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

Date of Decision: 11th November, 2025

+ **CUSAA 162/2025&CM APPL. 64942/2025**

COMMISSIONER OF CUSTOMS, NEW DELHI,
AIRPORT AND GENERAL

.....Appellant

Through: Mr. Aakarsh Srivastava, SSC, CBIC
versus

RAVI DHANWARIYA

.....Respondent

Through: Mr. Nikhil Gupta, Mr. Rochit
Abhishek, Mr. Prince Nagpal, Mr.
Devang Dwivedi

CORAM:

JUSTICE PRATHIBA M. SINGH

JUSTICE SHAIL JAIN

JUDGMENT

Prathiba M. Singh,J.

1. This hearing has been done through hybrid mode.
2. The present appeal has been filed by the Appellant under Section 130 of the Customs Act, 1962, *inter alia*, assailing the impugned judgment dated 5th March 2025 passed by the Customs, Excise and Service Tax Appellate Tribunal (*hereinafter*, 'CESTAT') by which the Respondent's licence has been restored as a Customs House Agent (*hereinafter*, 'CHA'), and only the fine of Rs.50,000/- imposed in the Order-in-Original, has been upheld. The revocation of licence and forfeiture of security deposit has been set aside by CESTAT.
3. The Respondent in this case is a custom broker duly licensed by the Customs Authority. An investigation was conducted by the Joint



Commissioner, ICD (Exports) with respect to alleged over-valuation of export goods for availing higher duty drawback by an exporter M/s. Sharp Enterprises. The shipping documents for the said consignments were filed by the Respondent. The Special Intelligence and Investigation Branch (SIIB) upon receiving intelligence inputs, kept the consignments on hold. The details of the consignments are as under:

Sl. No.	Name of the Exporter (IEC)	Shipping Bill No	Description of goods (HSN)	FOB (INR)	Total Qty Exported (KGS)	Price per Unit Declared by Exporter (US Dollars)	DBK Claimed (INR)
1	Sharp Enterprises	5628074 dt. 28.10.2021	RMG Boys Trousers (jeans) Blended Containing 65% Cotton and 35% man made fibre	93,54,249.20	7920	15.95	2,24,503.01
2		5628163 dt. 28.10.2021	RMG Boys Trousers (jeans) Blended Containing 65% Cotton and 35% made fibre	96,37,755.60	8160	15.95	2,31,306.13
3		5628187 dt. 28.10.2021	RMG Boys Trousers (jeans) Blended Containing 65% Cotton and 35% man made fibre	93,54,292.20	7920	15.95	2,24,503.01
4		5660930 dt. 29.10.2021	RMG Boys Trousers (jeans) Blended Containing 65% Cotton and 35% man made fibre	96,37,755.60	8160	15.95	2,31,306.13
5		5660903 dt. 29.10.2021	RMG Boys Trousers (jeans) Blended Containing 65% Cotton	93,54,249.20	7920	15.95	2,24,503.01



			and 35% man made fibre				
6		5662360 dt. 29.10.2021	RMG Boys Trousers (jeans) Blended Containing 65% Cotton and 35% man made fibre	93,54,249.20	7920	15.95	2,24,503.01
		Total		5,66,926,80	48000		13,60,264.3

4. Upon inspection being conducted, the authorities were of the view that the goods were *prima facie* over-valued and the same were seized under Section 110 of the Customs Act, 1962 on the ground that they were liable for confiscation. The various benefits in respect of these exports were withheld on 7th December, 2021.

5. Thereafter, summons were issued on multiple occasions to the exporter and also to the Respondent for tendering statements. However, the exporter were not traceable and the Respondent did not appear. Subsequently, one person called Mr. Saurav Tanwar appeared for the exporter to tender a statement but it was then realized that there were multiple CHA holders, G-card holders who had connived to get the statement tendered on behalf of M/s Sharp Enterprises though Mr. Tanwar had no relationship whatsoever with the exporter.

6. At that stage, the Respondent was again called for tendering the statement. Simultaneously, the exporter sought permission to move the shipment back to town on the ground that the consignee had cancelled the order. Random samples were drawn and enquiries were made from various garment sellers which revealed that the difference between the price declared by the garment sellers and the price declared in the exports, were substantial. The Department came to the conclusion that the attempt was to obtain duty drawback of more than Rs.11 lakhs.



