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

Date of Decision: 25th September, 2025

+ **W.P.(C) 7116/2019**

M/S DART AIR SERVICES PVT. LTDPetitioner

Through: Mr. Biraja Mahapatra & Mr. Nalin
Hingorani, Advs.

versus

COMMISSIONER OF CUSTOMS (AIRPORT AND
GENERAL)

.....Respondent

Through: Mr. Vijay Joshi, SSC with Mr.
Kuldeep Singh, Adv.

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 petition has been filed by M/s Dart Air Services Pvt. Ltd. challenging the order dated 29th August, 2019 arising from proceedings under the Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010 (*hereinafter, 'the Regulations, 2010'*). The petition challenges the disagreement note dated 31st May, 2019 (*hereinafter, 'the disagreement note'*), issued by the office of the Commissioner of Customs (Airport & General), New Custom House, New Delhi.
3. The case of the Petitioner is that it is in the business of providing courier services and is a registered company under the said Regulations, 2010. On 28th December, 2018, an incident was reported for the purpose of verification in



respect of certain courier parcels through the Petitioner which is an authorized courier, where the consignee was one Smt. Sayra Ansari.

4. The Special Intelligence & Investigation Branch (*hereinafter*, 'SIIB') sent a letter dated 22nd February, 2019 to the Respondent, wherein the suspension of the Registration of the Petitioner was requested.

5. The said incident report dated 28th December, 2018 pertained to the consignee, Smt. Sayra Ansarishe, wife of Mr. Munna @ Abdul Munna Ansari, who had a London address in Broadway, South UK. The allegations raised are that the husband of the consignee used to send parcels from London, containing cut cloth pieces along with measurements/designs for stitching, and these cut pieces of clothes were stitched at the residence of the consignee in India, where stitching machines were installed. The stitched items were then being sent back to the consignor *i.e.* Mr. Abdul Munna Ansari in London.

6. The SIIB officers had a conversation with Mr. Abdul Munna Ansari who informed them that he was running a tailoring business called M/s Munna Fashion House in London, UK. According to the SIIB, the parcels were being incorrectly described as '**gifts**' whereas in fact, they were of commercial quantity and were being sent for the purpose of business.

7. After furnishing the incident report dated 28th December, 2018, SIIB wrote a letter dated 22nd February, 2019 to the Customs Department seeking suspension of the Petitioner's registration which led to the Show Cause Notice dated 01st March, 2019 (*hereinafter*, '*the SCN*') being issued to the Petitioner. *Vide* the SCN, the registration of the Petitioner was suspended with immediate effect in the following terms:



ORDER

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16.1 In exercise of the powers conferred under second proviso to Regulation 13 (1) of Courier Imports and Exports (Electronic Declaration And Processing) Regulation, 2010, I suspend the operations of M/s Dart Air Services (P) Ltd., Express House, A-50/4, Mayapuri, Phase-1, New Delhi -110059, having Registration No. DEL/POL/COUR/11/2001 dated 28.09.2001 valid up to 17.09.2027, with immediate effect.

16.2 This order is being issued without prejudice to any other action that may be taken against the Authorized Courier 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.

16.3 The Noticee should tender all the evidences on which they intend to rely upon alongwith a reply to this show cause notice. They should also mention in their reply as to whether they would like to be heard in person before the case is finally adjudicated.

16.4 The said authorised courier is further informed that in case of their failure to submit their reply within 30 days of the communication of Inquiry Report and/or not appearing for a personal hearing on the date and time fixed for the same, or not complying with the directions as above, the case shall be decided by the Adjudicating authority ex-parte, on the basis of evidences already on record, without any further reference to them.

16.5 The department reserves the right to add, alter or amend this notice on the basis of any evidence, which comes in the knowledge of the department after issuance of this Notice.

8. Thereafter, the Petitioner filed a reply to the SCN on 25th March, 2019 and requested for revocation of the suspension of its registration. A representation dated 6th April, 2019 was also made by the Petitioner for revoking the suspension of registration and an appeal was also filed by the Petitioner to this effect.

9. The Chief Commissioner of Customs, *vide* order dated 17th May, 2019, rejected the appeal and in the meantime, the enquiry officer Mr. Bhagwat Prasad Sharma submitted an inquiry report dated 24th May, 2019 (*hereinafter*, '*the inquiry report*'). The conclusion in the inquiry report was as under:-



“CONCLUSION OF THE INQUIRY REPORT

I find that the said authorized courier has not violated the clause (iii), (v) and (vii) of Sub-regulation No. (1) of Regulation No. 12 of the Courier Imports and Exports (Electronic Declaration and Processing) Regulations, 2010.”

