IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CUSTOMS APPEAL NO.2 OF 2025

Principal Commissioner of Customs (General) .. Appellant

Versus

A.B.Paul & Co. .. Respondent

Mr. M.P.Sharma a/w Ms.Mamta Omle, Advocate for the Appellant.

Mr.Anil Balani a/w Ms.Priyasha Pawar, Advocate for Respondent.

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: FEBRUARY 4, 2026

P. C.

1. The above Appeal is filed by the Revenue challenging the Order dated 2nd June 2023 passed by the Customs, Excise & Service Tax Appellate Tribunal, Mumbai ('CESTAT') in Appeal No.86451 of 2022. The Appeal before the CESTAT was filed by the Respondent Assessee herein. According to the Revenue, the impugned Order of the CESTAT gives rise to the following substantial questions of law:

> *"a. "Whether the Hon'ble Tribunal erred in not considering the fact that the timeline contained in Regulation 20 cannot be construed to be mandatory & is held to be directory & further ignoring the fact that it should be taken into consideration whether procedural lapses such as non-adherence to timelines specified in CBLR, 2018, whilst dealing with a case has severe*

implication over revenue in view of the decision passed by Principal Commissioner of Custom Vs Unison Clearing Pvt Ltd"?

b. "Whether the Hon'ble Tribunal erred in ignoring the fact that the only reason for not granting an opportunity of cross examination to respondent/CB is because it only pushes the timeline of the case further despite of delay already caused in proceedings"?

c. "Whether the Hon'ble Tribunal was justified and right in weighing the procedural lapses which are directory in nature, against the scale of the offense especially, if the department can benefit from the decision taken on this case based on facts and violations committed by CB by giving CB a chance to cross examine the witness now"?

d. "Whether the Hon'ble Tribunal/CESTAT erred in overturning all findings of facts and holding that none of the charges are proved and holding that the Respondents have done no wrong"?

e. "Whether the Hon'ble Tribunal/CESTAT was right in setting aside revocation of Custom Broker License and forfeiture of Security Deposit & penalty despite of the fact that respondent has failed to discharge his obligation as Customs House Agent as required under Regulation 10 and regulation 10(a), 10(d), 10(e), 10(k), 10(n) & 13(11) of the CBLR, 2018"?."

2. After going through the impugned Order, we find that no substantial question of law arises in the present case. We say this because admittedly, as recorded in the impugned Order, despite the Respondent seeking an opportunity to cross-examine persons examined by the Revenue, in support of the grounds forming the basis of the proceeding, the aforesaid opportunity was denied. The denial was on the basis that there is no retraction filed by any of the persons whose statement were recorded under

Section 108 of the Customs Act, 1962, and therefore, there is no need to cross-examine all the persons, as demanded by the Respondent.

3. Regulation 17 of The Customs Brokers Licensing Regulations, 2018, (CBLR, 2018) sets out the procedure for revocation of a license or imposing a penalty on the Customs Brokers. Regulation 17(3) stipulates that 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. Regulation 17(4) stipulates that the Customs Broker shall be entitled to cross-examine the persons examined in support of the grounds forming the basis of the proceedings. For the sake of convenience, Regulations 17(3) and 17(4) are reproduced herein:

> *"**Regulation 17. Procedure for revoking license or imposing penalty.***
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> *(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.

4. In the facts of the present case, admittedly, the inquiry relies upon the oral evidence/statements recorded of certain persons. Admittedly also, these persons were not cross-examined by the Respondent Assessee because the right to cross-examine these persons was denied by the Inquiry Officer. We find that, in the facts of the present case, once there is a breach of Regulation 17(4), then we do not find any infirmity in the Order passed by the Tribunal in setting aside the Order of the Commissioner revoking the license of the Respondent Assessee.

5. In fact, a similar matter had come up before the Telangana High Court in the case of **Shasta Freight Services Pvt.Ltd. vs. Pr. Commr. Of Cus., Hyderabad (2019) 368 ELT 41 (Telangana)** where the interpretation of Regulation 20(4) of the Customs Brokers Licensing Regulations, 2013 came up for consideration. Regulation 20(4) is identical to Regulation 17(4) of the 2018 Regulations. In this matter, the Telangana High Court held that since there was a violation of Regulation 20(4), the impugned Order based upon an

Inquiry Report would be contrary to the procedure prescribed by Regulation 20(4) and clearly in violation of the principles of natural justice.

6. Further, the judgment of the Telangana High Court was subjected to a challenge before the Hon'ble Supreme Court. The Hon'ble Supreme Court dismissed the SLP stating that in the facts of the case, and in view of the specific finding recorded by the Telangana High Court, the Hon'ble Supreme Court was also satisfied that there was a breach of Regulation 20(4) of the Customs Brokers Licensing Regulations, 2013. Hence, the Hon'ble Supreme Court saw no reason to interfere with the Order passed by the Telangana High Court.

7. In the light of the aforesaid discussion, we have no hesitation in holding that the CESTAT was fully justified in setting aside the Order of the Commissioner on the ground of non-compliance of Regulation 17(4) of the CBLR, 2018. As far as the finding given by the Tribunal on the time line is concerned, the same becomes irrelevant when one takes into account the fact that the Order of the Commissioner cannot be sustained on the ground that it is passed in violation of Regulation 17(4) and in breach of the principles of natural justice.

8. We, accordingly, find that the above Appeal does not give rise to any substantial question of law requiring any answer by the Court. It is accordingly dismissed. However, there shall be no order as to costs.

9. This order will be digitally signed by the Private Secretary/ Personal Assistant of this Court. All concerned will act on production by fax or email of a digitally signed copy of this order.

[FIRDOSH P. POONIWALLA, J.] **[B. P. COLABAWALLA, J.]**