# CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
# MUMBAI

REGIONAL BENCH - COURT NO. 5

**Customs Early Hearing Application No. 86074 of 2026**
(on behalf of Appellant)

**AND**

**Customs Stay Application No. 86075 of 2026**
(on behalf of Appellant)

**In**
**Customs Appeal No. 86698 of 2026**

[Arising out of Order No. CUS/SU/MISC/91/2026-SCMTR-O/o COMMR-CUS-GEN-NHAVA SHEVA dated 10.08.2016 issued by the Commissioner of Customs (General), Jawaharlal Nehru Custom House (JNCH), Nhava Sheva, Mumbai Zone-II, Nhava Sheva.]

**Aegon Shipping India Private Limited** **.... Appellant**
Flat No.307, Shelton Cubix
Plot No.87, Sector-15, CBD Belapur
Navi Mumbai, Maharashtra – 400 614.

Versus

**Commissioner of Customs, (General)** **.... Respondent**
Jawaharlal Nehru Custom House (JNCH)
Nhava Sheva, Taluka Uran, District Raigad
Maharashtra – 400 707.

Appearance:

Shri Rafiq Mohammed, Advocate for the Appellant

Shri Mahesh Patil, Authorized Representative for the Respondent

**CORAM:**

**HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)**
**HON'BLE MR. M.M. PARTHIBAN, MEMBER (TECHNICAL)**

**FINAL ORDER NO. A/86193/2026**

Date of Hearing: 20.08.2026
Date of Decision: 24.09.2026

**Per: M.M. PARTHIBAN**

Instant application for early hearing has been filed by the applicant - appellant on the ground that they are facing imminent and irreparable harm, since its operations are suspended pursuant to the impugned suspension order, due to alleged non-compliance with the detention and demurrage waiver certificate dated 23.03.2026, read with addendum dated 27.03.2026, issued by the customs authorities. On going through the averments made in the above miscellaneous application, we are of the view that the prayer made by the applicant can be considered in the interest of justice. Therefore, the early hearing application is allowed.

1.2 Considering the plea made by the applicant-appellant in the present appeal and that earlier the Hon'ble High Court of Bombay in an appeal preferred by the department in Customs Appeal No.62 of 2025 had passed an order dated 22.01.2026, giving certain specific directions to the customs authorities, and pursuant to which the issue of compliance with the waiver certificate is being disputed in the present appeal, we are of the view that with the consent of both sides, the appeal itself can be taken up for hearing and disposal in the interest of justice. In view of the main appeal itself is being taken up for hearing, we do not find any specific reason or valid grounds for considering the application for stay of the impugned order, and the same is dismissed.

1.3 This appeal bearing No. C/86698 of 2026 has been filed by M/s Aegon Shipping India Private Limited, Navi Mumbai (herein after, referred to as 'the appellant', for short) assailing the order No. CUS/SU/MISC/91/2026-SCMTR-O/o COMMR-CUS-GEN-NHAVA SHEVA dated 10.08.2016 (herein after, referred to as "the impugned order", for short) issued by the Commissioner of Customs (General), Jawaharlal Nehru Custom House (JNCH), Nhava Sheva, Mumbai Zone-II, Nhava Sheva. Further, the appellant has also filed Miscellaneous applications being No. 86075 of 2026 seeking for stay of the operation, implementation and effect of the impugned order during the pendency of appeal, as well as another Miscellaneous applications being No. 86074 of 2026 seeking for early hearing of the stay application/appeal.

2.1 Brief facts of the case, leading to this appeal, are summarized herein below. The appellant is *inter alia*, engaged in the business of international container shipping service, Non-Vessel Operating Common Carrier (NVOCC) operations and shipping agency and allied services in the field of export or import (EXIM) trade. In the present case, involving import of "Electrolytic Tough Pitch Copper Wire Rod" from port of Jebel Ali, United Arab Emirates (UAE) to port of discharge at Nhava Sheva, India, in two containers, the ocean transportation of goods was executed under Bill of Lading (B/L) No. AGNJEANSA00465 dated 20.11.2019 issued by M/s Fusion Specialized Shipping & Logistics L.L.C.

