IN THE HIGH COURT OF JUDICATURE AT MADRAS

Reserved on : 20.01.2026

Pronounced on : 23.01.2026

CORAM

THE HON'BLE MR JUSTICE ABDUL QUDDHOSE

WP No. 27556 of 2025 AND WMP NO. 30873 OF 2025, WMP NO. 30875 OF 2025, WP NO. 27838 OF 2025, WMP NO. 31173 OF 2025, WMP NO. 31174 OF 2025

M/s.Imperial Shipping Service,
Rep. By Its Partner Tomy John Havign Office At
2/3, 3rd Lane, North Beach Road, Chennai-1.

..Petitioner(s)

Vs

The Joint Commissioner Of Customs IV,
Customs House No.60, Rajaji Salai,
Chennai-1.

..Respondent(s)

WP No. 27838 of 2025

M/s Imperial Shipping Services,
Rep By Its Partner Tomy John, Having Office At
2/3, 3rd Lane, North Beach Road, Chennai 1

..Petitioner(s)

Vs

The Commissioner Of Customs (General)
Customs House, No 60 Rajaji Salai,
Chennai 1

..Respondent(s)

Writ petition is filed under Article 226 of the Constitution of India seeking for issuance of writ of certiorari to call for the records in order-in-original No.113405 of 2025 dated 30.05.2025 on the file of the respondent and quash the same as illegal, incompetent, arbitrary and wholly without jurisdiction and thereby render justice

WP No. 27838 of 2025

Writ petition is filed under Article 226 of the Constitution of India seeking for issuance of writ of certiorari to call for the records in order No 27 of 2025 dated 18.07.2025 on the file of the respondent and quash the same as illegal, incompetent, arbitrary and wholly without jurisdiction

For Petitioner(s):	Mr.V.Ragavachari, SC for M/s.Sunny Sheen Akkara
For Respondent(s):	Ms.Revathi Manivannan, SPC in W.P.No.27556/25 Mr.Rajendran Raghavan, SPC in W.P.No.27838/25

COMMON ORDER

The petitioner in both the writ petitions is a Customs House Agent (CHA). W.P.No.27556 of 2025 has been filed challenging the impugned order-in-original dated 30.05.2025 imposing a penalty of Rs.30 lakhs on the petitioner under Section 114 of the Customs Act (in short “the Act”) for allegedly aiding and abetting the exporter for attempting to export the prohibited goods.

2. W.P.No.27838 of 2025 has been filed challenging the impugned order dated 18.07.2025 passed by the Commissioner of Customs suspending the

petitioner's Customs Broker License under Regulation 16 of the Customs Broker Licensing Regulations, 2018 (in short CBLR, 2018).

3. Since the cause of action for passing the impugned orders in both the writ petitions is one and the same, both the writ petitions are disposed of by a common order.

4. The crux of the matter is that the petitioner, who is a Customs House Agent, is said to have aided and abetted M/s.Meatco Industries (in short "Exporter") to illegally export the prohibited "Bos indicus (Bull/Ox) meat" by mis-declaring the same as "Boneless Buaffalo Meat". Apart from imposing the penalty of Rs.30 lakhs on the petitioner, the Customs Broker License of the petitioner has been suspended under Regulation 16 of the CBLR, 2018, for violating the provisions of Regulation 10(d), 10(e) and 10(n) of the CBLR, 2018. A finding has been rendered by the respondent in the impugned order in original that the petitioner did not exercise its due diligence, and owing to the same, it had aided and abetted the Exporter in their illegal act of attempting to export a prohibited item. In the impugned order in original, the respondent has further held that the petitioner did not alert the officials when the Exporter transported the goods from Hyderabad, whereas the abattoir is situated in Tanuku, Andhra Pradesh.

5. Mr.V.Raghavachari, learned Senior counsel, assisted by Mr.Sunny Sheen Akkara, learned counsel for the petitioner, would submit as follows:-

(a) The petitioner has not violated Regulation 10(d), 10(e) and 10(n) of the CBLR, 2018.

(b) The petitioner had never physically inspected the goods as their job is only to assist the Exporter in their paper work to be submitted with the Customs Department.

(c) As per Regulation 10 of the CBLR 2018, there is no duty cast upon the petitioner to physically inspect the goods.

