



2026:DHC:9166-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**% **Date of decision: 14.10.2026**# **CNR No. DLHC010517082024**+ **CUSAA 68/2024****COMMISSIONER OF CUSTOMS (AIRPORT AND
GENERAL)**

.....Appellant

Through: **Ms. Anushree Narain, SSC with
Mr. Apurv Yadav, Adv.**

versus

FREIGHT LOGISTICS

.....Respondent

Through: **Dr. Prabhat Kumar, Mr. Pralabh
Mathur and Mr. Karan Kanwal,
Advs.****CORAM:****HON'BLE MR. JUSTICE AVNEESH JHINGAN****HON'BLE MS. JUSTICE SHAIL JAIN****AVNEESH JHINGAN, J. (ORAL)**

1. This appeal is filed under Section 130 of the Customs Act, 1962 (for short 'the Act') against the order dated 02.02.2024 passed by the Customs, Excise and Service Tax Appellate Tribunal, New Delhi (hereinafter 'the tribunal').

2. The brief facts are that the respondent holds a custom broker license valid up to 28.08.2027. The Directorate of Revenue Intelligence (DRI) received an input regarding a syndicate attempting to export mask/fabric of mask to China by mis-declaring it as 'packing material'. The shipment of the goods covered by the shipping bill no.2619886 dated 11.05.2020 was put on hold. The shipping bill was

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filed by the respondent naming M/s Ala Foodstuff Pvt. Ltd. (hereinafter 'the exporter') as the exporter. The goods were declared as pouch packing material but upon examination, were found to be non-woven fabric to be used for manufacturing of masks, a prohibited item for export. The goods were seized *vide* memo dated 13.05.2020.

2.1 The respondent was made party for failure to obtain authorization from the exporter and to verify the KYC documents. On 21.05.2020 the exporter denied having issued the shipping bill. It was stated that the exporter is involved in exporting rice to middle east countries and had never exported goods to China.

2.2 The case set up by the respondent is that the documents were checked by the employee-Shri Kumud Kumar Choudhary (hereinafter 'the employee') who inadvertently failed to verify the authorization. The Show Cause Notice (SCN) dated 28.01.2021 was issued to the respondent for violating the Rule 10(a),(e) and (n) of Custom Broker Licensing Regulations, 2018 (for short 'CBLR'), for revocation of license, for forfeiture of the security under Rule 14 read with 17 of CBLR and imposition of penalty under Rule 18 read with 17 of CBLR.

2.3 The order-in-original (OIO) dated 22.07.2021 passed by the Commissioner of Customs attributed the active role to the employee and Shri Pushpraj Yadav for exporting the goods by a mis-declaration and no role of the respondent came out in investigation. The license was not revoked but the security deposit was forfeited and penalty of Rs.50,000/- was imposed. Both the appellant and the respondent



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preferred appeal before the tribunal. The appeal of the appellant seeking revocation of the license was dismissed. The appeal of the respondent was partly accepted. The appeal to the extent of setting aside forfeiture of security was allowed but penalty was upheld.

2.4 On 20.08.2024 in the appeal filed by the appellant the following proposed substantial questions of law were admitted:

“A. Whether the Tribunal passed the order without considering the contents of the facts and merits of the case and not appreciating Rule 13(12) of Customs Brokers Licensing Regulations, 2018 ["CBLR, 2018"]?

B. Whether the Tribunal passed the order without considering the contents of the facts and merits of the case and not appreciating Rule 14 of CBLR, 2018?”

3. Learned counsel for the appellant submits that the respondent had violated Rule 13(12) of CBLR warranting revocation of license under Rule 14 of CBLR. The contention is that by shifting the blame on the employee the respondent cannot escape from the obligations stipulated in the license and the CBLR.

3.1 Reliance is on the decision of the Supreme Court in ***Commissioner of Customs v. K.M. Ganatra & Co. (2016) 4 SCC 687*** and the decision of this Court in ***NITCO Logistics Pvt. Ltd. v. Commissioner of Customs (Airport and General) 2025:DHC:8952-DB*** to contend that in case violation is established the tribunal ought not exercise discretion to avoid revocation of the license.

4. *Per contra* factual findings are recorded by the tribunal that the



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respondent had no active role in the attempted export and it was the employee along with Shri Pushpraj Yadav who manipulated the things for exporting the prohibited items. Further the argument is that the respondent has not gone scot-free and was penalized for the violation of the terms of CBLR.

5. The undisputed facts are that during investigation it was specifically recorded that the active role was played by the employee and Shri Pushpraj Yadav who was running a forwarding firm in the name of POL Enterprises. Shri Pushpraj Yadav forwarded the export and KYC documents. The respondent failed to verify the receipt of the authority letter and the address of the exporting firm located at Amritsar.

6. The OIO noted that the role of the respondent had not come anywhere in the investigation and immediate actions were taken to terminate the services of the employee and for lodging an FIR. The Commissioner of Customs after considering the facts and circumstances and the material available came to the conclusion that revocation of the license was not warranted and a lesser penalty would suffice. The tribunal upheld the factum of the respondent not complying with the obligations casted under the license and the CBLR. However, the tribunal factoring into the investigation report, the findings of the Commissioner of Customs *viz-a-viz* the role and conduct of the respondent decided the question of proportionality of the punishment and benefit of doubt was given to the respondent. It was held that the respondent had acted diligently and no delay or *mala*



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fide can be attributed to the respondent. It was taken note of that shifting the blame to the employee may not exonerate the respondent in totality but there was a presumption that the act was not deliberate or intentional, the punishment of revocation of licence and forfeiture of the security would be disproportionate.

6.1 A finding of fact was recorded that in view of the nature of violation by the respondent and having not played any active role the upholding of imposition of penalty of Rs.50,000/- shall suffice. Further that for every violation of the CBLR the revocation of license cannot be resorted to. These very findings recorded for setting aside the forfeiture of security were made basis to hold that it was not a case warranting revocation of license and the appeal of the appellant before the tribunal was dismissed. The question that there was violation of the Rule 13(12) and Rule 14 of the CBLR was decided in favour of the appellant, the interference was only made to the extent of quantum of punishment and needs no adjudication.

7. The reliance of the learned counsel of the appellant on the decision of the Supreme Court in ***K.M. Ganatra & Co.*** (supra) does not enhance the case of the appellant. It was a case of repeated violation by the Custom House Agent (CHA) and is not applicable to the present case as there are no such allegations of repeated violations. In the decision of ***NITCO Logistics Pvt. Ltd.*** (supra), this Court dealt with a matter wherein the employee of the custom broker had indulged in similar dubious export transactions and in that background it was held that the custom broker is to exercise supervision and due



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diligence and cannot allow continuous misuser.

8. The tribunal gave a factual finding with regard to the proportionality of the punishment *viz-a-viz* the violation of the terms of CBLR. The finding recorded suffers from no factual or legal error much less perversity. No substantial questions of law arise for interference in the impugned order.

9. The appeal is dismissed.

10. All pending applications stand disposed of.

AVNEESH JHINGAN, J

SHAIL JAIN, J

OCTOBER 14, 2026

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Reportable: **Yes**