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W.P.(MD)NO.27982 OF 2025

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED : 04.11.2025

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THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN

W.P.(MD)Nos.27982 & 28005 of 2025 AND
W.M.P.(MD)Nos.21727, 21729,21762 & 21763 of 2025

M/s.Sasha Shipping Pvt. Ltd.,
24A, First Floor, Gopalasamy Street,
Mattakadai, Tuticorin – 628 002,
Rep. by its Managing Director,
P.Shanmuga Sundaram.

... Petitioner
in both W.Ps.

Vs.

The Commissioner of Customs,
Customs House, New Harbour Estate,
Tuticorin – 628 004.

... Respondent
in both W.Ps.

Prayer in W.P.(MD)No.27982 of 2025 : Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the respondent herein, pertaining to order No.15/2025 dated 20.08.2025 in F.No.GEN/CB/444/2025-CBLR-O/o COMMR-CUS-TUTICORIN, thereby suspending the License No.R-153-2011-CBS of the petitioner company, M/s.Sasha Shipping Pvt. Ltd., (PAN No.ABFCS4754E) with immediate effect in terms of Regulation 16(1) of the Customs Broker Licensing Regulation, 2018 and to quash the same, in so far as, the said impugned order had been passed without jurisdiction and



authority of law and in utter violation to the principles of natural justice and in gross violation to the fundamental rights guaranteed to the petitioner herein under the Constitution.

Prayer in W.P.(MD)No.28005 of 2025 : Writ petition filed under Article 226 of the Constitution of India, to issue a Writ of Certiorari, calling for the records of the respondent herein, pertaining to order No.16/2025 dated 03.09.2025 in F.No.GEN/CB/444/2025-CBLR-O/oCOMMR-CUS-TUTICORIN, thereby continuing the order of suspension of the Customs Broker License No.R-153-2011-CBS of the petitioner company, M/s.Sasha Shipping Pvt. Ltd., (PAN No.ABFCS4754E) in terms of Regulation 16(2) of the Customs Broker Licensing Regulation, 2018 and to quash the same, in so far as, the said impugned order had been passed without jurisdiction and authority of law and in utter violation to the principles of natural justice, and in gross violation to the fundamental rights guaranteed to the petitioner herein under the Constitution.

(in both WPs.)

For Petitioner : Mr.S.Baskaran

For Respondent : Mr.N.Dilipkumar

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COMMON ORDER

Heard both sides.

2. The writ petitioner was granted “Customs Broker License” by the Principal Commissioner of Customs, Chennai in the year 2011. The petitioner also operated within the jurisdiction of the Commissioner of Customs, Tuticorin since 21.06.2022 under Form C intimation. While so, the Commissioner of Customs, Tuticorin upon formation of opinion that the petitioner had indulged in some irregularity in the matter of import of certain consignments, suspended the petitioner's license vide order dated 20.08.2025. It was followed by another order dated 03.09.2025 continuing the order of suspension. Challenging the said orders, W.P.(MD)No.27982 of 2025 and W.P.(MD)No.28005 of 2025 came to be filed.

3. I raised a doubt if the Commissioner of Customs, Tuticorin can pass an order that will have force beyond his territorial jurisdiction. Probably, taking a cue from what fell from this Court, Corrigendum was issued on 14.10.2025 holding that the suspension



order should be read as effective for the areas under the jurisdiction of the Custom House, Tuticorin and not as effective across all Customs Stations. Though the scope of controversy has narrowed down, yet the moot question as to whether the Commissioner of Customs, Tuticorin can suspend the petitioner's Customs Broker License when he is not the issuing authority remains to be answered.

4. The learned counsel appearing for the writ petitioner submits that the respondent lacks the jurisdiction to pass such an order.

5. The learned Standing counsel took me through the statutory scheme. He pointed out that in Regulation 15, the expression employed is "Principal Commissioner or Commissioner of Customs other than those referred in Regulation 7". Thus, there is a qualifying adjective. On the other hand, in Regulation 16 which confers the power of suspension, there is no such restrictive clause following the words "Principal Commissioner or Commissioner of Customs". He, therefore, wanted me to construe Regulation 16 expansively and uphold the impugned order. He came out with a



justification that if such an interpretative approach is not adopted, a Customs Broker will be emboldened to indulge in irregular activities.

He illustrated his submission by remarking that an advocate found to have indulged in unprofessional practice deserves to be debarred from practising in all Courts and it would not be enough to debar him from practicing in that particular Court where the unprofessional act was committed. He sought dismissal of the writ petition.