(d) On the face of it, the subject goods cannot be identified as prohibited goods. Even the respondent, upon inspecting the subject goods, could not identify the nature of the goods at the first instance, and they were able to ascertain the same only after receiving the lab report.

(e) Even if the petitioner had inspected the goods, they would not have been able to differentiate between them without the existence of a lab report.

(f) The Exporter had provided Health and Pre-shipment certificates issued by the Department of Animal Husbandry, Government of Andhra Pradesh, which certify that the goods were indeed "Boneless Buffalo Meat". Only based on those documents, the petitioner had submitted the shipping bills which disclose the subject goods as "Boneless Buffalo Meat". There is no *mens rea* on the part of the petitioner for the alleged misdeclaration.

(g) To constitute an act of aiding and abetting as provided under Section 114 of the Act, it is absolutely necessary for the petitioner to possess *mens rea* while committing an offence, which is not so in the present case, as the petitioner never had the knowledge that the subject goods is a prohibited item for export.

(h) In the impugned orders, it is observed that the petitioner was involved in 10 other similar cases. However, final orders have been passed in all the cases, except for the impugned order dated 30.05.2025, which is the subject matter in W.P.No.27556 of 2025, exonerating the petitioner from any liability. This clearly suggests that the respondent, only after perusing the documents submitted before them and after thorough reading of the CBLR, 2018, had come to the right conclusion that the petitioner was not liable for the acts of the exporter in respect of the other similar exports handled by the petitioner.

6. The learned Senior counsel for the petitioner would further submit that the reasoning given by the respondent for holding that the petitioner violated Regulation 10(d) of the CBLR, 2018, on the ground that the petitioner neither informed the Customs Department nor advised the exporter that the goods were being transported from Hyderabad while the abattoir is situated at Tanuku, Andhra Pradesh, is untenable. The duty of the petitioner under Regulation

10(d) of the CBLR, 2018, is to merely advise their client to follow the Customs Act, and in case of breach of the same, the Customs House Agent owes a duty to inform the same to the Customs Authorities. At no point of time, the petitioner is duty bound to inspect the goods or verify the genuineness of the transactions. The petitioner cannot be delegated with the duty of the Customs Department.

7. He would further submit that the reasoning given by the respondent in the impugned orders for holding that the petitioner has violated Regulation 10(d) of the CBLR, 2018, is also incorrect. The respondent under the impugned orders has held that the petitioner did not exercise due diligence when the Exporter was transporting the goods from Hyderabad, instead of Tanuku, Andhra Pradesh. However, under Regulation 10(e) of the CBLR, 2018, the petitioner has to ensure that they carry out due diligence to ascertain the correctness of any information that he imparts to his client with regard to clearance of cargo or baggage. Once again, the Customs Department has weaved an illusory violation with the sole intension to harass the petitioner, because, any prudent person upon simply perusing Regulation 10(e) would come to the conclusion that his duty is only to ensure that he carries out proper due diligence when he imparts any information to the exporter, nothing more nothing less. When such is the case, the reasoning adduced by the respondent is misconceived and ought to be set at naught.

8. He would further submit that the reasoning given by the respondent for the violation under Regulation 10(n) is also baseless. The respondent has miserably failed to apply his mind and has time and again given the same reasoning under different shades to hold that the petitioner is liable for violating the CBLR, 2018. Under Regulation 10(n) of the CBLR, 2018, the petitioner has a duty to verify the Importer Exporter Code Number, GST identification number, identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information. The petitioner had submitted all the aforesaid documents after due verification by the Customs Authorities during the enquiry and at no point of time, the respondent had refuted the authenticity of those documents provided by the petitioner. When that is the case, and all those documents submitted by them is not found fault with, there is no question of holding the petitioner liable for allegedly violating Regulation 10(n) of the CBLR, 2018.

9. The learned Senior counsel for the petitioner in support of his contentions drew the attention of this Court to the following authorities:-

(a) Commissioner of Customs Vs. M/s.Moriks Shipping [2014 SCC Online Mad 11716];

(b) Commissioner of Customs Vs. M.Renganathan [2015 SCC Online Mad 14307]; and

(c) a Division Bench of the Delhi High Court in the case of Kunal Travels (Cargo) Vs Commission of Customs [2017 SCC Online Del 7683].

