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

CUSTOMS APPEAL NO. 46 OF 2024

Principal Commissioner of Customs (General) .. Appellant

Versus

Suswashis Clearing and Forwarding Agency .. Respondent

Adv. Subir Kumar a/w Mr. Satyaprakash Sharma a/w Ms. Ashita Aggarwal, Ms. Vaishnavi Pawar, for the Appellant.

CORAM: B. P. COLABAWALLA &
FIRDOSH P. POONIWALLA, JJ.
DATE: JUNE 11, 2026

P. C.

1. The above Appeal has been filed by the Revenue Authority challenging the order passed by the Customs, Excise and Service Tax Appellate Tribunal (CESTAT) dated 16th February 2024. By the impugned order, CESTAT allowed the Appeal filed by the Respondent before us (the Customs Broker) and set aside the impugned order passed by the learned Principal Commissioner of Customs (General) Mumbai, whereby the Customs Broker License was deemed to be revoked, the security deposit was forfeited for the second time and for imposition of penalty. Apart from

finding that there was no violation of Regulations 10(a), 10(d) and 10(n), CESTAT found that the order impugned before it was clearly in violation of Regulation 17(4) of the Customs Brokers Licensing Regulations, 2018 (CBLR, 2018).

2. According to the Revenue, the impugned order of the CESTAT gives rise to the following questions of law:

> *A. Whether or not Hon'ble CESTAT was correct in holding that once the license has been revoked pursuant to an OIO order dated 31.05.2021, the Show Cause Notice dated 27.04.2022 could not have been issued for the violation of Regulation 10(a), 10(d) and 10(n) of the Customs Brokers Licensing Regulation, 2018 and that there was no concept of deemed revocation of license under CBLR ?*
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> *B. Whether or not the CESTAT has failed to appreciate that the Respondent did not appear before Commissioner in spite of personal hearings granted to the Respondent on 14.09.2022, 29.12.2022, 15.02.2023, 15.03.2023 to appear for the same ?*
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> *C. CESTAT was correct in law in holding that the punishment of revocation of license is much harsh and disproportionate to the offences committed ?*

3. At the outset, we note that question 'C' does not arise at all out of the impugned order because no finding has been given by the CESTAT to the effect that punishment of revocation of license is harsh and disproportionate

to the offences committed. Hence, there is no question of entertaining question 'C' reproduced above.

4. As far as questions 'A' and 'B' are concerned, they clearly do not arise in the facts of the present case because undisputedly, there has been a clear violation of Regulation 17(4) of the CBLR, 2018. Regulation 17(4) clearly 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, and where the Deputy Commissioner of Customs or Assistant Commissioner of Customs declines permission to examine any person on the ground that his evidence is not relevant or material, he shall record his reasons in writing for doing so. The Tribunal, in paragraphs 7.4 and 7.5 of the impugned order, has clearly examined the facts and thereafter come to the conclusion that Regulation 17(4) is violated. The Tribunal took note of the fact that after the Show Cause Notice issued on 27th April 2022, the Customs Broker in its written submission tendered vide letter dated 30th June 2022 to the Inquiry Officer had requested for permitting them to cross examine the witnesses Shri Rajesh Dilip Gihar, a proprietor of the export firm M/s. G. R. Creation and Shri Mohammad Yusuf, Manager of M/s Manjunatha Cargo Pvt. Ltd. Incidentally, in the Show Cause Notice issued, the statement of Shri Rajesh Dilip Gihar was specifically relied upon to frame

the charges against the Customs Broker. Since no opportunity to cross examine Mr Rajesh Dilip Gihar was granted to the Customs Broker (the Respondent herein), the CESTAT came to the conclusion, and in our view correctly so, that there was a clear breach of Regulation 17(4) which vitiated the entire proceedings.

5. In coming to this conclusion, the CESTAT also relied upon the decision of the Telangana High Court in the case of ***Shasta Freight Services Pvt. Ltd. Vs. Principal Commissioner of Customs, Hyderabad 2019 (368) E.L.T. 41 (Telangana).*** Incidentally, a challenge to this Judgement of the Telangana High Court before Hon'ble Supreme Court was also unsuccessful as the SLP filed therefrom was dismissed.

6. After going through the order of the CESTAT, we find that on the ground of violation of Regulation 17(4) itself, the CESTAT was fully justified in allowing the Appeal filed by the Customs Broker. Hence, the question whether the CESTAT was correct in holding that once the license has been revoked, pursuant to an Order-in-Original dated 31st May 2021, the Show Cause Notice dated 27th April 2022 could not have been issued, or whether CESTAT has failed to appreciate that the Customs Broker did not

appear before the Commissioner inspite of personal hearings granted to the Customs Broker on several dates, is wholly irrelevant. In other words, question 'A' and 'B' projected by the Revenue are really not required to be considered in this case as Regulation 17(4) of CBLR, 2018 was violated.

7. We make it clear that question 'A' as projected by the Revenue is expressly kept open to be agitated in an appropriate case.

8. With these observations, we hold that there is no merit in the above appeal. 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.]**