6CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH-COURT NO. 1

CUSTOMS APPEAL NO. 51269 OF 2023

[Arising out of Order-in-Original No. 60/MK/POLICY/2021 dated 18.06.2021 passed by the Commissioner of Customs, Airport & General, New Delhi]

M/S AKANKSHA GLOBAL LOGISTICS PVT LTD **......APPELLANT**
L-11/373, 1st Floor, Mahipalpur Extention,
Near KPS School, NH-8
New Delhi-110037
Through Its Director
Mr. Vinod Anand

Vs.

COMMISSIONER, CUSTOMS-NEW DELHI **.....RESPONDENT**
Airport & General
NCH, IGI Airport

Appearance:
Present for the Appellant : Shri G. S. Arora, Advocate
Present for the Respondent: Shri Girijesh Kumar, Authorised Representative

CORAM:
HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P. V. SUBBA RAO, MEMBER (TECHNICAL)

FINAL ORDER NO. 50377 /2025

Date of Hearing : 24/12/2024
Date of Decision : 07/03/2025

P.V. SUBBA RAO:

1. M/s Akansha Global Logistics Pvt Ltd.[1] filed this appeal to assail the Order in Original dated 18.06.2021[2] passed by the Commissioner of Customs (Airport & General) New Delhi whereby he revoked the customs broker licence of the appellant, forfeited

---

1 the appellant
2 Impugned order

the entire amount of security deposit and imposed a penalty of Rs. 50,000/- on the appellant.

2. The appellant had a Customs Broker licence valid up to 05.06.2024 issued by the Commissioner of Customs (Airport & General)[3], New Delhi. A communication dated 17.08.2020 was received by the Commissioner from the Joint Director, Directorate General of Analytics and Risk Management, New Delhi[4] that DGARM had conducted an analysis of the data of the GST registrants and identified risky exporters who may have been involved in IGST refund frauds. DGARM also identified the Customs Brokers who handled exports of such exporters including the appellant. DGRAM got the existence of some of these exporters verified from field formation and found that they were not existence. Based on the analysis, DGARM wrote to the concerned commissioners including the respondent herein to take action under the Customs Broker Licensing Regulations. Accordingly, a show cause notice dated 23.12.2020[5] was issued to the respondent which culminated in the impugned order.

3. As per the SCN the appellant had handled exports in respect of 27 suspected exporters listed in table 1 of the SCN. Of this physical verification was conducted only in respect of one-M/s Goodluck Traders-through the GST officers. The report of the Assistant Commissioner who conducted the verification is as

---

3 **Commissioner**
4 **DGARM**
5 **SCN**

follows:

> *" Recommendation about the bonafides of the entity verified:*
>
> *The party has been found non-existent. The party filed GSTR-3B upto August 2019. The registration of M/s Goodluck Tradings has been cancelled. The ITC availed by M/s Goodluck Tradings seems to be not genuine and, therefore, is inadmissible.*
>
> *No verification was conducted in respect of any of the other 26 suspected exporters."*

4. Based on this report the SCN alleged that the appellant had violated regulation 10(n) of Customs Broker Licensing Regulations, 2018[6] which reads as follows:

> **"10. Obligations of Customs Broker**.— A Customs Broker shall —
>
> (n) verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information;"

5. The Commissioner appointed an inquiry officer in the SCN who, after considering the submissions of the appellant, submitted a report dated 23.03.2021 that the appellant had failed to comply with the provisions of Regulation 10(n) of CBLR 2018 to some extent. However, he was of the view that a lenient view may be taken in the matter.

6. The inquiry report was forwarded to the appellant with a request to submit representation within 30 days. On 07.06.2021, the appellant submitted its written representation

---

6 CBLR 2018

resisting that the contention that the appellant had violated the Regulation 10(n).

7. After considering the SCN, inquiry report and the appellant's representation the Commissioner passed the following order.

> "27. From all the facts and circumstances narrated above, I find that the CB has violated the Regulation 10 (n) of CBLR 2018 and hence, I pass the following order:
>
> **ORDER**
>
> In exercise of powers conferred in terms of Regulation 14 & 18 read with Regulation 17(7) of CBLR, 2018 (erstwhile Regulation 18 & 22 read with Regulation 20(7) of CBLR, 2013),
>
> (i) I hereby revoke the CB License No. R-079/DEL/CUS/1991 (PAN:AAMCA5170E) valid upto 05.06.2024 of M/s. Akanksha Global Logistics Pvt. Ltd., L-11/373, 1% Floor, Mahipalpur Extension, Near KPS School, NH-8, New Delhi - 110037.
>
> (ii) I order for forfeiture of the whole amount of security deposit of Rs. 5,00,000/- (Rupees Five Lakh only) furnished by them;
>
> (iii) I impose penalty of Rs. 50,000/ on M/s. Akanksha Global Logistics Pvt. Ltd.
>
> 28. This order is being issued without prejudice to any other action that may be taken against the CB or any other person(s)/firm(s) etc under the provisions of the Customs Act, 1962 and Rules/Regulations framed there under or any other law for the time being in force for the present or any other past violations committed by them."