6. I carefully considered the rival contentions and went through the materials on record.

7. There are as many as 122 customs house stations in India. One who has been granted Customs Broker License by a particular Commissionerate can operate within the jurisdiction of that Commissionerate. The licensee can operate within the jurisdiction of other Commissionerates also under Form C intimation. Thus, the Principal Commissioner or Commissioner of Customs can be classified into two: a) one who granted the license and b) one in whose jurisdiction, the licensee is operating under Form C intimation. In trade parlance, the classification is one of



Parent Commissionerate and Non-Parent Commissionerate.

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8. The stand of the writ petitioner is that the power to suspend lies only with the Parent Commissionerate.

9. Section 146 of the Customs Act, 1962, mandates that no person shall carry on business as a Customs Broker unless he holds a license granted in accordance with the Regulations. Pursuant to the regulation making power under Section 146(2) of the Act, the Customs Brokers Licensing Regulations, 2018 were made. It was issued in supersession of the 2013 Regulations. Earlier Customs House Agents Licensing Regulations, 2004 was in operation.

10. Regulation 2(d) of the 2018 Regulations defines Customs Broker as follows:-

“(d) "Customs Broker " means a person licensed under these regulations to act as an agent on behalf of the importer or an exporter for purposes of transaction of any business relating to the entry or departure of conveyances or the import or export of goods at any Customs Station



including audit;"

Regulation 7 deals with grant of license. Sub-Regulation 3 and 4 of

Regulation 7 read as follows:-

“ (3) The applicant who has been granted license under sub- regulation (2) shall be eligible to work as Customs Broker in all Customs Stations subject to intimation in Form C to the Principal Commissioner or Commissioner of Customs of the Customs Station where he intends to transact business and a copy of this intimation shall also be sent to the Principal Commissioner or Commissioner of Customs who has issued the license in Form B1 or Form B2, as the case may be.

(4) A customs broker shall be eligible to transact business under these regulations at a customs station which requires intimation under the said Form C, subject to the condition that such customs broker shall be able to transact such business only after a period of two years from the date of issue of license in Form B1 or Form B2:

Provided that the said period of two years shall be waived in respect of a license issued to a customs broker under the respective provisions of the Customs House Agents Licensing Regulations, 1984 or the Customs House Agents Licensing



Regulations, 2004 or the Customs Brokers Licensing Regulations, 2013:

Provided further that the period of two years referred to in sub-regulation (4) shall not be applicable where the intimation under the said Form C is to the Principal Commissioner or the Commissioner of Customs, as the case may be, referred to in sub-regulation (2) of regulation 4.”

The provisions particularly relevant are the following :

“15. Prohibition.— Notwithstanding anything contained in these regulations, the Principal Commissioner or Commissioner of Customs other than those referred to in regulation 7 may prohibit any Customs Broker from working in one or more sections of the Customs Station, if he is satisfied that such Customs Broker has not fulfilled his obligations as laid down under regulation 10 in relation to work in that section or sections:

Provided that the period for which any Customs Broker may be prohibited from transacting business in one or more of the Customs Stations shall not exceed one month from the date



of such prohibition:

Provided further that where the license of the Customs broker is suspended as a consequence to prohibition, the time period specified in regulation 16, shall be reckoned from the date of such suspension.

16. Suspension of license.— (1)

Notwithstanding anything contained in regulation 14, the Principal Commissioner or Commissioner of Customs may, in appropriate cases where immediate action is necessary, suspend the license of a Customs Broker where an enquiry against such Customs Broker is pending or contemplated:

Provided that where the Principal Commissioner or Commissioner of Customs may deem fit for reasons to be recorded in writing, he may suspend the license for a specified number of Customs Stations.

(2) Where a license is suspended under sub-regulation (1), the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, shall, within fifteen days from the date of such suspension, give an opportunity of hearing to the Customs Broker whose license is suspended and may pass such order as he deems fit either revoking the suspension or continuing it, as the case may be,



within fifteen days from the date of hearing granted to the Customs Broker:

Provided that in case the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, passes an order for continuing the suspension, further procedure thereafter shall be as provided in regulation 17.

17. Procedure for revoking license or imposing penalty.—

(1) The Principal Commissioner or Commissioner of Customs shall issue a notice in writing to the Customs Broker within a period of ninety days from the date of receipt of an offence report, stating the grounds on which it is proposed to revoke the license or impose penalty requiring the said Customs Broker to submit within thirty days to the Deputy Commissioner of Customs or Assistant Commissioner of Customs nominated by him, a written statement of defense and also to specify in the said statement whether the Customs Broker desires to be heard in person by the said Deputy Commissioner of Customs or Assistant Commissioner of Customs.

(2) The Commissioner of Customs may, on receipt of the written statement from the Customs Broker, or where no such statement has been



received within the time-limit specified in the notice referred to in sub-regulation (1), direct the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, to inquire into the grounds which are not admitted by the Customs Broker.

(3) The Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, shall, in the course of inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material to the inquiry in regard to the grounds forming the basis of the proceedings, and he may also put any question to any person tendering evidence for or against the Customs Broker, for the purpose of ascertaining the correct position.