2.2 On perusal of the case records, it transpires that the detention and demurrage charges waiver certificate was issued by the Assistant Commissioner of Customs, Gr. IV, NS-III, JNCH, Nhava Sheva, and the appellant was informed of the fact that the Customs authorities have recommended for waiver of detention and demurrage charges from the date of hold up to the date of delivery of the goods covered under Bill of Entry (B/E) No. 5862748 dated 28.11.2019 and B/L No. AGNJEANSA00465 dated 20.11.2019, covering two specific containers No. WHLU2741174 and WHLU2937790. The authority for such waiver has also been quoted by the Customs authorities as being under Regulation 6(1)(l) of the Handling of Cargo in Customs Areas Regulations, 2009 (for short, referred to as 'HCCAR') and Regulation 10(1)(l) of the Sea Cargo Manifest and Transhipment Regulations, 2018 (for short, referred to as 'SCMTR').

2.3 Since the appellant did not comply with the directions of the customs for grant of waiver of detention charges beyond a maximum permissible period of 60 days as provided under the proviso to Regulation 10(1)(l) of SCMTR, they have been imposed with the immediate suspension order under Regulation 11(2)(a) & 11(2)(c) of SCMTR in the impugned order. Feeling aggrieved with the impugned order, the appellant has filed this appeal before the Tribunal.

3.1 Learned Counsel for the appellant during the hearing had submitted that they are entitled to recover the applicable detention charges, beyond permissible period of 60 days as provided under Regulation 10(1)(l) of SCMTR. In support of their stand, learned counsel had relied upon the decision of the Co-ordinate Bench of the Tribunal in the case of *ASR India Private Limited Vs. Commissioner of Customs, Mundra* vide Final Order No.10460/2025 dated 10.06.2025 in Customs Appeal No.10401/2025-DB.

3.2 Learned Counsel further submitted that there is no actual risk to revenue in the above case, as it is purely a dispute of detention charges to be paid by the importer with the appellant. Thus, he submitted that there is no revenue loss to the government or any systemic risk, and therefore, he claimed the impugned order suspending their operations on such ground is arbitrary and disproportionate. Further, he claimed that the appellant is only a NVOCC registered under SCMTR as 'Other Notified Carrier' and not as "Authorised Sea Carrier", and thus they are not covered by the responsibilities of Regulation 10(1)(l) ibid. He further stated in terms of judgement delivered by the Hon'ble Supreme Court in the case of *Shipping Corporation of India Limited Vs. CL Jain Wollen Mills* – 2001 5 SCC 345, in the absence of any provision in the Customs Act, the customs officers could not overreach the terms and conditions of the contract between stakeholders involved. Therefore, he pleaded that the appellant cannot be held as accountable for incorrect entries and he claimed that subjecting them to consequences of errors committed by importer is arbitrary and illegal.

4. Learned Authorized Representative (AR) appearing for Revenue stated that the impugned letter is a request made by the department, in terms of the specific directions given by the Hon'ble High Court in the matter of Customs Appeal No.62 of 2026, vide judgement delivered on 22.01.2026. Further, the directions of the Hon'ble High Court in the aforesaid case had been communicated by the letter of the Assistant Commissioner of Customs, Group-IV, JNCH in terms of the legal provisions as contained in Regulation 6(1)(l) of the HCCAR and Regulation 10(1)(l) of SCMTR. When such compliance was not reported by the appellant, the jurisdictional Commissioner of Customs, as a competent authority for registration, its suspension or revocation had ordered for immediate suspension of the appellant's registration in exercise of the powers vested on him 11(2)(a) and 11(2)(c) ibid. Therefore, he justified the action of the Commissioner of Customs and prayed that the appeal filed by the appellant may not be entertained.

5. We have heard both the learned Counsel appearing for the applicant-appellant and the learned Authorized Representative of the Department and perused the case records.

6. The issue involved herein is to decide the following:

(i) whether the appellant has fulfilled all his obligations as required under SCMTR, 2018 and HCCAR, 2009 or not, in terms of the recommendations given by the customs authorities under certificate of waiver of detention and demurrage charges, from the date of hold up to the date of delivery of the goods covered under Bill of Entry (B/E) No. 5862748 dated 28.11.2019 and the B/L No. AGNJEANSA00465 dated 20.11.2019; and

(ii) whether the impugned order dated 10.08.2026 ordering for immediate suspension by the learned Commissioner of Customs is sustainable or not, in terms of the Regulations made under the Customs Act, 1962.

