 once again the appellant received the e-mail for postponement of the hearing to 13.5.2026. After the hearing on 13.5.2026, the impugned order dated 20.5.2026 was

passed continuing the suspension of Appellant's license under Regulation 16(2) CBLR.

7. Learned Senior Counsel appearing for the appellant raised a preliminary submission that the mandatory procedure prescribed under Regulation 16(2) has not been complied with. According to learned Senior Counsel, the post-decisional hearing, which the statute mandates to be granted *within fifteen days* of the initial suspension order, was conducted beyond the prescribed period. It is contended on behalf of the appellant that once the statutory timeline stood breached, the continuation of suspension became illegal and unsustainable.

8. On merits, learned Senior counsel submits that as per Regulation 16(1), the Principal Commissioner/Commissioner can resort to suspension of a customs broker's license only in cases where *'immediate action'* is necessary and where the enquiry against the said customs broker is pending or contemplated., whereas in the initial suspension order dated 22.4.2026 was passed after 11 days of the alleged incident and no reasons have been mentioned therein justifying the 'immediate action' against the appellant and this foundational defect in the suspension order dated 22.4.2026 cannot be improved upon in the impugned order dated 20.5.2026 continuing the suspension. According to learned Senior counsel, the alleged illegal acts were committed by the said Mr. Sandeep Shukla outside the course of his employment which was not part of his duties. The appellant

had only authorised one vehicle to be permitted to enter the CFS in the light of the email issued by the appellant's Andheri office and to submit the checklist alongwith the cargo, whereas the said Mr. Shukla fraudulently presented a tampered copy of checklist and fabricated letter in furtherance of his criminal agenda and sought permission for three vehicles and five persons. He further submits that for the aforesaid illegal acts of Mr.Shukla, whose service has been terminated by the appellant, the appellant cannot be held liable. Whatever acts had been committed by him were entirely outside his employment, without authorization and wholly for his personal benefit and therefore the appellant cannot be held vicariously liable for his alleged acts. According to learned Senior counsel it is settled law that a customs broker cannot be penalized for the acts of its employee, if those acts were carried out beyond and outside the employment of the said employee. So far as Mr. Vaibhav Neharkar, 'H' Card holder is concerned, learned senior counsel submitted that the findings in the impugned order qua him are clearly beyond the initial suspension order, which did not contain any such allegations. He also submitted that the appellant was neither made aware of nor provided with a copy of the alleged letter dated 6.5.2026, issued by DRI to the respondent authority which has been relied upon in the impugned order. He further submits that the DRI has also accepted that the said Mr. Neharkar was not involved in the alleged incident that took place at the CFS on 11.4.2026. Learned senior counsel also brought to our notice that the suspension of license of the appellant is ultimately affecting the livelihood of around 1200 employees of the appellant in Mumbai customs and also in other customs stations.

9. Per contra learned Authorised Representative appearing for Revenue justified the continuation of suspension, reiterated the findings recorded in the impugned order and prayed for dismissal of appeal. He submitted that the framework of the CBLR imposes strict liability on the license holder. Regulation 13(12) whereof explicitly mandates that the customs broker *'shall be held responsible for all acts or omissions of his employees during their employment'* and that the clandestine removal and smuggling of restricted hazardous goods like Chinese fireworks present an immediate threat to both public safety and fiscal security and that commercial hardships must yield to public interest. According to learned authorised representative *'immediate action'* was justified in view of DRI investigation into an organized syndicate and a post-decisional hearing was duly granted to cure any procedural gap. As per Revenue in the light of the nature of fraud, the direct involvement of the appellant's authorised personnel, continuing of the suspension is in the interest of public safety, national security and protection of revenue.

10. We have heard learned Senior Counsel for the appellant, learned Authorised Representative on behalf of Revenue and

perused the case records including the written submissions/synopsis, Regulations and relevant case laws placed on record.

