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

\+ **CUSAA 39/2025 & CM APPLs. 3938/2025, 3939/2025**

COMMISSIONER OF CUSTOMS(AIRPORT AND GENERAL), NEW DELHI .....Appellant

Through: Mr. Aakarsh Srivastava, Standing Counsel for Customs.

versus

GLOBAL LINKS .....Respondent

Through: None.

CORAM:
JUSTICE PRATHIBA M. SINGH
JUSTICE DHARMESH SHARMA

O R D E R

% **22.01.2025**

1. This hearing has been done through hybrid mode.

CM APPL. 3939/2025 (for exemption)

2. Allowed, subject to all just exceptions. Application is disposed of.

CUSAA 39/2025 & CM APPLs. 3938/2025 (for interim stay)

3. The present appeal has been filed under Section 130 of Customs Act, 1962 challenging the impugned ***Final Order No. 56023/2024*** dated 10th July, 2024, passed by the Customs, Excise & Service Tax Appellate Tribunal, New Delhi (hereinafter "*CESTAT*") in Customs Appeal No. 50231/2024.

4. The brief background is that the Customs Department had found certain inaccuracies in the manner in which the Respondent- M/s. Global Links, Delhi, a Customs House Agent (hereinafter "*CHA*"), was facilitating exports and enabling claiming of duty drawbacks by certain exporters.

5. A show cause notice was issued on 9th May, 2023 by the Commissioner

of Customs (Airport & General), New Delhi, wherein the Respondent filed its reply and the Order-in-Original was passed on 30th October, 2023. In the said Order-in-Original, the Commissioner of Customs found certain irregularities and, *inter alia,* revocation of the Respondent's Customs Broker license was directed. The security deposit furnished by the Respondent was also forfeited and a penalty of Rs. 50,000/- was also imposed.

6. The said Order-in-Original was challenged by the Respondent in an appeal before the CESTAT and *vide* the impugned Final Order the CESTAT has set aside the revocation of the license. The reasoning given by the CESTAT is set out below:-

> *"18. Regulations 20 (1) of the 2013 Regulations, as noticed above, provides that the Commissioner of Customs shall issue a notice in writing to the Customs Broker within a period of 90 days from the date of receipt of the offence report. Even if the submissions of the learned counsel for the appellant that the show cause notice should be treated as the offence report and not the order dated 07.02.2023 passed by the Additional Commissioner, then too it was necessary for the appellant to specifically state the date on which the Commissioner of Customs received the show cause notice. All that has been submitted by the learned counsel for the appellant is that since the copy of the show cause notice was also marked to the Commissioner of Customs and the office is situated in the same building, it must be presumed that it was received by the Commissioner of Customs.*
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> *19. It is not possible to accept this contention of the learned counsel for the appellant. In order to substantiate that the provisions of Regulations 20 (1) had been violated, it was imperative for the appellant to have specifically mentioned the date on which the show*

cause notice was actually received by the Commissioner of Customs, even if it is assumed that it is the show cause notice that would constitute the offence report and not the order passed by the Commissioner.

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26. It is not in dispute that the appellant had submitted the KYC documents. This fact is also evident from the paragraph 2 of the order dated 07.02.2023 passed by the Additional Commissioner wherein it has been stated that the KYC documents, purchase invoice, bank statements were submitted by the appellant. What persuaded the Commissioner of Customs to hold that Regulation 11 (n) has been violated is the fact that the KYC documents were not directly obtained from the exporter. This cannot be said to be a relevant ground for violation of Regulation 11 (n) of the 2013 Regulations as the KYC documents were submitted by the appellant. This apart, as to who ultimately billed cannot also be a relevant factor for holding that Regulation 11 (n) of the 2013 Regulations has been violated.

27. Thus, it is not possible to sustain the finding recorded by the Commissioner of Customs that Regulation 11 (n) of the 2013 Regulations has been violated.

28. In regard to violation of Regulation 17(9) of 2013 Regulations, it is to be noticed that apart from the fact that the show cause notice does not contain any specific allegation regarding violation of the Regulations, the Commissioner of Customs has merely reproduced the reply submitted by the appellant and, thereafter, the order passed by the Additional Commissioner and from those two facts has concluded that the Regulation 17 (9) of the 2013 Regulations had been violated."

7. A perusal of the above would show that the reasoning given by the CESTAT is that the KYC documents were duly submitted by the Respondent herein. However, the Department's case is that the Respondent did not explain as to how it had obtained the said KYC documents. Hence, there were serious irregularities in the conduct of its business by the Respondent.

8. The Court has considered the matter. It is seen that the Order-in-Original was passed on 30th October, 2023 and the Customs Broker license of the Respondent came to be cancelled on the same date. The Respondent could not conduct any business as a CHA during the period from 30th October, 2023 till 10th July, 2024.

9. In the opinion of this Court, since the requisite KYC documents had been submitted by the Respondent and the main irregularity was in respect of the exporter Shri. Rakesh Gupta, proprietor of M/s. U.P. Garments, whose Importer Exporter Code (hereinafter "*IEC*") had been misused by other exporters in conspiracy with each other, the Respondent's Customs Broker license cannot be cancelled for perpetuity. The Respondent has already suffered severe consequences due to the cancellation of the said license for several months.

10. Under these circumstances, the Court is of the opinion that the impugned Final Order does not warrant any interference. Moreover, it is noted that the CESTAT also records that there is no ground set out in the Order-in-Original as to how the Respondent had violated the requirement of declaration under Regulation 17(9) of the Customs Brokers Licensing Regulations, 2013.

11. Under such circumstances, the Court is of the view that there is no substantial question of law that has arisen in the present appeal.

12. The appeal is accordingly rejected and disposed of in above terms.

13. Pending applications, if any, are also disposed of.

PRATHIBA M. SINGH, J.

DHARMESH SHARMA, J.

JANUARY 22, 2025
MR/ms