7. The specific sub-regulations which were alleged to have been violated by the appellant are Regulations 10(1)(l) and 10(1)(m) of SCMTR; and 6(1)(l) of HCCAR, and hence there are three distinct charges framed against the appellant. We find that the Regulation 10 of SCMTR, 2018, provides for the obligations that an authorized sea carrier is expected to be fulfilled during their transaction with Customs in connection with import and export of goods. Similarly, under Regulation 6 of HCCAR certain responsibilities required to be fulfilled by all Customs Cargo Service Providers, including custodians holding custody of imported/export goods. These are as follows:

**Sea Cargo Manifest and Transhipment Regulations, 2018**

"***Regulation 10. Responsibilities of the authorized carrier under these regulations. -***

*(1) An authorized carrier shall-*

*(a) transact business in the customs station either personally or through an employee duly approved by the Deputy Commissioner or Assistant Commissioner of Customs, as the case may be;*

*xxx xxx xxx xxx*

*(l) not demand any container detention charges for the containers laden with the goods detained by customs for purpose of verifying the entries made under section 46 or section 50 of the Act, if the entries are found to be correct.*
***Provided*** *that the authorized carrier may demand, container detention charges for the period, commencing after expiry of sixty days;*

*(m) abide by all the provisions of the Act and the rules, regulations, notifications and orders issued thereunder;"*

**Handling of Cargo in Customs Areas Regulations, 2009**

***Regulation 6. Responsibilities of Customs Cargo Service provider:***

*(1) The Customs Cargo Service provider shall -*
*xxx xxx xxx xxx*

*(l) subject to any other law for the time being in force, shall not charge any rent or demurrage on the goods seized or detained or confiscated by the Superintendent of Customs or Appraiser or Inspector of Customs or Preventive officer or examining officer, as the case may be;"*

8.1 On plain reading of the aforesaid Regulation 10 of SCMTR, it transpires that responsibilities to be fulfilled by an authorized carrier have been specified therein. At the time of introduction of SCMTR, the Central

Board of Indirect Taxes & Customs (CBIC) vide Circular No.43/2020-Customs dated 30.09.2020, had *inter alia* stated as follows:

> "*Kind reference is invited to Notification No.38/2018-Customs (N.T.) dated 11.05.2018 vide which the Sea Cargo Manifest and Transhipment Regulations (SCMTR), 2018, were notified. The SCMTR seek to bring about transparency, predictability of movement, advance collection of information for expeditious clearance and supersedes the earlier regulations viz. Import Manifest (Vessels) Regulations, 1971 and Export Manifest (Vessels) Regulation, 1976. The new Regulations stipulate for advance notice by authorized carriers for goods arriving in or being exported out of India through gateway seaports and further movement between Customs stations. They stipulate the obligations, roles and responsibilities for the various stakeholders involved in movement of imported/export goods. Based on the feedback from the various stakeholders, the changes were incorporated and the said regulations was made effective from 1stof August, 2019 with transitional provisions under Regulation 15till the 30th of September, 2020.*
>
> *2.Considering the disruptions caused due to Covid-19 Pandemic and non-readiness of the stakeholders, Board has issued Notification No.94/2020-Customs (N.T.) dated 30.09.2020, vide which the transitional provisions under Regulation 15(2) have been extended from 1st October, 2020 till 31st March, 2021 to enable submission of manifests under erstwhile regulations. However, as per Regulation 15(1), mandatory filing of different declarations in new format in a phased manner is provided for as per the annexure A to this circular. Different timelines are prescribed so that trade has sufficient time to comply with the new regulations in a phased manner. Further, vide Regulation 15(2), the mandatory compliance requirements for submissions of declarations and manifests under the said regulations shall applied in full effect from 1st April, 2021.*
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> *xxx xxx xxx xxx*
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> *4. It is informed that Directorate General of Systems has taken several measures for handholding the trade and all stakeholders for smooth transition to the SCMTR regime. Directorate General of Systems has issued various guidelines related to the registration process and filing requirements under the new Sea Cargo Manifest and Transhipment Regulations (SCMTR) for different stakeholders such as Shipping Lines, Freight Forwarders, Transhippers etc., who are integral to the implementation of the said regulations. The guidelines can be found at the following link (https://www.icegate.gov.in/ SeaManifestRegulation. html).*"

8.2 On further reading of the SCMTR and the CBIC's circular explaining about the said regulations, it transpires that there are various categories of stakeholders who are required to be registered on *Indian Customs and Central Excise Electronic Commerce/Electronic Data Interchange (EC/EDI) Gateway online portal (*ICEGATE). This portal has been developed by CBIC to facilitate electronic communication as a message exchange between Indian Customs and stakeholders involved in import–export activities and apply from within their ICEGATE login to operate under the new SCMTR. The various categories of stakeholders who are required to comply with registration and other responsibilities under SCMTR are viz., (i) Authorised Sea Carrier (Including Shipping line) (ASC); (ii) Authorised Sea Agent (Steamer/ Shipping Agent) (ASA); (iii) Authorised Carrier (other notified carriers) (ANC) (iv) Authorised Carriers for Inland Movement –Transhippers (ATP), who have been informed to immediately register on ICEGATE and apply from within their ICEGATE login to operate under the new SCMTR. The category of such authorised carrier includes Non-Vessel Operating Cargo Carrier (NVOCC) to which the appellant-applicant belongs to. Therefore, we are of the view that SCMTR apply to the present applicant-appellant *inter-alia* for the purposes of registration and compliance with the responsibilities mentioned therein.