(4) The Customs Broker shall be entitled to cross-examine the persons examined in support of the grounds forming the basis of the proceedings, and where the Deputy Commissioner of Customs or Assistant Commissioner of Customs declines permission to examine any person on the grounds that his evidence is not relevant or material, he shall record his reasons in writing for so doing.

(5) At the conclusion of the inquiry, the Deputy Commissioner of Customs or Assistant



Commissioner of Customs, as the case may be, shall prepare a report of the inquiry and after recording his findings thereon submit the report within a period of ninety days from the date of issue of a notice under sub-regulation (1).

(6) The Principal Commissioner or Commissioner of Customs shall furnish to the Customs Broker a copy of the report of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, and shall require the Customs Broker to submit, within the specified period not being less than thirty days, any representation that he may wish to make against the said report.

(7) The Principal Commissioner or Commissioner of Customs shall, after considering the report of the inquiry and the representation thereon, if any, made by the Customs Broker, pass such orders as he deems fit either revoking the suspension of the license or revoking the license of the Customs Broker within ninety days from the date of submission of the report by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, under sub-regulation (5) :

Provided that no order for revoking the



license shall be passed unless an opportunity is given to the Customs Broker to be heard in person by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be.

(8) Where in the proceedings under these regulations, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, comes to a conclusion that the F card holder is guilty of grounds specified in regulation 14 or incapacitated in the meaning of the said regulation, then the Principal Commissioner of Customs or Commissioner of Customs may pass an order imposing penalty as provided in regulation 18:

Provided that where an order is passed against an F card holder, he shall surrender the photo identity card issued in Form F forthwith to the Deputy Commissioner of Customs or Assistant Commissioner of Customs.

(9) Where in an offence report, charges have been framed against an F card holder in addition to the Customs Broker who has been issued a license under regulation 7, then procedure prescribed in regulations 16 and 17 shall be followed mutatis mutandis in so far as the prescribed procedure is relevant to the F card holder:



Provided that where any action is contemplated against a G card holder alone under these regulations, then instead of authority referred to in sub-regulation (8), a Deputy Commissioner or Assistant Commissioner rank officer shall pass such order as mentioned in the said sub-regulation along with debarring such G card holder from transacting the business under these regulations for a period of six months from such order.

Provided further that where an order is passed against a G card holder, then he shall surrender the photo identity card issued in Form G forthwith to the Deputy Commissioner of Customs or Assistant Commissioner of Customs.

Explanation.— Offence report for the purposes of this regulation means a summary of investigation and prima facie framing of charges into the allegation of acts of commission or omission of the Customs Broker or a F card holder or a G card holder, as the case may be, under these regulations thereunder which would render him unfit to transact business under these regulations.”

11. A careful reading of the above provisions leads me to the irresistible conclusion that the power to suspend lies only with the Parent Commissionerate. It is not as if the Central Board of Indirect



Taxes and Customs was unaware of the situations projected by the Standing counsel. If the licensee fails to fulfill the obligations expected of him, and such lapses occur within the jurisdiction of a Non-Parent Commissionerate, the Principal Commissioner or Commissioner concerned has the power to prohibit the erring licensee from working in one or more sections of that Customs Station. But the prohibitory order will not be in force beyond one month from the date of such prohibition. The statutory scheme envisages that after the prohibitory order is issued, the Principal Commissioner or Commissioner who issued the order would write to the Parent Commissionerate and the Parent Commissioner would take appropriate action. In the second Proviso to Regulation 15, there is a reference to suspension made under Regulation 16. Thus, Regulation 15 which provides for prohibition, Regulation 16 which provides for suspension and Regulation 17 which provides for revoking license have to be read together.

12. Regulation 15 as already mentioned, empowers the Principal Commissioner or Commissioner of Customs(Non-Parent Commissioners) to prohibit the licensee from working in one or



more sections of the Customs Station. From this, one can infer that a Customs Station is a composite unit of several sections and that the prohibition may encompass all the sections or one or more. But the first Proviso states that the prohibitory order will not be in force for more than a month, when the prohibition extends to one or more of the Customs Stations. From this, one may be tempted to infer that the Non-Parent Commissioner can pass an order of prohibition even extra-territorially. It is well settled that a proviso cannot run counter to the main provision. Nor can it enlarge the scope of the main provision. In other words, the proviso cannot prevail over the absolute terms of the main provision. The proviso in the very nature of the statutory scheme is subordinate to the main clause. I am tempted to think that the word “sections” is an inadvertent typographical omission in the said proviso.