10. On the other hand, Ms.Revathi Manivannan, learned senior standing counsel for the respondent in W.P.No.27556 of 2025, and Mr.Rajendran Raghavan, learned senior standing counsel for the respondent in W.P.No.27838 of 2025, would submit as follows:-

(a) Investigation conducted by the Customs Department has revealed multiple critical discrepancies, and they are, (i) E-way bills showed goods originated from Hyderabad, Telangana, not Tanuku, Andhra Pradesh as declared in Health Certificate; (ii) Complete absence of Travel Fitness Certificates for livestock transport; (iii) No livestock procurement documents from registered markets; (iv) Abattoir M/s. Laham Food Products Pvt. Ltd. failed to maintain proper inward/outward registers of animals; and (v) No ante-mortem and post-mortem veterinary certificates as mandated by Red Meat Manual was produced.

(b) The Exporter in his voluntary statement dated 04.12.2024, accepted the ICAR-NMRI test reports, and admitted that replacement of meat happened after dispatch from the abattoir. Investigation further revealed that the petitioner filed shipping bills in 10 other similar cases where exporters attempted to export prohibited "Bos Indicus (Bull/Ox) meat" by misdeclaring as

"Boneless Buffalo Meat". This pattern of violation establishes either active complicity or wilful blindness on the part of the petitioner, thereby attracting liability under Section 114(i) of the Act.

(c) Export of "Beef of Cows, Oxen and Calf" is absolutely prohibited item under DGFT ITC (HS) Schedule 2 of Export Policy, and thus, liable for confiscation under Section 113 of the Act.

(d) These writ petitions are not maintainable as the petitioner has not exhausted the statutory remedy of appeal provided under Section 128 of the Act.

(e) Regulation 10(d) of the CBLR, 2018, casts a mandatory and non-delegable duty of due diligence on Customs Brokers which cannot be satisfied by merely accepting documents at face value. The petitioner completely failed to exercise due diligence by failing to verify the actual source of goods despite glaring discrepancy between the declared source (Tanuku, Andhra Pradesh in Health Certificate), and the actual origin (Hyderabad, Telangana, as per e-way bills).

(f) The petitioner's verification was wholly superficial and inadequate – mere verification of QR code and APEDA registration does not absolve the Customs Broker's responsibility to verify, (i) whether goods actually came from declared abattoir; (ii) whether proper livestock procurement records maintained;

(iii) whether animals transported with Travel Fitness Certificates; (iv) whether ante-mortem and post-mortem inspections conducted; and (v) consistency between declared origin and actual transport documents.

(g) The petitioner, being a professional licensed Customs Broker operating since 1982, cannot claim ignorance of; (i) prohibition on export of Ox/Bull Meat; (ii) strict requirements of red meat manual; (iii) state laws regulating cattle slaughter; and (iv) need for proper documentation of livestock procurement and transport.

(h) The petitioner actively facilitated the attempted export by (i) filing shipping bills with false declarations; (ii) arranging transportation of containers from Hyderabad to Chennai; (iii) coordinating with port authorities for clearance; and (iv) representing to Customs that all the documents were in order despite obvious discrepancies. These acts constitute active abetment – intentionally aiding, by act or omission, the attempted export of prohibited goods, thereby attracting penalty under Section 114(i) of the Act.

(i) If the Customs Brokers are permitted to escape liability by claiming reliance on exporters' documents, it would, (i) undermine the entire regulatory framework; (ii) incentivise wilful blindness and negligence; (iii) facilitate illegal exports and smuggling; and (iv) defeat the purpose of licensing and regulation.

(k) The impugned orders are a detailed reasoned orders supported by (i) ICAR-NMRI test reports accepted by exporter; (ii) E-way bills and shipping bills; (iii) voluntary statements under Section 108; (iv) absence of mandatory documentation; and (v) documents recovered during searches. Therefore, the petitioner has failed to exercise its due diligence while verifying the accuracy of documents provided by the exporter and has facilitated the filing of shipping bills for export of prohibited goods by misdeclaring "Bos Indicus (Ox/Bull) Meat" as "Boneless Buffalo Meat", and hence, the petitioner is liable to pay penalty under Section 114(i) of the Act for aiding and abetting the exporter.