Thus, the Inquiry report concluded that the Petitioner had not violated Regulation (12)(1)(iii), (v) and (vii) of the 2010 Regulations.

10. After the above inquiry report, a disagreement note was generated on 31st May, 2019 by the Office of Commissioner of Customs (Airport & General), expressing disagreement in respect of the inquiry report. The disagreement note recorded as under:-

“6.2.2. Thus, it is established that the said courier company failed to notice that the consignor is running a business of stitching clothes and are importing commercial goods in the garb of Gifts, which are being sent by same consignor to the same consignee/ her family members, at the same address, repeatedly at frequent intervals and the same goods are being re-exported after stitching: The consignee himself accepted before SIIB officers that the imported goods are to be returned by them after stitching.

7. Thus, based on the above discussion, it appears that the findings of Inquiry Officer that contravention of Regulation 12(1)(iii), 12(1)(v) & 12(1)(vii) of CIER,2010 not being violated, are not based on facts. Therefore, I intend to disagree with the report of the inquiry officer and tend to infer that the violations of the Regulation 12(1) (iii). 12(1)(v) & 12(1)(vii) of CIER,2010, appear to have been proved.

8. In view of the above, and in terms of provision of Regulation of CIER,2010, the inquiry report along with



this disagreement note is hereby forwarded to M/s. Dart Air Services (P) Ltd., Express House, A-50/4, Mayapuri, Phase-1, New Delhi -110064 holding Courier Registration No. DEL/POL/COUR/11/2001 valid upto 17.09.2027 and the Noticee is required to submit its reply to the Commissioner of Customs (Airport & General) within 60 days of issuance of this disagreement note.

9. The noticee authorised courier is further informed that in case of their failure to submit their reply within 60 days of the communication of Inquiry Report and /or not appearing for a personal hearing on the date and time fixed for the same, or not complying with the directions as above, the case shall be decided by the Adjudicating, authority ex-parte, on the basis of evidences already on record, without any further reference to them.”

As per the above disagreement note, the Petitioner had violated the Regulations. The Inquiry Report along with the disagreement note was then served upon the Petitioner, who was to file a reply thereto.

11. This disagreement note was challenged in the present petition. During the pendency of this writ petition, order dated 26th August, 2019 was passed to the following effect:-

“ORDER

In exercise of powers conferred in terms of Regulation 13 read with Regulation 14 of CIER, 2010:

*(i) **I refrain from revoking the courier Registration** No. DEL/POL/COUR/11/2001 dated 28.09.2001 valid up to 17.09.2027 of M/s Dart Air Services (P) Ltd., as proposed in the Show Cause Notice cum Suspension Order No. 39/MK/Suspension/Policy/2019 dated 01.03.2019.*



(ii) I refrain from forfeiting the security submitted at the time of issuance of the courier Registration No. DEL/POL/COUR/11/2001 dated 28.09.2001 valid up to 17.09.2027 by M/s Dart Air Services (P) Ltd., as proposed in the Show Cause Notice cum Suspension Order No. 39/ MK/ Suspension/ Policy/2019.

(iii) However, I impose a penalty of Rs.50,000/- (Rupees Fifty Thousand Only) Dart Ltd., Registration No. DEL/POL/COUR/11/2001 dated 28.09.2001 valid up to 17.09.2027 under the provisions of Regulation 14 of CIER, 2010 and caution them to be more careful in future in complying with provisions of CIER, 2010.”

As per the above order dated 26th August 2019, the courier registration of the Petitioner was not revoked. However the Petitioner was found to be in violation of the Regulations and penalty of Rs. 50,000/- was imposed. A challenge to the above order was permitted to be added *vide* order dated 16th and an amended writ petition was filed. Thus the order dated 26th August 2019, is also under challenge in the present writ petition

12. The submissions of Mr. Biraja Mahapatra, Id. Counsel for the Petitioner is that under the Regulations, 2010, once the Inquiry report had held that the Petitioner was not in violation of any of the clauses under Regulation 12, the Commissioner of Customs does not have the jurisdiction to impose any penalty. He places reliance upon Regulation 13 in support of his submissions.

13. On the other hand, Mr. Vijay Joshi, SSC, CBIC relies upon Regulation 13A(vii) which stipulates that after the inquiry report is submitted, the Commissioner of Customs can pass such orders as it deems fit.

