CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL BANGALORE

REGIONAL BENCH - COURT NO. 2

Customs Appeal No. 20442 of 2023

(Arising out of Order-in-Original No. 02/2023 dated 16.06.2023 passed by the Commissioner of Customs (Preventive), Cochin.)

Bon Freight
TC 31-995-2, ANRA No 37-A Ayanikkadu Nagar,
Palkulangara, Thiruvananthapuram,
Kerala - 695024. **....Appellant**

VERSUS

Commissioner of Customs (Preventive), Cochin
Custom House, Willingdon Island, Ernakulam,
Kerala – 682009. **....Respondent**

APPEARANCE:

Mr. Baby. M.A, Advocate for the Appellant
Mr. M. Sreekanth, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. P.A. AUGUSTIAN, MEMBER (JUDICIAL)
HON'BLE MR. PULLELA NAGESWARA RAO, MEMBER (TECHNICAL)

Final Order No. 20720 /2026

Date of Hearing: 17.12.2025
Date of Decision: 02.06.2026

PER : PULLELA NAGESWARA RAO

This appeal is filed against the Order-in-Original No. 02/2023 dated 16.06.2023 passed by the Commissioner of Customs (Preventive), Cochin.

2. The brief facts are the appellant is a Customs Broker and holder of regular licence valid up to 23.05.2028 issued under Regulation 9(1) of Custom House Agent Licensing Regulations (CHALR), 2004 and with due permission from Cochin Customs Commissionerate, appellant had extended Customs broker activities to Chennai, Mumbai, Bangalore and Hyderabad. In 2018, appellant had filed 2(two) shipping Bills for export of 'safety matches' claiming benefit under Merchandise Exports from

India Scheme (MEIS) for the exporter M/s. Kaliswari Colour Match Works, by declaring the goods 'safety matches' under Customs Tariff Heading (CTH) 36050090. The Appellant-CB was handling their shipments for the last 15 years. After 3(three) years from filing of the shipping bills, on scrutiny of the documents by Tuticorin Customs, it is found that the exporter mis-classified the goods under Customs Tariff Heading (CTH) 36050090 instead of Customs Tariff Heading (CTH) 36050010 for claiming higher benefit of MEIS. As per the appellant when they came to know about the mistake committed by the exporter, as advised by appellant-CB, the exporter paid Rs. 1,39,840/- towards the excess MEIS benefit availed by the exporter and Rs. 47,000/- towards interest. Thereafter a Show cause notice (SCN) No.15/2022 dated 09.03.2022 was issued. On receipt of the above said SCN, appellant vide letter 06.07.2022 submitted detailed reply, however without considering the submissions, Assistant Commissioner of Customs, Tuticorin vide Order-in-Original No. 11/2022 dated 01.12.2022 ordered confiscation of the goods exported under Shipping Bill No. 8897398 dated 15.11.2018 and allowed to redeem the same on payment of redemption fine. The adjudicating authority vide impugned order imposed penalty of Rs. 50,000/- on Appellant-CB under Section 114 and Rs. 50,000/- under Section 114AA of the Customs Act, 1962. Aggrieved by above said Order-in-Original, appellant filed an appeal before Commissioner (Appeals), Tiruchirappalli and as per the appellant this appeal is pending adjudication.

3. In the meantime, a show cause notice (SCN) No. 03/2022 dated 17.10.2022 was issued by Assistant Commissioner of Customs, Cochin under the Customs Broker Licensing Regulations, 2018 (CBLR, 2018). On receipt of SCN, Appellant submitted reply vide letter dated 10.11.2022. Thereafter an inquiry report dated 23.12.2022 was submitted by Deputy Commissioner of Customs under Regulation 17(5) of CBLR, 2018 and a copy was forwarded to the appellant on 12.01.2023. On receipt of the inquiry report, appellant vide letter dated 20.03.2023 submitted a detailed representation. As per the appellant without considering the submissions, representation to the inquiry

report and without giving an opportunity for cross examination as requested vide reply to SCN, the adjudicating authority, Commissioner of Customs vide impugned order imposed penalty of Rs. 50,000/- on appellant under Regulation 18 of CBLR, 2018 for the alleged violation of provisions of CBLR, 2018. Aggrieved by the impugned order the Appellant-Customs Broker filed this appeal before the Tribunal.

