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

CUSTOMS APPEAL NO.54 OF 2025

Commissioner of Customs (General)

.. Appellant

Versus

M/s.Sky Shipping

.. Respondent

Mr. Vijay H. Kantharia, a/w Mr.Suman Das, Advocate for the Appellant.

Mr. Rajkumar Maji i/b Mr.Vivek Khemka, Advocate for the Respondent.

CORAM: B. P. COLABAWALLA &

FIRDOSH P. POONIWALLA, JJ.

DATE: JUNE 11, 2026

P. C.

1. The above Customs Appeal has been filed by the Revenue to challenge the impugned Order dated 24th March 2025 passed by the Customs Excise and Service Tax Appellate Tribunal (“the CESTAT”). According to the Revenue, the impugned Order gives rise to the following questions of law:

“(i) Whether the CESTAT erred in law by setting aside the revocation of the Customs Broker's license and forfeiture of security

deposit under Regulation 14 of the Customs Broker Licensing Regulations (CBLR), 2018, despite acknowledging partial non-compliance with RMS-mandated 100% examination requirements, in light of the binding precedent in *Commissioner of Customs v. Aafloat Textiles* (2009) 237 ELT 587 (SC), which holds that procedural lapses in mandatory inspection protocols constitute a violation warranting regulatory action, regardless of intent?

(ii) Whether the CESTAT misinterpreted Regulations 10(d) and 10(e) of the CBLR, 2018, by holding that the Customs Broker was not liable for non-compliance with RMS examination orders, contrary to the Supreme Court's ruling in *Commissioner of Customs v. K.M. Ganatra & Co.* (2016) 335 ELT 3 (SC), which mandates that Customs Brokers are responsible for ensuring strict compliance with customs procedures, including proper examination?

(iii) The finding of the CESTAT that the Customs Broker's failure to ensure 100% examination constituted a mere "technical lapse" is legally untenable. The record reveals compelling and corroborative evidence-namely, CCTV footage admissible under Section 65B of

the Indian Evidence Act, 1872; discrepancies in Container Freight Station (CFS) examination charges; and statements recorded under Section 108 of the Customs Act, 1962. These materials collectively establish grave procedural irregularities and a clear dereliction of duty by the Customs Broker. Such negligence, which either resulted in or had the potential to cause substantial revenue loss to the exchequer, squarely attracts penal consequences under the applicable statutory framework viz. CBLR, 2018. The characterization of these lapses as merely technical undermines the seriousness of the breach and fails to appreciate the statutory obligations imposed on Customs Broker.

(iv) Whether the CESTAT's order violates the principle of reasoned adjudication articulated in *Kranti Associates Pvt. Ltd. v. Masood Ahmed Khan* (2010) 9 SCC 496, by failing to adequately engage with the detailed findings of the Order-in-Original dated 21.06.2024, which substantiated non-compliance with Regulations 10(d) and 10(e) of CBLR, 2018, through evidence such as CCTV footage, CFS invoice discrepancies, and employee admissions?

(v) Whether the CESTAT's decision to uphold the penalty of ₹50,000 under Regulation 18 of CBLR, 2018, while setting aside the revocation of the license and forfeiture of security deposit under Regulation 14, is inconsistent and contrary to the principle of proportionality, given the gravity of the proven violations involving non-compliance with RMS-mandated 100% examination, failure to deploy an authorized "G" cardholder, and non-reporting of material misdeclaration of restricted goods?

(vi) Whether the Hon'ble CESTAT erred in holding that there was no violation of Regulation 10(d) and 10(e) of the CBLR, 2018?

(vii) Whether the Hon'ble Tribunal erred in legally interpreting the scope of Regulations 14 read with 17 & 18 of the CBLR, 2018.”

2. We have heard Mr.Kantharia, the learned counsel appearing on behalf of the Revenue, and Mr.Rajkumar Maji, the learned counsel appearing on behalf of the Respondent (the Customs Broker).

3. We have carefully gone through the impugned Order passed by the CESTAT.

4. The issue before the CESTAT was whether the Respondent Customs Broker had violated Regulation 10(d) and Regulation 10(e) of the Customs Brokers Licensing Regulations, 2018 (“CBLR, 2018”). Regulation 10(d) obliges the customs broker to advise his client to comply with the provisions of the Act, allied Acts, rules, and regulations thereof, and in case of non-compliance, bring the matter to the notice of the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be. Regulation 10(e) obliges the Customs Broker to exercise due diligence to ascertain the correctness of any information which he makes to a client with reference to any work related to the clearance of cargo or baggage.

5. After examining the factual matrix of the matter, the CESTAT, as the last fact finding authority, came to the conclusion that the Revenue was not able to establish that the Respondent had breached either Regulation 10(d) or Regulation 10(e).

6. In fact, in paragraph 11 of the impugned Order, the CESTAT held that they found no evidence to charge the customs broker with not advising the client on the requirement to comply with the statutes; nor of participation in compelling customs official not to carry out the examination of the products imported by the importer.

7. After taking all these facts into consideration, and especially considering the fact that the goods imported were of such a nature that their classification could not be determined merely by looking at the goods, the CESTAT gave its finding on Regulation 10(d) in paragraph 11 referred to by us earlier. To put it in a nutshell, the CESTAT held that there was no evidence to hold that Regulation 10(d) of the CBLR, 2018, had been breached except the technical violation as set out in paragraph 9 of the impugned Order.

8. As far as violation of Regulation 10(e) was concerned, the Tribunal, on facts, came to the conclusion that Regulation 10(e) has not been breached by the Customs Broker. In fact, in paragraph 13, the CESTAT noticed that at no stage had the importer suggested that it had been advised to furnish the goods only partially for examination owing to information imparted by the customs broker. In the absence of such imputation of misconduct and any finding to that fact, the CESTAT held that it cannot be said that there is a breach of Regulation 10(e) of the CBLR, 2018. It is in these facts that the CESTAT set aside the revocation of licence and forfeiting of security deposit and only continued the imposition of penalty of Rs.50,000/- in the impugned Order.

9. We find that the entire Order of the CESTAT is fact driven. It is after examining the facts that the CESTAT came to the conclusion that there was no violation of either Regulation 10(d) or 10(e). It is not even the case of the Revenue that the facts noted by the Tribunal are either perverse or contrary to the record or any material fact has not been taken into consideration whilst arriving at its decision. Since the CESTAT is the last fact finding authority and we find that the conclusions reached by the CESTAT on the facts before it is certainly one which cannot be faulted or termed as perverse, we find that the above Appeal does not give rise to any substantial question of law.

10. The Appeal is therefore dismissed. However, there shall be no order as to costs.

11. 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.]