IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL, KOLKATA
EASTERN ZONAL BENCH : KOLKATA
REGIONAL BENCH - COURT NO.2

Customs Appeal No.76078 of 2024
(Arising out of Order-in-Original No.01/TECH/CBLR/2024 dated 15.07.2024 passed by Commissioner of Customs (Preventive), Patna.)

M/s. Dutta Clearing Agent Pvt.Ltd.
(Tumaria Tola, Ward No.05, Near Duncan Hospital, Raxaul, Distt. East Champaran, Bihar-845305.)

...Appellant

VERSUS

Commissioner of Customs (Preventive), Patna

.....Respondent
(5th Floor, Central Revenue Building, Bir Chand Patel Path, Patna-800001.)

APPEARANCE
Shri Akhil Krishan Maggu & Ms.Oshin Magu, both Advocates for the Appellant
Shri T. Suleman, Authorized Representative for the Revenue

CORAM: HON'BLE SHRI R. MURALIDHAR, MEMBER(JUDICIAL)
HON'BLE SHRI RAJEEV TANDON, MEMBER(TECHNICAL)

FINAL ORDER NO. 75542/2026

DATE OF HEARING : 25.03.2026
DATE OF DECISION : 24.04.2026

Per : RAJEEV TANDON :

The appellant, a Customs Broker Firm, aggrieved with the Order-in-Original No.01/TECH/CBLR/2024 dated 15.07.2024 has filed the impugned appeal, assailing the same.

2. Vide the impugned order, the ld.Commissioner has revoked the Customs Broker License No.1/CHA/2015 (CBLMS No.2015PTNA10017) and Parent Policy Section EDI Lic. No.AADCD8123DCH001 of the appellant in violation of the conditions prescribed under Regulation 10 of the CBLR 2018. The ld.Commissioner has also imposed a penalty of Rs.50,000/- on the appellant vide the impugned order.

3. The Offence Report dated 25.10.2023 placed on record points out to an unprecedented surge in export of certain commodities like tiles, automobile parts from India to Nepal vide LCS Bhimnagar. The investigations conducted alleged revelation of fraudulent export thereof aimed at defrauding Government exchequer. It is the case of the Revenue that upon verification of the invoices and the e-way Bills, it was noticed that no such vehicles carrying the said goods actually moved towards LCS Bhimnagar or ever crossed into Nepal. The report further goes on to state that one Shri Ganga Singh, G-Card Holder is the pivotal person behind the said fraudulent exports and claims that he had digitally made the IRN invoices in question related to said fraudulent exports. It is on the basis of the statement dated 10.10.2023 of this Ganga Singh (G-Card Holder), that he conducted the business of Customs on behalf of M/s. Dutta Clearing Agent Pvt.Ltd. (the appellant Customs Broker). His statement also refers to and accepts the digital uploading of the invoices and the KYC documents of the exporters in e-Sanchit allegedly on the basis of fake/manufactured documents. It is noticed from the case records and the impugned Offence Report that the authorities have expressly stated *"Shri Ganga Singh, G-Card Holder of M/s. Dutta Clearing Agent Pvt.Ltd., CHA violated the Customs Act to defraud the Government exchequer".*

4. It is on the strength of the aforesaid allegation and the statement of Shri Ganga Singh that the Revenue have come upon heavily on the appellant and charged him for violation of the provisions of the CBLR

2018 in terms of the Regulation 10(d), 10(e), 10(i), 10(n) and 10(q) of the same.

5. The appellants have essentially placed two-fold arguments before us –

(a) that the appellant was nowhere the Customs Broker handling the aforesaid export shipments and

(b) questioned the non-adherence to the timelines prescribed for conduct of enquiry as stipulated in terms of Section 17 of the said Regulations, prescribing timelines in terms of sub-section 5 and sub-section 7 thereof.