11. Since the learned Senior Counsel has raised a preliminary objection going to the very validity of the impugned order, we consider it appropriate to examine that issue at the threshold before adverting to the merits of the allegations. In order to deal with the aforesaid submission the Regulations 16 & 17 are extracted as under:-

> ***"Regulation 16. Suspension of License***
>
> *(1) Notwithstanding anything contained in regulation 14, the Principal Commissioner or Commissioner of Customs may, in appropriate cases where immediate action is necessary, suspend the license of a Customs Broker where an enquiry against such Customs Broker is pending or contemplated:*
>
> *PROVIDED that where the Principal Commissioner or Commissioner of Customs may deem fit for reasons to be recorded in writing, he may suspend the license for a specified number of Customs Stations.*
>
> *(2) Where a license is suspended under sub-regulation (1), the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, shall, within fifteen days from the date of such suspension, give an opportunity of hearing to the Customs Broker whose license is suspended and may pass such order as he deems fit either revoking the suspension or continuing it as the case may be, within fifteen days from the date of hearing granted to the Customs Broker.*
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> *[Emphasis supplied]*

PROVIDED that in case the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, passes an order for continuing the suspension, further procedure thereafter shall be as provided in regulation 17.

Regulation 17. Procedure for revoking license or imposing penalty

(1) The Principal Commissioner or Commissioner of Customs shall issue a notice in writing to the Customs Broker within a period of ninety days from the date of receipt of an offence report, stating the grounds on which it is proposed to revoke the license or impose penalty requiring the said Customs Broker to submit within thirty days to the Deputy Commissioner of Customs or Assistant Commissioner of Customs nominated by him, a written statement of defense and also to specify in the said statement whether the Customs Broker desires to be heard in person by the said Deputy Commissioner of Customs or Assistant Commissioner of Customs.

(2) The Commissioner of Customs may, on receipt of the written statement from the Customs Broker, or where no such statement has been received within the time-limit specified in the notice referred to in sub-regulation (1), direct the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, to inquire into the grounds which are not admitted by the Customs Broker.

(3) The Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, shall, in the course of inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material to the inquiry in regard to the grounds forming the basis of the proceedings, and he may also put any question to any person tendering evidence for or against the Customs Broker, for the purpose of ascertaining the correct position.

(4) The Customs Broker shall be entitled to cross-examine the persons examined in support of the grounds forming the basis of the proceedings, and where the Deputy Commissioner of Customs or Assistant Commissioner of Customs declines permission to examine any person on the grounds that his evidence is not relevant or material, he shall record his reasons in writing for so doing.

(5) At the conclusion of the inquiry, the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, shall prepare a report of the inquiry and after recording his findings thereon submit the report within a period of ninety days from the date of issue of a notice under sub-regulation (1).

(6) The Principal Commissioner or Commissioner of Customs shall furnish to the Customs Broker a copy of the report of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, and shall require the Customs Broker to submit, within the specified period not being less than thirty days, any representation that he may wish to make against the said report.

(7) The Principal Commissioner or Commissioner of Customs shall, after considering the report of the inquiry and the representation thereon, if any, made by the Customs Broker, pass such orders as he deems fit either revoking the suspension of the license or revoking the license of the Customs Broker within ninety days from the date of submission of the report by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, under sub-regulation (5):

PROVIDED that no order for revoking the license shall be passed unless an opportunity is given to the Customs Broker to be heard in person by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be."

In this regard, we find that Central Board of Indirect Taxes and Customs (CBIC) had also issued certain instructions to all the Chief Commissioners/ Commissioners of Customs about the various references received about suspension of CB licenses being resorted to by the licensing authorities even in cases which do not merit immediate suspension of CB license. The CBIC instruction No.24/2023 dated 18.07.2023 was issued in the context of the problems faced by the trade with respect to immediate suspension being invoked in a number of cases which is extracted as under:

"Suspension of Licence of Customs Broker
Instruction No. 24/2023
F. No. 520/01/2023-Cus.VI
Government of India
Ministry of Finance,
Department of Revenue
Central Board of Indirect Taxes and Customs
***

Room No. 252A, North Block, New Delhi
Dated: 18.07.2023

To,
All Principal Chief Commissioner/Chief Commissioner of Customs/ Custom (Preventive),
All Principal Chief Commissioner/Chief Commissioner of Central Tax and Customs,
All Principal Commissioner/Commissioner of Customs /Custom (Preventive), All Principal Commissioner/Commissioner of Central Tax and Customs.

Subject: Suspension of Licence of Customs Broker - regarding

Madam/Sir,

The undersigned is directed to say that references have been received in the Board that often the suspension of Customs Broker licence is resorted even in the cases which do not merit immediate suspension of licence. It is represented that this may be disruptive, especially in the case of small enterprises of Custom Brokers.

