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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

% **Date of decision: 25.11.2026**

\# **CNR No. DLHC010317022026**

\+ CUSAA 66/2026 & CM APPL. 46311/2026

COMMISSIONER OF CUSTOMS, AIRPORT AND GENERAL .....Appellant

Through: Ms. Monica Benjamin, SSC with Ms. Laiba Arif & Ms. Prerika Narang, Advs.

versus

A.P. ENTERPRISES THROUGH ITS PROPRIETOR SURANJAN KUMAR SINGH .....Respondent

Through: Mr. Prem Ranjan Kumar, Adv.

CORAM:
HON'BLE MR. JUSTICE AVNEESH JHINGAN
HON'BLE MS. JUSTICE SHAIL JAIN

AVNEESH JHINGAN, J. (ORAL)

1. This appeal is filed against the order dated 15.10.2025 (hereinafter 'the impugned order') passed by the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) allowing the appeal preferred by the respondent and setting aside the Order-in-Original dated 06.03.2025 (for short 'O-I-O') whereby the Customs Broker Licence (for short 'CB licence') of the respondent was revoked.

2. The brief facts are that three separate O-I-O dated 24.07.2024, 05.08.2024 and 13.08.2024 were passed in the cases of M/s International Overseas, M/s Vertical International and

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M/s Innovation Overseas respectively, wherein the importers were found to have misdeclared the quantity and overvalued the goods (Rudraksha) with a view to siphoning Indian currency out of the country. It was recorded that the respondent being the custom broker had facilitated the clearance of the consignments. A show cause notice dated 10.09.2024 was issued to the respondent for alleged contravention of Regulations 10(a), 10(d), 10(e) and 10(n) of the Customs Brokers Licensing Regulations, 2018 (for short 'CBLR 2018').

2.1 An Inquiry Officer was appointed under Regulation 17 of CBLR, 2018 and Inquiry Report dated 06.12.2024 (hereinafter 'IR') was submitted in favour of the respondent. On 29.01.2025, the appellant by a communication informed the respondent of the personal hearing scheduled for 04.02.2025. The personal hearing was attended by the proprietor of the respondent and written submissions were filed.

2.2 By the O-I-O, the CB Licence of the respondent was revoked. The respondent succeeded in the appeal before the CESTAT. The O-I-O was set aside relying upon the judgment of this Court in ***Him Logistics Private Limited v. Commissioner of Customs (General)***, 2016 (334) E.L.T. 262 (Del.). It was held that the appellant should have communicated to the respondent the reasons for disagreement with the IR and afforded an opportunity to respond thereto. Hence, the present appeal.

3. The appeal is admitted on the following substantial question of law:

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Whether the CESTAT was justified in merely setting aside the O-I-O on the ground of violation of the principles of natural justice without remanding the matter to the adjudicating authority for fresh consideration after affording the respondent an opportunity to respond to the reasons for disagreement with the IR?

4. Learned counsel for the parties submit that since the matter pertains to the revocation of the CB licence it involves urgency and may be heard and decided today itself.

5. Learned counsel for the appellant relies upon the decision of this Court in ***Him Logistics*** (supra) to contend that even if there was a violation of the principles of natural justice the matter should have been remitted for fresh consideration in accordance with law.

6. Learned counsel for the respondent contends that there is no case on merits for disagreeing with the IR and the respondent has not violated the Regulations under CBLR, 2018. Moreover, the role of the respondent in the overvaluation of the imports has not been established.

7. Heard learned counsel for the parties and perused the relevant record with their able assistance.

8. It is not disputed by learned counsel for the parties that the decision of this Court in ***Him Logistics*** (supra) has attained finality. Before proceeding further, it would be apposite to reproduce the relevant paragraphs of the said decision:

"14. The answer to question no. (i) is clearly that the

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Principal Commissioner or Commissioner of Customs, as the case may be, is not bound to accept the inquiry report, if it is in favour of the Custom Broker and he can disagree with the same.