14. Heard. The Court has considered the submissions made and has perused the material on record. The relevant provisions of Regulations, 2010



are set out below:-

“Regulation 12. Obligations of Authorised Courier –

(1) An Authorised Courier shall –

(i) obtain an authorisation, from each of the consignees or consignors of the imported goods for whom or from whom such Courier has imported such goods; or consignees or consignors of such export goods which such Courier proposes to export, to the effect that the Authorised Courier may act as agent of such consignee or consignor, as the case may be, for clearance of such imported or export goods by the proper officer;

¹[Provided that for import of documents, gifts and samples, and low value dutiable consignments for which declaration have been filed in, Form-B or the Courier Bill of Entry-XI(CBE-XI), Form C or the Courier Bill of Entry-XII(CBE-XII) or Form-D or Courier Bill of Entry- XIII(CBE-XIII) respectively, the authorization may be obtained at the time of delivery of the consignment to consignee subject to the production of consignors authorisation at pre-clearance stage and retention of authorisation obtained from the consignee for a period of one year or date of Audit by Customs, whichever is earlier.]

(ii) file electronic declarations, for clearance of imported or export goods, through a person who has passed the examination referred to in regulation 8 or regulation 19 of the ²[Customs Brokers Licensing Regulations, 2013] and who are duly authorised under section 146 of the Act;

³[Provided that a transition period upto 31st December, 2011 shall be allowed to the Authorised Courier for fulfillment of the obligation in so far as it relates to examination referred to in regulation 8 of the ² [Customs Broker Licensing Regulations, 2013].

(iii) advise his consignor or consignee to comply with the provisions of the Act, rules and regulations made



thereunder and in case of non-compliance thereof, he shall bring the matter to the notice of the Assistant Commissioner of Customs or Deputy Commissioner of Customs;

(iv) verify the antecedent, correctness of Importer Exporter Code (IEC) Number, identity of his client and the functioning of his client in the declared address by using reliable, independent, authentic documents, data or information;

(v) exercise due diligence to ascertain the correctness and completeness of any information which he submits to the proper officer with reference to any work related to the clearance of imported goods or of export goods;

(vi) not withhold information communicated to him by an officer of customs, relating to assessment and clearance of imported goods as well as inspection, examination and Clearance of export goods, from a consignor or consignee who is entitled to such information;

(vii) not withhold any information relating to assessment and clearance of imported goods or of export goods, from the Assessing Officer;

(viii) not attempt to influence the conduct of any officer of Customs in any matter pending before such officer or his subordinates by the use of threat, false accusation, duress or offer of any special inducement or promise of advantage or by the bestowing of any gift or favour or other thing or value;

(ix) maintain records and accounts in such form and manner as may be directed from time to time by an Assistant Commissioner of Customs or Deputy Commissioner or Customs for a period of five years and



submit them for inspection to the Assistant Commissioner of Customs or an officer authorised by him, wherever required; and

(x) abide by all the provisions of the Act and the rules, regulations, notifications and orders issued thereunder.

Regulation 13. Suspension or revocation of registration of authorised courier. –

(1) The ¹ [Principal Commissioner of Customs or Commissioner of Customs, as the case may be] may revoke the registration of an Authorised Courier and also pass an order for forfeiture of security on any of the following grounds namely:-

(a) failure of the Authorised Courier to comply with any of the conditions of the bond executed by him under regulation 11;

(b) failure of the Authorised Courier to comply with any of the provisions of these regulations;

(c) misconduct on the part of Authorised Courier whether within the jurisdiction of the said ¹ [Principal Commissioner or Commissioner] or anywhere else, which in the opinion of the [Principal Commissioner or Commissioner] renders him unfit to transact any business in the Customs airport:

2. [***]

Provided 2 [* * *] that, in case the 1 [Principal Commissioner of Customs or Commissioner of Customs, as the case may be] considers that any of such grounds against an Authorised courier shall not be established prima facie without an inquiry in the matter, he may conduct an inquiry to determine the ground and in the meanwhile pending the completion of such inquiry, may suspend the registration of the Authorised Courier:

Provided ³ [further that] if no ground is established



against the Authorised Courier, the registration so suspended shall be restored.

(2) Any Authorised Courier or the officer of the Customs authorised by the ¹ [Principal Chief Commissioner of Customs or Chief Commissioner of Customs, as the case may be] in this behalf, if aggrieved by the order of ¹ [Principal Commissioner of Customs or Commissioner of Customs, as the case may be] passed under sub-regulation (1), may represent to the ¹ [Principal Chief Commissioner of Customs or Chief Commissioner of Customs, as the case may be] in writing against such order within sixty days of communication of the order to the Authorised Courier, and the ¹ [Principal Chief Commissioner of Customs or Chief Commissioner of Customs, as the case may be] shall, after providing the opportunity of being heard to the parties concerned, dispose of the representation as expeditiously as may be possible.