4. The learned counsel during the hearing submits that the Show cause notice (SCN) is bad in eyes of law because there is no 'Offence Report' initiated against the appellant as mandated under Regulation 17(1) of the CBLR, 2018 and proceedings cannot be initiated against the Customs Broker without an Offence Report. Even if the Adjudication Authority considered the SCN No.15/2022 dated 09.03.2022 issued by Assistant Commissioner of Customs, Customs House, Tuticorin as Offence Report under the above Regulation, the issuance of SCN 03/2022 dated 17.10.2022 is barred by limitation. Regulation 17(1) of CBLR, 2018 mandates that *"the Principal Commissioner or Commissioner of Customs shall issue a notice in writing to the Customs Broker within a period of ninety days from the date of receipt of an offence report*." Thus the impugned order imposing penalty on appellant for the alleged breach of obligation under Regulation 10(d), (e) and (n) of the CBLR, 2018 is illegal and unsustainable.

5. The learned Authorized Representative (AR) for the Revenue reiterated the findings of the Commissioner in the impugned order.

6. Heard both parties and perused their records.

7. The issues in this appeal are;

a. whether the show cause notice issued by the Tuticorin Customs can be considered as an offence report by the Cochin Customs to initiate the proceedings against the Appellant-CB under the provisions of Customs Broker Licensing Regulations, 2018.

b. whether the show cause notice issued by Cochin customs under Regulation 17(1) of the Customs Brokers Licensing Regulation, 2018 is time barred.

c. whether the imposition of penalty on the Appellant-CB under Regulation 18 of CBLR,2018 is tenable.

8. As regards initiation of the proceedings against the appellant based on the show cause notice issued by the Tuticorin Customs, we find that Regulation 17(1) of CBLR, 2018 enjoins that a show cause notice is required to be issued within a period of 90(ninety) days of receipt of the offence report. We find that in this case the proceeding were initiated by the Cochin Customs based on the show cause notice SCN No.15/2022 dated 09.03.2022 on 17.10.2022. The said Show cause notice (SCN) No.15/2022 dated 09.03.2022 was issued by the Tuticorin Customs after completion of investigation hence it has the details of alleged violations committed by the Appellant-Customs Broker for their involvement in the case investigated by the Tuticorin customs. We find that the said show cause notice has been forwarded to Cochin customs for initiating action against the Appellant-Custom Broker under the provisions of Customs Broker Licensing Regulation, 2018 (CBLR, 2018). Therefore we find that initiation of the action by the Cochin Customs based on the show cause notice issued by the Tuticorin Customs is sustainable. The Appellant-Custom Broker has raised the issue of time bar with regard to issue of notice under the Customs Broker Licensing Regulation, 2018 (CBLR, 2018) wherein a show cause notice (SCN) shall be issued within 90(ninety) days of the receipt of offence report as per Regulation 17(1), ibid. In the instant case we find that even considering the show cause notice dated 09.03.2022 issued by the Tuticorin customs as the offence report the show cause notice under the Customs Broker Licensing Regulation, 2018 was issued by Cochin Customs was on 17.10.2022. Therefore it is issued beyond 90(ninety) days. In this regard there are catena of decisions by the Hon'ble Courts and Tribunal with regard to the strict adherence to the time limit of 90 (ninety) days as regards issue of show cause notice (SCN) under Regulation 17(1), ibid. Therefore the plea of the appellant that the show cause issued to them under Regulation 17(1) of Customs Broker Licensing Regulation, 2018 (CBLR, 2018) is time barred is sustainable. Further the appellant had contended that without

considering the submissions, representation to the inquiry report and without giving an opportunity for cross examination as requested vide reply to SCN, the adjudicating authority, Commissioner of Customs has issued the impugned order. In this regard Regulation 17 of Customs Broker Licensing Regulation, 2018 mandates the procedure to be followed for reinvoking licence or imposing penalty. The non-adherence of the same would vitiate the entire adjudication process. We find that the respondent has not followed strictly the procedures prescribed in Regulation 17 of CBLR, 2018 and the time lines prescribed thereunder. In the above facts of the case we find that the impugned order is unstainable and liable to be set aside.

9. In view of the above discussion the impugned order is set aside and the appeal is allowed with consequential relief, if any, as per law.

(Order was pronounced in open court on 02.06.2026)

(P. A. Augustian)
Member (Judicial)

(Pullela Nageswara Rao)
Member (Technical)

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