> *2. The matter has been examined. The Regulation 16 of CBLR, 2018 provides that notwithstanding anything contained in Regulation 14, the Commissioner of Customs may, in appropriate cases where immediate action is necessary, suspend the licence of a customs broker, where the enquiry against such customs broker is pending or contemplated.*
>
> *3. Since the power is specified to be exercised in specified circumstances, that is, the appropriate cases where immediate action is necessary, it indicates that suspension is not visualized for application in a manner routine or mechanical or in every case. This aspect is to be kept in view by the Commissioner of Customs in the course of considering a proposal to suspend the licence of a customs broker. Before doing so, the Commissioner should also take the care also of recording his/her reasons as to why it is considered an appropriate case where immediate action of suspension is necessary.*
>
> *Hindi version follows.*
>
> *(Tribhuwan Yadav)*
> *OSD, Customs VI"*

12. Subsequently Instruction No.20/2024-customs [F.NO.520/ 01/2023-Cus.VI, dated 3.9.2024 was also issued by the Ministry of Finance, Department of Revenue, Central Board of Indirect Taxes and Customs, stating that the competent authority must ensure the strict compliance of detailed procedure and timelines as prescribed under Regulations 16 and 17 of CBLR, 2018 while contemplating any action against a Customs Broker under CBLR, 2018.

13. Regulation 14 deals with the normal procedure for revocation of license or imposition of penalty on a Customs broker, whereas Regulation 16 starts with a *non obstante clause* giving it an overriding effect over Regulation 14.

14. Regulation 16 constitutes an exception to the ordinary procedure prescribed for disciplinary proceedings under Regulation 17. While Regulation 17 contemplates a regular inquiry culminating in an order of revocation or penalty after observance of the principles of natural justice, Regulation 16 empowers the Commissioner to invoke an extraordinary preventive jurisdiction in appropriate cases where immediate action is considered necessary pending such inquiry. The power under Regulation 16 is, therefore, exceptional in nature and cannot be exercised as a matter of routine.

15. A plain reading of Regulation 16(1) makes it abundantly clear that two conditions must co-exist before the power of immediate suspension can be invoked. Firstly, an inquiry against the Customs Broker must either be pending or be contemplated. Secondly, and more importantly, the Commissioner must be satisfied that the facts of the case warrant immediate action. The latter requirement is the very foundation of the exercise of power under Regulation 16(1). The expression “where immediate action is necessary” is not an empty formality but a substantive statutory safeguard intended to confine the exercise of such extraordinary power only to genuinely emergent situations. The satisfaction regarding the necessity of immediate action must be founded upon an independent application of mind and must be discernible from the order itself. Suspension under Regulation 16 is not punitive but preventive; its object is to arrest an ongoing or imminent threat to the integrity of the

customs administration, the protection of revenue or public interest. There must exist independent reasons before the Commissioner to the effect that, unless immediate suspension is ordered, the damage already caused would continue or would be likely to continue. Being an exception, it is to be invoked only in exceptional cases, and not as a matter of routine. The power to suspend under Regulation 16(1) is to be exercised only where immediate action is inevitable to prevent the continuity of illegal activity causing revenue loss or a security threat. The requirement of immediate action is a *sine qua non* for suspension under this provision, precisely because such suspension is not punitive but is meant to address a situation genuinely warranting urgent intervention, the object being to bring ongoing offending activity to an immediate halt. Consequently, the mere existence of allegations, however serious, does not, by itself, justify invocation of Regulation 16 unless the authority records reasons demonstrating why immediate preventive intervention cannot await the regular inquiry contemplated under Regulation 17. The issuance of the suspension order dated 22.04.2026 after 11 days of the alleged incident raises doubt about the necessity for any urgent intervention.

16. This legislative intent stands reinforced by CBIC Instruction No. 24/2023 dated 18.07.2023, wherein the Board expressly observed that suspension of a Customs Broker's licence should not be resorted to routinely or mechanically and that the

Commissioner must carefully examine whether the facts genuinely warrant immediate suspension. The Board further emphasised that reasons justifying such immediate action must be specifically recorded. The subsequent Instruction No. 20/2024 dated 03.09.2024 reiterates that the authorities must scrupulously adhere to the procedure and timelines prescribed under Regulations 16 and 17. Though these Instructions do not override the statutory Regulations, they faithfully reflect the legislative scheme and reinforce the discipline expected in the exercise of an extraordinary statutory power and above all these instructions are binding on the department.