15. Coming to question no. (ii). The opportunity of hearing, as contemplated by Regulation 20, envisages that the Customs Broker should be provided the material, which is to be used against him for passing an adverse order, so he is in a position to rebut, qualify or explain the same and show cause against the proposed adverse action. In case only favourable material is provided to the Customs Broker and the adverse material or the reasons for disagreement are withheld from him, then, the entire exercise would be a futility as he would not be provided with an opportunity to rebut, qualify or explain the same and show cause against the proposed adverse action. When an inquiry report is in favour of the Customs Broker and completely exonerates him and the Principal Commissioner of Customs or the Commissioner of Customs, as the case may be, intends to disregard the inquiry report on the basis of any material available or reason, then the principles of natural justice require that the said material/reasons must be communicated to the agent to enable the agent to rebut, qualify or explain the same and to show cause against the proposed adverse action. In the absence of communication of adverse material/reasons, the Customs Broker would not be aware of the proposed adverse action and would not be able to show cause against the same and there would be failure of compliance with the principles of natural justice, as envisaged by Regulation 20 of CBLR, 2013.

16. In the present case, the inquiry report is in favour of the petitioner and exonerates him. Mere communication of the inquiry report, which is in

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favour of the petitioner and without communication of adverse material and/or reasons for difference, would not enable the petitioner to rebut, qualify or explain the adverse material and show cause against the proposed adverse action. Principles of natural justice required that before an adverse decision was taken against the petitioner, the petitioner should have been communicated the adverse material/reasons for disagreement. The fact that the reasons for disagreement were not communicated to the petitioner prior to the adverse decision being taken by the Commissioner of Customs, there was clearly a violation of principles of natural justice. The Commissioner of Customs should have recorded the reasons for disagreement and forwarded the same to the petitioner for his comments before passing the impugned order. Because of failure to do so, the impugned order is clearly in violation of the principles of natural justice.

17. The decision of the full Bench of the Bombay High Court in the case of *M/s. Delta Logistics* v. *Union of India* (Supra) relied upon by the Respondent, does not help the case of the respondent as in the said case, the only question before the Full Bench was whether the Commissioner of Customs is bound by the findings recorded in the inquiry report, if the finding was in favour of the CHA or could he disagree with the findings recorded in the inquiry report and pass such orders, as he deems fit. The Full Bench answered the question holding that the Commissioner was empowered to disagree with the findings recorded in the inquiry report and was not bound to accept the same even if the same were in favour of the CHA. The Full Bench was not considering the question whether the principles of natural justice required the Commissioner to record adverse material and communicate the same to the Customs Broker?

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> 18. We answer question no. (ii) by holding that where the Principal Commissioner or Commissioner of Customs, as the case may be, intends to disagree with the inquiry report, that is in favour of the Customs Broker, then it is mandatory for him to communicate the adverse material/reasons for disagreement to the Custom Broker and require him to show cause/represent against the proposed adverse order.
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> 19. In view of the above, the impugned order dated 1-9-2015 cannot be sustained. The same is accordingly quashed. However, the impugned order dated 1-9-2015 shall be treated as a communication of the reasons for disagreement entered by the Commissioner and the petitioner, if it so desires, may furnish its objections to the reasons for disagreement within a period of two weeks and show cause/represent against the proposed adverse order. The proceedings shall be finalized by the Commissioner of customs within a period of four weeks thereafter."
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> (Emphasis supplied)

9. In the case in hand, *albeit* a communication dated 29.01.2025 was issued granting the respondent an opportunity of hearing on 04.02.2025, the opportunity so provided was not effective. No reasons or material forming the basis for the disagreement with the IR were confronted to the respondent. Compliance with the principles of natural justice is not an empty formality. The CESTAT rightly held that revocation of the CB licence was in violation of the principles of natural justice.

10. The issue that now survives is whether the matter should have

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been remanded to the adjudicating authority for fresh consideration in accordance with law.

11. In the decision relied upon by the CESTAT in ***Him Logistics*** (supra) the matter was remitted for fresh consideration after affording an effective opportunity of hearing. There is no reason for us to take a different view.

12. The substantial question of law is answered in favour of the appellant. The impugned order passed by the CESTAT as well as the O-I-O are set aside. The matter is remitted to the adjudicating authority to proceed afresh in accordance with law from the stage of receipt of the IR.

13. The appeal is allowed.

14. The pending application also stands disposed of.

AVNEESH JHINGAN, J

SHAIL JAIN, J

NOVEMBER 25, 2026
'JK'

Reportable: **Yes**

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