8. Aggrieved, the appellant filed this appeal.

Submissions of the appellant

9. Learned counsel for the appellant made the following submissions:

(i) After GST has been introduced no shipping bill could be processed without mentioning the GST number in the shipping bill which was valid at the time of export.

(ii) The GST refunds are also credited automatically to the account of the exporter which is registered via an authorised dealer's code with the department.

(iii) Mere non-traceability, as alleged, of the exporter is no basis to assume that the exports were fraudulent and exporter was ineligible for IGST refund.

(iv) Regulation 10(n) mandates the Customs Broker to verify the identity of the importer by way of independent documentation and the appellant ad done so. All the documents which were collected from the exporters at the time of processing of shipping bills were submitted during the adjudication proceedings.

(v) The only thing against the appellant is a report by DGARM that the exporters were found to be non-existent which is not on the basis of any evidence.

(vi) Even if the exporter was found non-existent at the address, the appellant had verified their existence on the basis of the documents issued by the Government Office and he cannot be held accused of violation Regulation 10(n).

(vii) As far as the sole exporter in respect of which verification was done in this case is concerned, the appellant had obtained their import export code, GSTIN, PAN and bank details. Therefore, the appellant had sufficiently fulfilled the requirements of regulation 10(n) and, therefore, was not liable to action under the CBLR 2018. In view of the above, the appeal may be allowed and the impugned order may be set aside.

Submissions of the Revenue

10. Learned authorised representative appearing for the department vehemently supported the impugned order and asserted that it calls for no interference. He also submitted that the responsibility of the Customs Broker is critical to prevent misuse of the export promotion schemes and other fraudulent activities as held in **Barskar Brothers** vs. **Commissioner of Customs (General)**[7]. He prayed that impugned order may be upheld and appeal may be rejected.

11. We have considered the submissions on both sides and perused the records.

12. The undisputed facts of the case are that although DGARM had identified 26 exporters whose exports the appellant had processed and who in the opinion of DGARM, had not existed physical verification was conducted only in respect of one exporter, namely M/s Goodluck Traders. The charge against the appellant is that it had violated regulation 10(n) of CBLR 2018.

---

7 2009 (244) ELT 562

Regulation 10 places several obligations on the licensed Customs Broker. Clause (n) requires the Customs Broker to verify correctness of importer exporter code number, goods and services tax identification number (GSTIN), identity of its client and functioning of its client at the declared address using reliable independent authentic documents, data or information.

13. It requires the Customs Broker to **verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information**. This obligation can be broken down as follows:

a) Verify the correctness of IEC number
b) Verify the correctness of GSTIN
c) Verify the identity of the client using reliable, independent, authentic documents, data or information
d) Verify the functioning of the client at the declared address using reliable, independent, authentic documents, data or information

14. Of the above, (a) and (b) require verification of the documents which are issued by the Government departments. The IEC number is issued by the Director General of Foreign Trade and the GSTIN is issued by the GST officers under the Central Board of Indirect Taxes and Customs of the Government of India or under the Governments of State or Union territory. The question which arises is does the Customs Broker have to satisfy himself that these documents or their copies given by the

client were indeed, issued by the concerned government officers or does the Customs Broker have to ensure that the officers had correctly issued these documents. In our considered view, Regulation 10(n) does not place an obligation on the Customs Broker to oversee and ensure the correctness of the actions by Government officers. Therefore, the verification of documents part of the obligation under Regulation 10(n) on the Customs Broker is fully satisfied as long as the Customs Broker satisfies itself that the IEC and the GSTIN were, indeed issued by the concerned officers. This can be done through online verification, comparing with the original documents, etc. and does not require an investigation into the documents by the Customs Broker. Therefore, the appellant was correct in verifying the GSTIN issued by the department on the GST portal. The presumption is that a certificate or registration issued by an officer or purported to be issued by an officer is correctly issued. Section 79 of the Evidence Act, 1872 requires even Courts to presume that every certificate which is purported to be issued by the Government officer to be genuine. It reads as follows:

> "79. **Presumption as to genuineness of certified copies**. **The Court shall presume to be genuine every document purporting to be a certificate, certified copy or other document, which is by Law declared to be admissible as evidence of any particular fact and which purports to be duly certified by any officer of the Central Government or of a State Government**, or by any officer in the State of Jammu and Kashmir who is duly authorized thereto by the Central Government.
>
> Provided that such document is substantially in the form and purports to be executed in the manner directed by law in that behalf. The Court shall also presume that any officer by whom any such document purports to be

> signed or certified, held, when he signed it, the official character which he claims in such paper."