13. There is a substantive reason as to why I conclude that the prohibitory order issued by a Non-Parent Principal Commissioner or Commissioner of Customs cannot extend beyond his Customs House. Section 21 of the General Clauses Act states that where a power is conferred, it includes a power to add to, amend,



vary or rescind also. It means that the authority issuing the license can suspend. The license is issued only by the Parent Commissioner.

The licensee practices within the jurisdiction of the Non-Parent Commissionerate under Form C intimation which is as follows:-

“ FORM - C

[see sub-regulation (3) of regulation 7]

Intimation by Customs Broker to work at another Customs Station

1.	Name of the Customs Broker:-
2.	Aadhaar Number:-
3.	Permanent Account Number (PAN)
4.	Full address of the Customs Broker :-
5.	Customs Broker License No. and Custom House of issue :-
6.	Name, Permanent Account Numbers (PAN) and address of each of the partners of the firm or the directors of the company, as the case may be, in case the applicant is a firm or a company :-
7.	Name(s) of its partner/partners or director/directors and Permanent Account Numbers (PAN) who will actually be engaged in the work as Customs Brokers, in case the applicant is a firm or a company :-
8.	Educational qualifications of each of the persons, who will actually be engaged in the work as Customs Broker:-

I/We hereby affirm that I/we have read the Customs Brokers Licensing Regulations, 2018 and agree to abide by them.



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W.P.(MD)NO.27982 OF 2025

Signature of the applicant(s)

.....

.....

Date: ”

License is issued by the Parent Commissionerate in Form B1 or Form B2. It is signed by the Principal Commissioner of Customs / Commissioner of Customs. The license granting authority authorises the licensee to transact business as Customs Broker all over India subject to conditions. Form C is a mere intimation. The licensee is not operating his business with the leave of the Non-Parent Commissioner. When the Non-Parent Commissioner has not issued the license, he obviously cannot suspend the same. The Regulations have taken care to deal with the situation when the Non-Parent Commissioner comes across any actionable lapse on the part of the licensee under Regulation 15.

14. In fact, this issue has already been settled by the Board vide Circular No.9 / 2010-CUS dated 08.04.2010. Paragraph Nos.3 and 4 reads as follows:-

“(iii) Suspension or revocation against

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**CHAs operating on 'C' form intimation basis:**

5.1. CHALR, 2004 provide a facility for the CHAs who have been issued a license from a particular customs station to operate under Form 'C' intimation at another customs station. In case of such CHAs, who are found to have violated any provision of the CHALR, 2004 at any customs station, it is clarified that the suspension action against CHA's operations may be taken by the Commissioner of Customs at the station who issued the CHA license and such action would either be limited to a particular customs station where a violation has been noticed or action against the CHA in general, applicable at all customs stations where the CHA operates, depending upon the gravity and seriousness of the violation. Where the CHA licence is suspended, all 'G' and 'H' cards issued in respect of that licence would become non-operational.

5.2. Further, it is also clarified that the Commissioner of Customs at a customs station who had authorised a CHA to operate on 'C' form intimation, should inform the details of violations to the Commissioner of Customs at the customs station from where the CHA licence was issued for such CHA, so that necessary action for suspension or revocation of CHA licence, could be initiated by



him. This would avoid duplication and ensure uniformity in adjudication of a case against a CHA in suspension or revocation proceedings by the Customs field formations. However, the Commissioner of Customs, who had authorised a CHA to operate on 'C' form intimation at a customs station, may take action in deserving cases under regulation 21 of CHALR, 2004 for prohibiting the working of such defaulting CHA in any section of the Custom House/Customs Station."

Though the above circular was issued when 2004 Regulations were holding the field, it would continue to govern for more than one reason. Regulation 21 of the 2004 Regulations is in pari materia with Regulation 15 of the current Regulations. The authorities are continuing to rely on the aforesaid circular till date. That apart, Section 24 of the General Clauses Act provides for continuation of orders, schemes, rules, forms, bye laws issued under repealed enactments provided there is no inconsistency with the repealing regime and till they are superseded formally. The same principle can be applied in the present case also. The circular issued when 2004 Regulations were holding the field is not in any way inconsistent with the current regime. It has also not been superseded or



withdrawn. Therefore, the aforesaid circular issued by the Board is applicable to the case on hand. Viewed in that light, it has to be held that the Commissioner of Customs, Tuticorin who is not the license granting authority cannot pass an order of suspension.

15. When the Regulations speak of prohibition and suspension, and the impugned order is an order of suspension traceable to Regulation 16, I have to necessarily hold that the respondent who is a Non-Parent Commissioner cannot exercise the power under Regulation 16 which is available only to a Parent Commissioner.

16. In this view of the matter, the orders impugned in the writ petitions are set aside as bereft of jurisdiction. These writ petitions stand allowed. No costs. Consequently, connected miscellaneous petitions are closed.

04.11.2025

NCC : Yes / No
Index : Yes / No
Internet : Yes/ No
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