6. In arguments before us the appellant has completely disassociated himself with the impugned shipments and by way of records as placed before us copies of Shipping Bills as per list below clearly stating that the CHA concerned with the said shipments were the party themselves. List of such Shipping Bills enclosed to the records is as under :-

Shipping Bill No.	Date
1368109	29.05.2023
1368110	29.05.2023
1368111	29.05.2023
1368112	29.05.2023
1368113	29.05.2023
1368114	29.05.2023
1368116	29.05.2023
1368120	29.05.2023
1368121	29.05.2023
1368395	29.05.2023

7. For records, a copy of first page of one of these Shipping Bills is scanned hereinbelow :

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http://ddvpicap02.cbec.gov.in:7776/htrep/1368111.ep.htm

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EP COPY
LEO No : 1/15

LEO Date: 29/05/2023

**** Indian Customs EDI System (ICES)

LCS BHIMNAGAR, DIST-SUPUAL, BIHAR
Shipping Bill for Export

SB No : 1368111 / 29/05/2023 BRC Realisation Date :
CHA : SELFSUBMITCH001 FILED BY IEC HIMSELF
Print Date : 19/09/2023 16:50
Vehicle Regn. Number Border Crossing Date and Time:
WB57D-8085 29/05/2023 19:45:00
Port of BL : IN -
Country of BL : NP -
Port Of Ldg-Code : INBNRB State of Origin :Tamil Nadu

EXPORTER DETAILS CONSIGNEE
DNJPB7751J( ) BIN No. : DNJPB7751JFT001
UNIQUE INTERNATIONAL MAA DASHINKALI TRADING COMPANY
Branch # 0 GROUND FLOOR, NO. 257, KATHMANDU
BAZZAR STREET, PERIYAPALAYAM NEPAL
THIRUVALLUR

Port of Loading :LCS BHIMNAGAR, DIST- Total Pkgs. : 124
Port of Discharge:.NEPAL Loose pckts : 124
Gross Wt(KGS) :868.000 Net Wt(KGS) :868.000
Country of Dest :NEPAL No.of Ctrs. : 0
Nature of Cargo : P
Marks and Nos.:
FOREX BANK ACC: /
RBI Waiver No/Date:
FOB VALUE (INR) : E980840.00 F DBK+STR(INR):E0.00 F

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http://ddvpicap02.cbec.gov.in:7776/htrep/1368111.ep.htm

Report

Tot DBK(INR) E0.00 F STR(INR):E0.00 F
RODTEP Value(INR):0.00 ROSCTL Amt(INR):0.00
AD. Code : DBK Bank a/c No :
I.F.S. Code : ST / Excise Regn. :
GSTN ID : 33DNJPB7751J1ZV GSTN Type : GSN
IGST Tax Value(INR) : 0.00 IGST Amt Paid(INR) : 0.00
INVOICE DETAILS Invoice 1/1
Inv.val :980840.00 INR 980840.00 INR FOB Val :980840.00 INR
Inv.no. :UI-424 Inv Dt :29/04/2023
Nat of Con :EFOBFCurr(inv):INR Exp Contract :
Exchange rate:1.00 (INR) = 1.000 (INR)

	Rate	Currency	Amount
Insurance	0.00	INR	0.00
Freight:		INR	0.00
Discount:	0.00	INR	0.00
Commission:	0.00	INR	0.00
Other Deductions:	0.00	INR	0.00
Packing Charges:		INR	0.00

Nature of payment:DP Period of Payment:
Third Par:
TP Add:
Add(Cont):
SD: AEO Rol Term
Tax Value :0.00 INR IGST Amt. Paid:0.00 INR
RODTEP Value :0.00 INR ROSCTL AMT :0.00 INR
Buyer Name & Address
MAA DASHINKALI TRADING COMPANY
KATHMANDU

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8. The aforesaid act of export/attempted export – as "himself", being a factual contention cannot be merely dismissed based on a solitary statement of the alleged employee Shri Ganga Singh. The fact that the CHA is involved and concerned with the present shipments is required to be determined on the basis of credible documentary evidence, and there can be no better proof than the Shipping Bill itself. Given that the appellant Customs Broker was not involved with the exports, as shipment made "By himself" i.e. on self-basis, nor there being any documentary evidence to suggest otherwise, the finding that the firm breached Regulation 10(d), (e), (i), (n) and (q) are completely unfounded and therefore cannot be sustained being legally inconsistent. For sake of records, the legal provisions are enumerated below :

> **Regulation 10. Obligations of Customs Broker.** — A Customs Broker shall —
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> ……
>
> ……..
>
> (d) advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;
>
> (e) exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;