7. The Respondent continue to avoid appearing and making any statement and thereafter Show Cause Notice was issued on 31st August, 2022. The Order-in-Original was then passed on 19th January, 2023 by the Adjudicating Authority. Before the said Adjudicating Authority, the Respondent had appeared and stated that he is not responsible for the over-valuation of the exported goods. However, the Authority came to the conclusion that the exporting firm itself did not exist and that the Respondent had connived with one Ms. Savinder Sharma to export the goods to avail duty drawback illegally. *Vide* Order-in-Original dated 19th January, 2023, it was directed as under:

“

ORDER

In exercise of powers conferred in terms of Regulation 14 & 18 read with Regulation 17 (7) of CBLR, 2018,

(i) I hereby revoke the CB Licence No. R-25/DEL/CUS/2016 valid up to 21.12.2025 of M/s Ravi Dhanwariya (PAN: AKCPD5817E);

(ii) I direct the CB to immediately surrender the Original CB License No. R-25/DEL/CUS/2016 valid up to 21.12.2025 along with all 'F/G/H' Cards issued there under;

(iii) I order for forfeiture of the whole amount of security deposit furnished by them;

(iv) I impose a penalty of Rs. 50,000/- on CB M/s Ravi Dhanwariya (PAN:AKCPD5817E).”

8. This order was appealed against before the CESTAT which held that the Respondent had not cooperated in the investigation and hence the Respondent was held to be in violation of Regulation 10(q) of Customs



Brokers Licensing Regulations, 2018. However, insofar as Regulation 10(n) of Customs Brokers Licensing Regulations, 2018 was concerned, it was held by CESTAT that none of the documents were fake or forged. The CESTAT came to the conclusion that the custom broker and the exporter were independent. Thus, ultimately, the CESTAT, in its impugned judgment dated 5th March, 2025 held as under:

“37. To sum up, we find that the appellant violated Regulations 10(a) and 10(q) but had not violated Regulations 10(d) and 10(n). Applying the doctrine of proportionality, we find that it would meet the ends of justice if the penalty of Rs. 50,000/- imposed on the appellant is upheld and the revocation of its licence and forfeiture of security deposit are set aside.

38. The appeal is partly allowed and the impugned order is modified to the extent that the revocation of licence and forfeiture of security deposit of the appellant are set aside but the penalty of Rs. 50,000/- imposed on the appellant is upheld.”

9. It is the case of the Appellant that the Respondent has failed to prove that his conduct has been *bona fide*, or that the necessary verification was conducted by him, as required under the Customs Brokers Licensing Regulations, 2018. Ld. Counsel vehemently urges that Customs brokers have a duty to verify the credentials of the exporters as the department relies upon them. This duty has been completely violated when customs brokers themselves connive and create fake exporter firms for availing of duty drawbacks illegally.

10. On the other hand, it is the stand of the Respondent that the CHA licence was suspended on 4th July, 2022, and was revoked on 19th January, 2023. The same has, however, remained suspended till March



2025. It is further submitted that even now the CHA licence has not been restored, despite the Respondent having succeeded before CESTAT.

11. Further, Id. Counsel for the Respondent submits that the present appeal is not maintainable, as there is no question of law that arises in this case.

12. On the last date of hearing, after perusing the factual matrix, the Court had directed the Respondent- Mr. Ravi Dhanwariya, CHA, to remain present in Court, on the next date of hearing. Accordingly, he is present before the Court today.

13. The Court has heard the matter. The KYC documents have also been shown on behalf of the Respondent. Though, any other details of the exporter are not readily available with the Respondent/CHA, considering the fact that for the last three years, the licence has remained suspended, the Court is of the opinion that the three year suspension/revocation is adequate message for the Custom broker not to indulge in such acts in future. Thus the Court is not inclined to set aside the order of CESTAT on this aspect. However, the facts that have emerged in this case from the order-in-original dated 19th January, 2023, as also the impugned judgment dated 5th March, 2025 passed by the CESTAT, coupled with the submissions made by Mr. Aakarsh Srivastava, Id. SSC for the Appellant and by the Id. Counsel for the Respondent, it clearly shows that the conduct of the CHA is quite detrimental. If customs brokers indulge in such conduct of conniving and creating fake exporting firms, it jeopardises the incentives to real exporters. When queried by the Court, the Respondent who is present, is barely showing any remorse.