DISCUSSION:

11. The petitioner, who is a Customs House Agent, has been penalised under Section 114 of the Act on the ground that they aided and abetted the exporter who attempted to export "Bos Indicus (Ox/Bull) Meat", which is a prohibited item, by falsely declaring the same as "Boneless Buffalo Meat", which is a permissible item for export. A Customs House Agent can be penalised for misdeclaration if there is direct evidence of their active involvement, collusion, or intentional wrong doing. However, they cannot be penalised on account of the sole fault of the exporter in the misdeclaration of the goods meant for export. As a customs broker, the petitioner acts only as a facilitator for the purpose of the exporter fulfilling all the paper work with the

Customs Department. At no point of time, the customs broker physically inspects the goods meant for export. Even as per Regulation 10 of the CBLR, 2018, there is no duty cast upon the petitioner to physically inspect the goods. The Customs Authorities themselves were unable to identify at the first instance the nature of the goods upon physical inspection, and only after the receipt of lab report, they came to the conclusion that the subject goods is "Bos Indicus (Ox/Bull) Meat", a prohibited item, and not "Boneless Buffalo Meat" as per the declaration made by the exporter to the Customs Department. Even if the petitioner was required to physically inspect the goods as per the statutory regulation, they would not have been able to differentiate the goods without the availability of a lab report. The exporter had produced Health and Pre-shipment Certificates issued by the Department of Animal Husbandry, Government of Andhra Pradesh, that certified that the goods were indeed "Boneless Buffalo Meat", which is a permissible item for export. The said certificate issued by the Department of Animal Husbandry, Government of Andhra Pradesh, has also not been disputed by the respondent. The petitioner having relied upon Government Certificates certifying the goods as "Boneless Buffalo Meat", which is a permissible item for export, cannot be penalised for the misdeclaration committed by the exporter without the knowledge of the petitioner.

12. Only in cases where the Customs House Agent had made false statements knowingly facilitating export of the prohibited goods or failed in their statutory responsibilities, they can be penalised under the Customs Act or statutory regulations framed thereunder. There must be direct evidence to prove that there was *mens rea* (guilty mind) or *actus reus* (guilty act) on the part of the Customs House Agent. In the case on hand, there is no evidence available on record to prove that there was intentional wrong doing or deliberate misrepresentation by the petitioner for declaring the goods as "Boneless Buffalo Meat", a permissible item for export, instead of correctly declaring the goods as Bos Indicus (Ox/Bull) Meat, a prohibited item for export.

13. The petitioner had submitted Health and Pre-shipment certificates issued by the Department of Animal Husbandry, Government of Andhra Pradesh, with the Customs Department, which certified that the subject goods were indeed "Boneless Buffalo Meat", which is a permissible item for export, and therefore, the petitioner cannot be penalised under the provisions of the Customs Act for no fault of theirs. In the impugned orders imposing penalty on the petitioner under Section 114 of the Act, the respondent has not gone into the aspect of *mens rea* on the part of the petitioner, which is an essential ingredient to be satisfied for the purpose of penalising the petitioner as per the provisions of Section 114 of the Act. In the absence of *mens rea*, it can be conclusively

established that the petitioner has not aided or abetted the exporter in committing the illegal act of exporting the prohibited goods.

14. It is also to be noted that, except for the case on hand, the petitioner, who had acted as a customs broker for the exporters involving similar goods in 10 other similar cases, has been exonerated of any liability under the Customs Act. It is only in the instant case, the petitioner is imposed with the liability to pay penalty under Section 114 of the Act for allegedly aiding and abetting the exporter to export prohibited goods. The fact that in identical cases involving the very same issue, the petitioner has been exonerated has also not been disputed by the respondent. In 10 other similar cases, the Customs Department only after examining the documents has come to the conclusion that the petitioner is not liable for the acts of the exporter in misdeclaring the goods.

15. The exporter is the one who raises E-way bills, and there is no role played by the petitioner in raising the same. As seen from the voluntary statement dated 02.01.2025 of Shri Tomy John, Partner, M/s.Imperial Shipping Service, the petitioner has pleaded innocence to the fact that as per the E-way bills raised by the exporter, the impugned goods originated from the abattoir’s place, i.e., Tanuku, Andhra Pradesh, not from Hyderabad. However, the respondent, without any evidence whatsoever, has penalised the petitioner for abetment under Section 114 of the Act, which is arbitrary and illegal.