8.3 Further, SCMTR broadly provide for authorised carrier by sea or other route and other stakeholders, for registration, its surrender; delivery of arrival manifest in respect of imported goods, departure manifest in respect of export goods, and its amendment; transhipment of import/ export cargo, and conditions governing such transhipment or transit; declarations to be made in respect of certain specified cargo viz. arms, ammunition, explosives, narcotics and psychotropic substances, dangerous drugs, gold, silver, radioactive material etc.; responsibilities to be fulfilled by authorised category of persons/stake holders; and regulating their registration in certain situations including suspension, revocation, procedure to be followed for revocation of registration etc. It is for the purpose of obtaining information under specific regulation, various forms have been prescribed under the SCMTR, whereas for obtaining such information online certain advisory for filing of messages has been prescribed under ICES Advisory 01/2024 (SCMTR) dated 13.01.2020. However, it does not dilute the responsibilities prescribed under SCMTR for the various persons concerned with the obligations to be fulfilled.

8.4 On reading the specific legal provision under Regulation 10(1)(l) ibid, we find that it had only provided for not demanding any container detention charges for the containers laden with goods detained by customs for the purpose of verification of entries made under the Customs Act, 1962. We also find that the proviso clause appended therein had provided a maximum number of sixty days for such waiver, beyond which the authorized carrier may demand such detention charges. Therefore, we are of the considered view that this provision is limited for not demanding container detention charges for the specified period of sixty days.

8.5 Further, under Regulation 6(l) of HCCAR, a Customs Cargo Service Provider (CCSP) shall not charge any rent or demurrage on the goods seized or detained or confiscated by the Customs authorities. It is fact on record, that the Directorate of Revenue Intelligence had investigated on the subject imported goods covered in this case and have seized the same. Therefore, in terms of the Regulation 6(l) of HCCAR, the appellant is debarred from charging any detention or demurrage charges on the impugned goods held in two containers.

8.6 Further, we also find that the jurisdictional Commissioner of Customs (General), JNCH, Mumbai Customs Zone-II vide Public Notice No. 169/2016 issued from F. No. S/5-Gen-32/2016-17 CFS M Cell dated 08.12.2016, had clarified that NVOCC besides shipping lines, freight forwarders etc., are required to comply with the Regulations specified under HCCAR. The relevant extract is quoted below:

> ***"4.2*** *CBEC vide Circular No. 13/2009-Cus., dated 23-3-2009 [F.No. 450/55/2008 -Cus.IV] has already clarified that "The regulations shall be applicable to all 'Customs Cargo Service Providers' (CCSPs) that is to say all persons operating in a customs area and engaged in the* ***handling of import/export goods*** *. These include the Custodians holding custody of import/export goods and handling such goods and all persons working on behalf of such custodians such as fork lift or material handling equipment operators, etc. The regulations would also cover consolidators/break bulk agents and other persons handling imported/export goods in any capacity in a customs area ."*
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> ***4.3*** *It is a fact that Shipping Lines, Freight Forwarders and Non vessel operating common carrier (NVOCC) are responsible for receipt, storage,* ***delivery****, dispatch or otherwise handling of imported goods and export goods in a customs area and therefore required to comply with provisions of Handling of Cargo in Customs Areas Regulations, 2009. "Imported goods and export goods remains in the exclusive possession of such Shipping Lines, Freight Forwarders and Non Vessel Operating Common Carrier (NVOCC). They are also required to issue* ***"Delivery Order"*** *before importer can take delivery of imported goods.*
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> ***5.*** *Accordingly, all participants of the Logistic Supply chain such as Shipping Lines, Freight Forwarders and Non Vessel Operating Common Carrier (NVOCC) fall under the aforementioned definition of "Customs Cargo Services provider" and are hereby required to get themselves approved as "Customs Cargo Services Provider" under Handling of Cargo in "Customs Area Regulations, 2009.*

> ***6.*** *Therefore, it is again mandated that they shall comply with approval requirement immediately as prescribed vide this Public Notice No 158/2016-17, dated 25.11.2016. Any violation in this regard will invite action under Handling of Cargo in Customs Areas Regulations, 2009 read with provisions of Customs Act, 1962."*

Since the appellant being a CCSP did not comply with the above said requirement of Regulation 6(1) of HCCAR, it would amount to violation of Regulation 10(1)(m) of SCMTR. Therefore, we do not find any reason to entertain the plea made by the appellant that they are not required to consider the recommendations of customs authorities for waiver of detention or demurrage charges, beyond the period of sixty days.