Regulation 13A. Procedure for revoking registration under regulation 13.

(1) TO (6)

(7) The ² [Principal Commissioner of Customs or Commissioner of Customs, as the case may be] shall, after considering the report of the inquiry and the representation thereon, if any, made by the Authorised Courier, pass such orders as he deems fit.”

Regulation 14. Penalty. –

An Authorised Courier, who contravenes any of the provisions of these regulations or abets such contravention or who fails to comply with any provision of these regulations with which it was his obligation to comply, shall be liable to a penalty which may extend to fifty thousand rupees.”



15. As per Regulation 12, an Authorised Courier acts as an Agent of the Consignor or Consignee. There are various obligations that are imposed on an approved Courier agency, such as –

- i. Filing of electronic declarations for clearance of goods through persons engaged by it as per the Regulations;
- ii. Advising consignors and consignees for compliance of the provisions of the Act – for e.g., to advise them not to send prohibited goods or restricted goods through courier; to not misdeclare the goods etc.,;
- iii. Verifying the authenticity of the IEC code and the identity of the client by independent and credible information/sources;
- iv. Exercising due diligence in respect of the paperwork and information submitted;
- v. Being candid and not withholding information communicated to the authorised courier by the Customs and diligently informing the Consignor/Consignee of the same;
- vi. Disclosing all relevant information relating to import or export of goods;
- vii. Refrain from exercising any undue influence on customs officials through any improper methods;
- viii. Maintaining of proper records and submit the same for inspection when called upon to do so.

16. Under Regulation 13, the registration of an Authorised Courier can be revoked on the grounds specified therein such as non-compliance of its obligations, misconduct etc. A perusal of the Regulation 13A would show that the enquiry report itself is not binding and the Principal Commissioner



or Commissioner of Customs can consider the enquiry report and pass such orders as may be necessary. The submission, therefore, that the enquiry report had completely exonerated the Petitioner and, therefore, no penalty could have been imposed, would not be tenable submission. It is further noted that under Regulation 14, if the Authorized courier has acted contrary to any provisions of the Regulations, 2010 or abets any contravention, or fails to comply with the provisions of the Regulations, 2010, the Commissioner of Customs is well within his rights to take action.

17. In the present case, after the SIIB's investigation, there were various facts which were revealed that commercial goods were being sent under the disguise of 'gifts'. The Courier Agency failed to notice the same which clearly shows non-exercise of due-diligence. In fact, the Commissioner of Customs, in its order dated 26th August, 2019 upheld the inquiry report only to the extent that there is no violation of Regulation 12 (1)(iii) and 12 (1)(vii). However, insofar as the Regulation 12(1)(v) is concerned, required level of due diligence may not have been exercised by the Petitioner leading to imposition of penalty.

18. A perusal of the final order which has been passed on 26th August, 2019 would show that the Commissioner of Customs has refrained from revoking the courier registration of the Petitioner and has also not forfeited the security submitted by the Petitioner at the time of issuance of the courier registration.

19. However, a penalty of Rs 50,000/- has been imposed on the Petitioner in the order dated 26th August, 2019. Such an order would be well within the jurisdiction of the Commissioner in terms of Regulations 13A(7) and Regulation 14 of the Regulations, 2010.



20. In fact, courier agencies, such as the Petitioner do have a responsibility to ensure that whenever there is any suspicious courier packets being delivered or being transacted through them, due diligence ought to be exercised and if there is any suspicion, the same ought to be reported to the concerned authority. Regulation 12 imposes significant obligations on the courier agencies and the same ought to be taken seriously and services have to be performed with due diligence.

21. Thus, in the overall fact situation, this Court is of the opinion that the order passed on 26th August, 2019 is clearly within the jurisdiction of the Commissioner of Customs and the penalty imposed of Rs 50,000/- in terms of Regulation 14 does not warrant any interference.

22. Under these circumstances, the writ petition challenging the order 26th August, 2019 is dismissed with no order as to costs. The penalty of Rs.50,000/- shall be deposited by the Petitioner in accordance with law within a period of four weeks.

**PRATHIBA M. SINGH
JUDGE**

**SHAIL JAIN
JUDGE**

SEPTEMBER 25, 2025

sk/ss