(i) not attempt to influence the conduct of any official of the Customs Station in any matter pending before such official or his subordinates by the use of threat, false accusation, duress or the offer of any special inducement or promise of advantage or by the bestowing of any gift or favour or other thing of value;

(n) verify correctness of Importer Export Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information;

(q) co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees;

9. It is also placed on record that before the lower authorities concerned, during the course of the enquiry under the provisions of CBLR, the appellant had mentioned the names of the alleged fake/non-existent exporters and with regard to the Shipping Bills alleged to be filed by them had categorically asserted that the said exporters have filed the impugned Shipping Bills on their own, and the appellant was not the Customs Broker in respect of the said exports. The Ld.Counsel for the appellant further submitted that only to shield their own officers, the authorities found an easy scapegoat in the appellant. That being so would certainly be a matter of concern. There is also no categorical assertion in the statement of the G-card holder Shri Ganga Singh that the said Customs Broker i.e. the appellant firm had handled/dealt with the said exports. The said statement only asserts that Shri Ganga Singh worked for the said CHA firm, implying thereby that he was in employment with the appellant’s firm.

10. We notice from records that the appellant indeed was not the Customs Broker in respect of the impugned exports. That being the position alleging the appellant for the violation of the aforesaid provisions in law is completely meritless and without application of mind. There is no finding in the order of the lower authority to impute the appellant CHA as the person concerned for such dubious and fraudulent exports.

11. The appellant has also argued that there is complete non-adherence to the timelines set out for conduct of the enquiry, which indeed are of a mandatory nature. The courts have also repeatedly held such timelines to be sacrosanct and mandatory. Thus, while the appellant was served with the show cause notice on 19.01.2024, we note from records that no enquiry report was submitted within 90 day as prescribed in terms of Regulation 17(5) which is dated 29.05.2024 (111 days) i.e. well beyond the prescribed 90 days period. We note that this enquiry report revolves around the solitary statement of Shri Ganga Singh, a G-Card Holder, recorded on 10.10.2023.

12. Likewise, in terms of Sub-Regulation 7 of Regulation 17, the adjudicating authority is required to issue appropriate orders within 90 days from the date of such enquiry report. From the facts on record it is evident that the enquiry officer Shri Tirupurari Saran, Assistant Commissioner of Muzaffarpur Division has in fact submitted the report on 18.04.2024. Thus, while the impugned notice is dated 19.01.2024, we find that the enquiry officer’s report has in effect been prepared and submitted in accordance with the prescriptions of the law. It is

further noticed that in terms of Regulation 17(7) the Adjudicating authority is required to grant 30 days' time for the appellant to respond to the same after the enquiry report has been made over to the appellant, - in this case the said enquiry report is dated 29.05.2024 and the order of the learned authority passed on 15.07.2024, pursuant to the response of the appellant received to the enquiry report tendered by the enquiry authority. For reasons thus we do not find the process undertaken in the matter as violative of the legal prescriptions. However, we find there is nothing on record to impute the appellant per se in view of the factual recording on the export documents of shipments being carried out by "IEC himself" and there being nothing authoritative led on record by the authorities to connect the said shipments to the Customs Broker..

13. We also note from records, that the request of the appellant for cross-examination could not fructify as the appellant failed to indicate the name of the person (whom they wanted to cross-examine). The appellant therefore cannot resort to plea alleging denial of natural justice. Para 6.7.6 of the impugned order is material in this regard.

14. Thus, for lack of substantive evidence to implicate and associate the appellant with the said shipments and to impute any knowledge of such fraudulent exports on their part, we are of the considered view that the appellant cannot be subjected to penal consequences as entailed in law. For reasons thereof, we set aside the impugned order of the Commissioner *qua* the appellant, revoking the said licence,

ordering forfeiture of Security Deposit and subjecting them to a penalty of Rs.50,000/- under Regulation 18.

15. The appeal stands allowed.

(Order pronounced in the open court on 24.04.2026.)

Sd/
(R. MURALIDHAR)
MEMBER (JUDICIAL)

Sd/
(RAJEEV TANDON)
MEMBER (TECHNICAL)

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