8.7 We find that the judgement of the Hon'ble Court relied upon by the appellant in the case of *Shipping Corporation of India Limited* (supra) had been delivered on 10.04.2001 in the context of Section 45(2)(b) of the Customs Act. As the said relied upon case, does not deal with the HCCAR and SCMTR which have been issued under the provisions of Sections 141(2) read with 157 and Sections 30, 30A, 41, 41A, 53, 54, 56, 98(3), 158(2) read with 157, respectively, we are unable to take guidance from such case law.

9.1 We further find that as per the directions of the Hon'ble High Court of Judicature at Bombay in Customs Appeal No.62 of 2025 (supra), specific directions were given to customs authorities for issue of waiver certificate for detention charges and demurrage and for assisting in its implementation. The relevant portion of the directions given to the appellant department are as follows:

> *"48 We are of the view that this appeal can be disposed off by giving the following directions, which would protect the interest of both sides:*
>
> *(a) Subject to the Respondent herein depositing Rs. 1,47,00,000.00 in cash towards redemption fine in this Court within 15 days from the uploading of this order, the Appellant shall permit clearance of 200.058 MTs of Copper Wire to M/s G. K. Wire Industries valued at Rs. 8,85,12,304 on payment of the applicable Basic Customs Duty, applicable interest thereon, and the applicable IGST, without claiming exemption under Notification No. 25/1999-Cus dated 28.02.1999.*
>
> *(b) On the Respondent depositing the amount of Rs.1,47,00,000/-, as aforesaid, the Appellant shall, within 7 days, carry out the amendment in the four Bills of Entry (set out hereafter) filed by the*

*M/s. Shine Metal Industries by substituting the name of M/s. G.K. Wire Industries as the importer, and its customs broker as A.S. Vasan and Sons (Bombay).*

*(c) Pursuant to the above amendment, the Appellant shall provide to the Respondent assessed Bills of Entry presented online on the customs automated system within 3 days of the amendment and permit the importer to pay the Basic Customs duty, without claiming any exemption, along with an amount equal to the interest as may be computed by the Appellant, under protest, as well as the IGST [without interest] and allow the clearance of the goods imported under the above 4 Bills of Entry within 3 days of payment of the amounts mentioned herein.*

*(d)* ***The Appellant shall issue a certificate for waiver of detention charges and demurrage in terms of Handling of Cargo in Customs Areas Regulations, 2009 and Sea Cargo Manifest and Transshipment Regulations, 2018 and shall assist the Respondent or Messrs. G. K. Wires in the implementation of the detention and demurrage waiver certificate to be issued pursuant to this order.”***

9.2 On perusal of the specific directions given by the Hon’ble High Court, we find that the customs authorities have duly carry forwarded such directions, in terms of the legal provisions contained in SCMTR and HCCAR. However, since the appellant continued in not complying with such recommendations of waiver certificate given by Customs, the learned Commissioner had initiated action under the provisions of SCMTR for immediate suspension of the registration, being held by the appellant for registration with the customs authorities. Since, as we have concluded that the appellant did not comply with the Regulation 6(1)(l) of HCCAR, the failure to fulfill the requirement of Regulation 10(1)(m) of SCMTR is attracted and therefore, the impugned order in ordering immediate suspension of the appellant’s registration is legally valid and therefore the same is sustainable. Further, he had given an opportunity for the appellant to submit their representation, by observing the principles of natural justice in quasi-judicial proceedings and as a post-decisional hearing being given to the appellant. Therefore, from the aspect of providing reasonable opportunity for the appellant to explain his case, the learned Commissioner had observed the principles of natural justice.

10. In view of the above discussions and analysis, we are of the considered view that the impugned order dated 10.08.2026 is legally sustainable and therefore it does not require any interference.

11. In the result, the appeal filed by the appellant is dismissed.

(Order pronounced in open court on 24.09.2026)

**(AJAY SHARMA)**
**MEMBER (JUDICIAL)**

**(M.M. PARTHIBAN)**
**MEMBER (TECHNICAL)**

*Sinha*