14. In this case, there were various custom clearing agents and CHAs who appeared to be involved in the proposed exports at the time when the same was traced and stopped by the Customs Department.

15. This Court, while recently analysing the duties and responsibilities of CHAs in **CUSAA 56/2024** titled ***'NITCO Logistics Pvt. Ltd. v. The Commissioner of Customs Airport and General'*** held as under:

“15. While on the one hand there can be doubt that the employee was the person who may have been indulging in these incorrect activities, the Appellant also had a responsibility being a CHA to exercise supervision and due diligence and could not have completely allowed misuse in this manner.”

16. In **CUSAA 24/2012** titled ***M/S. Ashiana Cargo Services v. Commissioner of Customs (I&G)***, this Court discussed the proportionality of punishment imposed on Custom House Agents in an appeal where the CESTAT upheld the revocation of the license of the Appellant under the Custom House Agents Licensing Regulations, 1984. While deciding the said appeal, the Court held as under:

“8. The issue before the Court is the proportionality of the penalty awarded in this case. The CHA Regulations prescribe two penalties: suspension of the license for a particular period of time, and revocation of the license, such that it irretrievably loses its currency. Once the Commissioner reaches a decision, the CESTAT, and this Court, would not ordinarily interfere with the award of punishment, denuding the disciplinary power of the designated authority. That said, the course of action taken by the Commissioner of Customs must depend on the gravity and nature of the infraction by the CHA, and thus, the punishment must be proportional to the violation. Given the civil



consequences of revocation for the CHA, read in the background of its freedom under Article 19(1)(g), this principle of law is undisputed. Casting some clarity on the meaning of proportionality, especially at the second appellate stage, the Supreme Court in *Management of Coimbatore District Central Co-operative Bank v. Secretary, Coimbatore District Central Co-operative Bank Employees Association and Anr.*, (2007) 4 SCC 669, held as under:

“18. 'Proportionality' is a principle where the Court is concerned with the process, method or manner in which the decision-maker has ordered his priorities, reached a conclusion or arrived at a decision. The very essence of decision-making consists in the attribution of relative importance to the factors and considerations in the case. The doctrine of proportionality thus steps in focus true nature of exercise the elaboration of a rule of permissible priorities.”

In the context of revocation of a CHA license, this ordering or priorities, or the proportionality doctrine, was considered recently by the Andhra Pradesh High Court in *Commissioner of Customs and Central Excise v. HB Cargo Services*, 2011 (268) ELT 448 (AP) in the following terms:

“12.....For minor infraction, or infractions which are not of a serious nature, an order of suspension may suffice. On the contrary, when revocation is directed it has to be only in cases where the infraction is of a serious nature warranting exemplary action on the part of the authorities for, otherwise, two types of actions would not have been provided for. Primarily it is for the Commissioner to



decide as to which of the actions would be appropriate but, while choosing any one of the two modes, the Commissioner has to consider all relevant aspects, and draw a balance sheet of the gravity of the infraction and the mitigating circumstances. The difference in approach for consideration of cases warranting revocation or suspension has to be borne in mind while dealing with individual cases. The proportionality question is of great significance as action is under a fiscal statute, and may ultimately lead to a civil death.”

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11. Viewing these cases, in the background of the proportionality doctrine, it becomes clear that the presence of an aggravating factor is important to justify the penalty of revocation. While matters of discipline lie with the Commissioner, whose best judgment should not second-guessed, any administrative order must demonstrate an ordering of priorities, or an appreciation of the aggravating (or mitigating) circumstances. In this case, the Commissioner and the CESTAT (majority) hold that “there is no finding nor any allegation to the effect that the appellant was aware of the misuse if the said G cards”, but do not give adequate, if any weight, to this crucial factor. There is no finding of any mala fide on the part of the appellant, such that the trust operating between a CHA and the Customs Authorities (as a matter of law, and of fact) can be said to have been violated, or be irretrievably lost for the future operation of the license. In effect, thus, the proportionality doctrine has escaped the analysis.