16. From the documents available on record, which were also placed for consideration before the respondent, it is clear that the petitioner has not violated any of the Regulations of the CBLR, 2018, more particularly, Regulations 10(d), (e) and (n) relied upon by the respondent for suspending the petitioner’s customs broker license, for the following reasons:-

(a) The duty of the petitioner under Regulation 10(d) of the CBLR, 2018, is to merely advise their client to follow the Customs Act and its allied rules and regulations, and in case of breach of the same, the petitioner owes a duty to inform the Customs Authorities. The petitioner is not duty bound to inspect the goods or verify the genuineness of the transactions as it is the duty of the Customs Department.

(b) Under Regulation 10(e) of the CBLR, 2018, the petitioner has to ensure that they carry out due diligence to ascertain the correctness of any information that the petitioner imparts to their client with regard to clearance of cargo and baggage. In the instant case, there is no evidence produced by the respondent (customs department) to establish that the petitioner had given false advise to the exporter which resulted in the attempt being made by the exporter to export the prohibited goods.

(c) The petitioner has not violated Regulation 10(n) of the CBLR, 2018, as per which, the petitioner has to verify the Importer Exporter Code number, GST Identification number, identity of their client and functioning of their client at the declared address by using reliable, independent, authentic documents, data or information. The petitioner had submitted all the aforesaid documents after due verification with the Customs Authorities during the enquiry, and at no point of time, the Customs Authorities had refuted those documents. Therefore, the question of holding the petitioner liable under Section 114 of the Act does not arise for the fault committed by the exporter in committing the illegal act of misdeclaration of the goods.

17. The petitioner has been licensed Customs House Agent since 1982. The said fact is also not disputed by the respondent. The petitioner also claims that they have an unblemished track record, and the said fact is also not rebutted by the respondent in their counter affidavit filed before this Court. For no fault of the petitioner, they have been penalised under the impugned orders, which have been passed by total non-application of mind to the fact that in 10 other identical cases, the petitioner has been exonerated. Since the impugned orders have been passed by total non-application of mind to the fact that the petitioner cannot be treated as an abettor as there is no *mens rea* on their part to commit the *actus reus*, these writ petitions are maintainable despite the fact that there is an alternate statutory appellate remedy available to the petitioner.

18. The decisions relied upon by the learned senior counsel for the petitioner also support the stand taken by the petitioner, which are as follows:-

(a) When the Importer Exporter Code is given to the Customs House Agent, there is a presumption that an appropriate background check would have been done by the Customs Authorities, and therefore, when there is nothing on record that the Customs House Agent had knowledge that the goods mentioned in the Shipping Bills/Bill of Entries did not reflect the truth of the declared goods, the Customs House Agent cannot be penalised under Section 114 of the Act.

(b) When the Customs Department itself was able to ascertain the nature of the goods attempted to be exported only after obtaining a lab report, the Customs House Agent cannot be expected to know the exact nature of the goods at the first sight, and cannot be penalised for the misdeclaration of the goods made by the exporter without their knowledge.

19. This Court, after giving due consideration to the documents placed on record before this Court, is of the considered view that the petitioner has conclusively established before this Court that they did not have any knowledge whatsoever about the misdeclaration committed by the exporter, and therefore, it cannot be said that they had abetted the exporter in attempting to export the prohibited goods.

20. For the foregoing reasons, since the impugned orders are arbitrary and illegal, the same are liable to be quashed by this Court in respect of petitioner alone, and accordingly, these writ petitions are allowed, and the impugned order-in-original dated 30.05.2025, insofar as the petitioner alone is concerned, namely, imposing a penalty of Rs.30 lakhs, as well as the consequential impugned order dated 18.07.2025 suspending the petitioner's Customs Broker License, are hereby quashed. No Costs. Connected writ miscellaneous petitions are closed.

23-01-2026

Neutral Citation: Yes

RKM

To
1. The Joint Commissioner Of Customs IV,
Customs House No.60, Rajaji Salai, Chennai-1.

2. The Commissioner Of Customs (General)
Customs House, No 60 Rajaji Salai, Chennai 1

ABDUL QUDDHOSE J.

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