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

Date of decision: 12th March, 2026

\+ **CUSAA 55/2025 & CM APPL. 16510/2025**

COMMISSIONER OF CUSTOMS AIRPORT
AND GENERAL
NEAR IGI AIRPORT
NEW DELHI- 110037
EMAIL- legalgeneral10@gmail.com ....**APPELLANT**

Through: Mr. Amit Garg, Mr. Vikrant Jain and Ms. Ragini Singh, Advs.

versus

M/S ENTIRE LOGISTICS PVT LTD
207, M.S. CHAMBER, LAXMI NAGAR,
NEAR HEERA SWEETS, MAIN VIKAS MARG,
NEW DELHI - 110092 .....**RESPONDENT**

Through: Mr. Salil Arora and Ms. Reeva Chugh Arora, Advs.

CORAM:
HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

NITIN WASUDEO SAMBRE, J.

1. The challenge in the present appeal preferred under Section 130 of the Customs Act, 1962 is to the final order dated 28th August, 2024 passed by the Customs, Excise and Service Tax Appellate Tribunal (‘**CESTAT**’) wherein the Order-in-Original dated 14th February, 2024 revoking the Customs Broker License of the respondent came to be quashed and set aside.

2. The fact remains that the appeal is maintainable on the issue, only in case if there involves a question of law.

3. That being so, we have called upon learned counsel for the appellant to demonstrate as to the involvement of a substantial question of law in the matter.

4. The learned counsel for the appellant has invited our attention to Customs Brokers Licensing Regulations, 2018, particularly the Regulations 10(a), 10(d), 10(e) and 10(n). According to him, the show cause notice which was issued to the respondent in categorical terms in para 4 refers to the violation of the aforesaid regulation. He would claim that so as to substantiate and put the respondent to notice of such violations, the extracts from the show cause notice issued under the Customs Act were relied on. He further contends that the CESTAT has failed to look into the material that was referred to in the show cause notice. In this context, he has invited our attention to the extracts of the show cause notice, particularly the reproduction of para 37 in its entirety, so as to justify that the show cause notice, in categorical terms, speaks of the violations of the regulation being demonstrated. He would further claim that such violations post inquiry report, which was duly made available to the respondent, were in fact adjudicated in the Order-in-Original and there was sufficient notice to the respondent as regards the violation of the regulation. In such an eventuality, his contentions are the Tribunal has erred in recording and finding contrary to the provisions of regulation 10 of Customs Brokers Licensing Regulations, 2018.

5. As against above, the counsel for the respondent has invited our

attention to the very same show cause notice, so as to claim that the show cause notice is too vague to answer and understand, as to the mode and manner in which the violation of the regulations 10(a), 10(d), 10(e) and 10(n) can be inferred.

6. According to him, in the Order-in-Original, the authority travelled beyond the show cause notice and recorded the finding based on not only the inquiry report but also the material which was found to be basis for issuance of show cause notice under the Customs Act.

7. In such an eventuality, he would claim that the order of the Tribunal cannot be faulted with.

8. We have considered the aforesaid submissions.

9. Since the counsel for the appellant has specifically relied on para 4 of the show cause notice, it is necessary for us to refer to the said para. For the convenience, we have reproduced the said para, which reads thus:

> "*4. Whereas from the above and facts conveyed through the above said Show Cause Notice No. GEN/ ADJ/ COMM /410/2022-Adjn/O/o-Commr-Cus-Prev-Jodhpur dated 30.12.2022, it appears that the CB has violated provisions of Regulation 10(a), 10(d), 10(e), 10(n) & 13(12) of CBLR 2018 read with Regulation 11(a), 11(d), 11(e), 11(n) & 17(9) of CBLR 2013 respectively for the reasons narrated in preceding paras and in order to establish the contravention as detailed above, an enquiry/examination is essential. Therefore, in terms of Regulation 17 of CBLR 2018 read with Regulation 20 of CBLR 2013, Ms Bullo Mamu, Deputy Commissioner of Customs, IGI Airport, New Delhi is being appointed as an Inquiry officer in the above discussed case. M/s Entire Logistics Pvt. Ltd., the authorized Customs Broker is required to join the proceedings before the Inquiry officer and to submit his representation, if any, to the inquiry officer within thirty days of the issuance of this Show Cause Notice. The Inquiring authority shall submit a report within ninety days of the issuance of this Show Cause Notice to the Commissioner of Customs (Airport &*

General), New Custom House, New Delhi."

10. The perusal of the aforesaid para contemplates that the material borrowed from the show cause notice dated 30th December, 2022 issued under the Customs Act, particularly from paras 37–37.4, 38, 38.1, 49 and 50 were relied on. The material in the said show cause notice which is relied on for initiating action against the respondent was for the purpose of the initiation of action under the Customs Act, 1962 wherein the show cause notice pertains to the penalty being imposed under Section 112(a), 112(b), 114AA and 117 of the Customs Act, 1962.

11. As far as the said material is concerned, the least that was expected of the appellant was to specify in the show cause notice, as to how the said material comes within the ambit and satisfaction of the opinion to be formed for the purpose of *prima facie* recording violation of the regulations 10(a), 10(d), 10(e) and 10(n). However, the respondent was not provided with any specific allegations explaining the mode or manner in which the alleged violations are attributable to them.

12. Though Order-in-Original in detail considers the violations by the respondent, however, the fact remains that the Order-in-Original has travelled beyond the scope of the show cause notice.

13. One can understand that the appellant at the relevant time, giving a concession before the CESTAT, saying that they be permitted to withdraw the Order-in-Original and causing a fresh show cause notice to the respondent based on the material which was relied on or

in which the reasons are recorded against the respondent.

14. However, there is complete failure on the part of the appellant to do so and it is only after the CESTAT allowed the appeal, having recorded that the appellant has travelled beyond the show cause notice, the appellant has tried to justify their show cause notice based on the material which is found to be basis for passing the Order-in-Original.

15. It is a settled position of law that in case if the show cause notice is vague or the order based on the show cause notice considers such material which was never part of the record of the show cause notice, the order can be said to be in violation of the principles of natural justice. The said position is also affirmed by the judgment of the Apex Court in ***Commissioner of Central Excise, Bangalore vs Brindavan Beverages (P) Ltd. and Ors.*** (2007) 5 SCC 388, which reads as under:

> *"**14.** There is no allegation of the respondents being parties to any arrangement. In any event, no material in that regard was placed on record. **The show-cause notice is the foundation on which the Department has to build up its case. If the allegations in the show-cause notice are not specific and are on the contrary vague, lack details and/or unintelligible that is sufficient to hold that the noticee was not given proper opportunity to meet the allegations indicated in the show-cause notice.** In the instant case, what the appellant has tried to highlight is the alleged connection between the various concerns. That is not sufficient to proceed against the respondents unless it is shown that they were parties to the arrangements, if any. As no sufficient material much less any material has been placed on record to substantiate the stand of the appellant, the conclusions of the Commissioner as affirmed by CEGAT cannot be faulted."*

16. In such an eventuality, the Tribunal has recorded that the Order-in-Original is passed contrary to the show cause notice, by only recording a reason to that effect. In our opinion, the said reason can be said to be justified in the wake of the findings recorded by us

hereinabove.

17. That being so, we are of the view that no substantial question of law is involved in the present appeal.

18. The appeal, as such, stands dismissed. Pending applications, if any, also stand dismissed.

NITIN WASUDEO SAMBRE
(JUDGE)

AJAY DIGPAUL, J
(JUDGE)

MARCH 12, 2026/ar/*yr*