12. Learned Senior Standing Counsel for the Customs has stressed that the infraction in this case is not a routine matter, but rather, illegal smuggling of



narcotics by the G card users. However, given the factual finding that the CHA was not aware of the misuse of the G cards (and thus, also unaware of the contents being smuggled), no additional blame can be heaped upon the CHA on that count alone. Rather, the only proved infraction on record is of the issuance of G cards to non-employees, as opposed to the active facilitation of any infraction, or any other violation of the CHA Regulations, whether gross or otherwise. Neither have any such allegations been raised as to the past conduct of the appellant, from the time the license was granted in January, 1996. Equally, it is important to note that the appellant has – as of today – been unable to work the license for 8 years, and thus been penalized in this manner. This is not to say that the trust operating between the Customs Authorities and the CHA is to be taken lightly, or that violations of the CHA Regulations should not be dealt with sternly. A penalty must be imposed. At the same time, the penalty must – as in any ordered system – be proportional to the violation. Just as the law abhors impunity for infractions, it cautions against a disproportionate penalty. Neither extreme is to be encouraged. In this case, in view of the absence of any mens rea, the violation concerns the provision of G cards to two individuals and that alone. A penalty of revocation of license for this contravention of the CHA Regulations unjustly restricts the appellant's ability to engage in the business of the CHA for his entire lifetime. As importantly, it skews the proportionality doctrine, substantially lowering the bar for revocation as a permissible penalty, especially given the dire civil consequences that follow. On the other hand, the minority Opinion of the CESTAT, delivered by the Judicial Member, correctly appreciates the balance of relevant factors, i.e. knowledge/mens rea, gravity of the infraction, the stringency of the penalty of revocation, the fact that the appellant has already



been unable to work his license for a period of 6 years (now 8 years), and accordingly sets aside the order of the Commissioner dated 24.01.2005.”

17. The decision in *M/s. Ashiana Cargo Services (Supra)* was followed by this Court in the decision in *Commissioner of Customs (Airport and General) v. M/s Jaiswal Import Cargo Services Ltd, 2025:DHC:7566-DB*.

This Court in the said decision held as under:

“16. In addition, ld. Counsel for the Respondent on instructions submits that as a matter of retribution, the Respondent is willing to contribute a sum of Rs. 4 lakh towards some good cause. Taking this statement on record, this Court is of the opinion that the suspension of 13 months and with payment of Rs. 4 lakh, the SCN proceedings can come to an end.

17. The appeal along with the pending application is disposed of with the following directions:

(i) The Respondent shall deposit, within four weeks, a sum of Rs. 4 lakh in the following manner:

i. Rs. 2 lakh to be deposited with the Customs Department.

ii. Rs. 1 lakh to the Delhi High Court Legal Service Committee.

Name: Delhi High Court Legal Services Committee

Bank: UCO Bank, Delhi High Court.

A/c No.: 15530110008386

IFSC Code: UCBA0001553

iii. Rs. 1 lakh to the Delhi High Court Bar Association.

The details of the bank account are as under:

Name: Delhi High Court Bar Association Bank: UCO Bank, Delhi High Court.

A/c No.: 15530100000478



IFSC Code: UCBA0001553

(ii) The revocation/ suspension of the Respondent's Customs Broker License is restricted to the 13 months which has already been undergone."

18. Under these circumstances, the Court modifies the impugned judgment of CESTAT dated 5th March, 2025, to the effect that out of the security deposit of Rs. 5,00,000/-, a sum of Rs. 2,00,000/- shall stand forfeited.

19. The CHA's licence shall be renewed by the Customs Department upon deposit of a further amount of Rs. 2,00,000/- to the Customs Authority. In addition, an amount of Rs. 2,00,000/- shall be deposited in the following manner:

(i) Rs. 1,00,000/- to the Delhi High Court Staff Welfare Fund-

Name: Delhi High Court Staff Welfare Fund

Bank: UCO Bank, Delhi High Court.

A/c No.:15530110074442

IFSC Code: UCBA0001553

Branch Address: Shershah Road Delhi, New Delhi-110001

(ii) Rs. 1,00,000/- to the Delhi High Court Clerk Association-

Name: Delhi High Court Clerk Association

A/c No: 15530100006282

IFSC Code: UCBA0001553

Branch: Delhi High Court

Branch Address: Shershah Road Delhi, New Delhi-110001

20. Subject to the above amounts being deposited, let the licence of the Respondent be renewed. It is however, made clear that if the Respondent is



found indulging in such illegalities, stringent action would be liable to be taken.

21. The appeal is disposed of in these terms. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH
JUDGE

SHAIL JAIN
JUDGE

NOVEMBER 11, 2025*/tg/ss*