17. Equally significant is Regulation 16(2), which incorporates an important procedural safeguard against arbitrary or prolonged suspension. Recognising that the initial suspension is ordered without granting a prior hearing on account of the urgency of the situation, the legislature has mandated that the Customs Broker shall be afforded a post-decisional hearing '*within fifteen days*' from the date of suspension. The use of the expression "*shall*" unmistakably indicates that the timeline is mandatory and not merely directory. The provision balances the extraordinary power of immediate suspension with an equally mandatory obligation to afford an expeditious opportunity of hearing. The statutory safeguard cannot be diluted by administrative convenience or procedural delays attributable to the licensing authority.

18. Turning to the facts of the present case, the appellant's licence was suspended on 22.4.2026. Simultaneously, the respondent fixed the post-decisional hearing on 7.5.2026, evidently recognising that the hearing had to be conducted within the statutory period of fifteen days. However, by communication dated 6.5.2026, the hearing was postponed to 12.5.2026, and thereafter, by e-mail dated 12.5.2026, it was again deferred to 13.5.2026. It is not even the Revenue's case that these adjournments were sought by the appellant. The postponements were entirely at the instance of the respondent authority.

19. Consequently, the hearing admittedly took place only on 13.5.2026, beyond the statutory period prescribed under Regulation 16(2). Once this position is admitted, the inevitable legal consequence follows. The respondent could not enlarge or extend a statutory period fixed by the delegated legislation. A timeline prescribed by law cannot be modified by administrative action. Acceptance of such a proposition would render the safeguard contained in Regulation 16(2) wholly illusory and would defeat the legislative intent underlying the provision.

20. We also find considerable substance in the submission advanced on behalf of the appellant that the conduct of the respondent itself does not support the degree of urgency sought to be projected while invoking Regulation 16(1). Had the circumstances genuinely warranted immediate preventive action

of such exceptional nature, strict adherence to the statutory timeline would have been the natural consequence. The postponement of the hearing beyond the prescribed period by the respondent itself belies the existence of such compelling urgency. While the gravity of the allegations cannot be underestimated, statutory safeguards cannot be sacrificed even in serious cases. The rule of law demands equal fidelity to both substantive powers and procedural safeguards.

21. In our considered opinion, therefore, the mandatory requirement contained in Regulation 16(2) stood violated. Once the statutory timeline was breached for reasons entirely attributable to the respondent, the continuation of suspension ceased to have the sanction of law. The impugned order dated 20.5.2026, passed after a hearing conducted beyond the prescribed period, is consequently rendered unsustainable.

22. Although elaborate submissions were advanced by the learned Senior Counsel on the merits of the allegations, including the applicability of vicarious liability, the scope of Regulation 13(12), the alleged absence of any material justifying immediate suspension and the livelihood of 1200 employees, we consciously refrain from expressing any opinion on those issues. Since we have held that the continuation of suspension is vitiated on account of non-compliance with the mandatory procedure prescribed under Regulation 16(2), any observation on the merits may prejudice the inquiry contemplated under Regulation

17. Judicial discipline demands that such questions be left open for consideration by the competent authority in the pending statutory proceedings.

23. Accordingly, we hold that the impugned order dated 20.5.2026 passed under Regulation 16(2) of the Customs Broker Licensing Regulations, 2018 cannot be sustained in law and is hereby set aside. Consequently, the continuation of suspension of the appellant's Customs Broker Licence stands revoked, with immediate effect.

24. We make it abundantly clear that this order is confined to the legality of the continuation of suspension under Regulation 16. Nothing contained herein shall be construed as an expression of opinion on the merits of the allegations levelled against the appellant. It shall remain open to the respondent to proceed against the appellant under Regulation 17 of the Customs Broker Licensing Regulations, 2018, or under any other applicable provision of law, if so advised. Any such proceedings shall be concluded independently, strictly in accordance with law and on the basis of the evidence that may be adduced therein, uninfluenced by any observation contained in this order except our finding regarding non-compliance with the mandatory requirement of Regulation 16(2).

25. The appeal is, accordingly allowed with consequential

relief, if any, in accordance with law.

(Pronounced in open Court on 10.08.2026)

(Ajay Sharma)
Member (Judicial)

(A K Jyotishi)
Member (Technical)

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