15. The onus on the Customs Broker cannot, therefore, extend to verifying that the officers had correctly issued the certificate or registration. Of course, if the Customs Broker comes to know that its client has obtained these certificates through fraud or misrepresentation, nothing prevents it from bringing such details to the notice of Customs officers for their consideration and action as they deem fit. However, the Customs Broker cannot sit in judgment over the certificate or registration issued by a Government officer so long as it is valid. In this case, there is no doubt or evidence that the IEC, the GSTIN and other documents were issued by the officers. So, there is no violation as far as the documents are concerned.

16. The third obligation under Regulation 10(n) requires the Customs Broker to verify the identity of the client using reliable, independent, authentic documents, data or information. In other words, he should know who the client is and the client cannot be some fictitious person. This identity can be established by independent, reliable, authentic:

a) documents;
b) data; or
c) information

17. Any of the three methods can be employed by the Customs Broker to establish the identity of his client. It is not

necessary that it has to collect information or launch an investigation. So long as it can find some documents which are independent, reliable and authentic to establish the identity of his client, this obligation is fulfilled. Documents such as GSTIN, IEC and PAN card issued etc., certainly qualify as such documents. However, these are not the only documents the Customs Broker could obtain; documents issued by any other officer of the Government or even private parties (so long as they qualify as independent, reliable and authentic) could meet this requirement. While obtaining documents is probably the easiest way of fulfilling this obligation, the Customs broker can also, as an alternative, fulfill this obligation by obtaining data or information. In the factual matrix of this case, we are fully satisfied that the appellant has fulfilled this part of the obligation under Regulation 10(n).

18. The fourth and the last obligation under Regulation 10(n) requires the Customs Broker to verify the functioning of the client at the declared address using reliable, independent, authentic documents, data or information. This responsibility, again, can be fulfilled using documents or data or information so long as it is reliable, independent and authentic. Nothing in this clause requires the Customs Broker to physically go to the premises of the client to ensure that they are functioning at the premises. Customs formations are only in a few places while exporters or importers could be from any part of the country and they hire the

services of the Customs Brokers. Besides the fact that no such obligation is in Regulation 10(n), it will be extremely difficult, if not, totally impossible, for the Customs Broker to physically visit the premises of each of its clients for verification. The Regulation, in fact, gives to the Customs Broker the option of verifying using documents, data or information. If there are authentic, independent and reliable documents or data or information to show that the client is functioning at the declared address, this part of the obligation of the Customs Broker is fulfilled. If there are documents issued by the Government Officers which show that the client is functioning at the address, it would be reasonable for the Customs Broker to presume that the officer is not wrong and that the client is indeed, functioning at that address. In the factual matrix of this case, we find that the GSTIN issued by the officers of CBIC itself shows the address of the client and the authenticity of the GSTIN is not in doubt. In fact, the entire verification report is based on the GSTIN. Further, IEC issued by the DGFT also shows the address. There is nothing on record to show that either of these documents were fake or forged. Therefore, they are authentic and reliable and we have no reason to believe that the officers who issued them were not independent and neither has the Customs Broker any reason to believe that they were not independent.

19. The responsibility of the Customs Broker under Regulation 10(n) does not include keeping a continuous surveillance on the

client to ensure that he continues to operate from that address and has not changed his operations. Therefore, once verification of the address is complete as discussed in the above paragraph, if the client moves to a new premises and does not inform the authorities or does not get his documents amended, such act or omission of the client cannot be held against the Customs Broker.

20. We, therefore, find that the appellant Customs Broker did not fail in discharging its responsibilities under Regulation 10(n). The impugned order is not correct in concluding that the Customs Broker has violated Regulation 10(n) because the exporter was found to not exist during subsequent verification by the officers.

21. We find that the impugned order cannot be sustained and, therefore, set it aside and allow the appeal with consequential relief to the appellant.

[Order pronounced on **07/03/2025**]

(JUSTICE DILIP GUPTA)
PRESIDENT

(P. V. SUBBA RAO)
MEMBER (TECHNICAL)

Tejo