

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
BANGALORE**

REGIONAL BENCH - COURT NO. 2

Customs Appeal No. 20139 of 2024

(Arising out of Order-in-Original No. COC-CUSTOMS-000-COM-10/2023-24 dated 21.08.2023 passed by the Commissioner of Customs, Cochin.)

M/s. Marks Logistics

2nd Floor, Port User's Complex,
No. 1, Bristow Road,
Willingdon Island,
Cochin – 682 003.

.....Appellant(s)

VERSUS

Commissioner of Customs,

Customs House, Willingdon Island,
Cochin.

.....Respondent(s)

Appearance:

Mr. Baby. M. A, Advocate for the Appellant
Mr. Vikalp Jain, Superintendent (AR) for the Respondent

Coram:

Hon'ble Mr. P.A. Augustian, Member (Judicial)

Hon'ble Mr. Pallela Nageswara Rao, Member (Technical)

Final Order No. 20719 /2026

Date of Hearing: 04.12.2025

Date of Decision: 02.06.2026

PER : P.A. AUGUSTIAN

The issue in the present appeal is regarding penalty imposed on the appellant- Customs Broker under the provisions of Customs Broker Licensing Regulation, 2018 (CBLR, 2018).

2. The brief facts are alleging that the appellant, being a customs broker had abetted with the exporter in export of 'sugar' in the guise of 'raw rice', proceedings were initiated and Customs Tuticorin had forwarded an offence report vide letter dated 29.11.2022. Based on the above offence report, a Show Cause Notice was issued on 27.02.2022 under CBLR, 2018. Thereafter, adjudication authority as per the

impugned order held that the appellant had violated the provisions of Regulation 10(d), (e) and (n) of the CBLR, 2018 and imposed penalty. Aggrieved by said order, present appeal is filed.

3. When the appeal came up for hearing, Learned Counsel for the appellant submits that Appellant being a customs broker, processes the documents submitted by the exporter while clearing of goods and furnishing of wrong documents or incorrect information by the exporter cannot be attributed to the appellant if it was filed in good faith and the misdeclaration would be attributed to the exporter, only. It was based on the incident report of the shed officer, proceedings were initiated and statements were recorded from the Branch-in-charge of the appellant Shri. N Jayachandran under Section 108 of the Customs Act, 1962 and he stated that the exporter contacted them through a friend and after obtaining KYC details, appellant filed the Shipping Bill. Further they obtained previous Shipping Bills and enquired about the export of M/s. Pattinathar Trading, Chennai, and the Exporter informed them that they were regularly exporting wheat flour to Sri Lanka. Shri. N Jayachandran also stated that they had appointed one additional Surveyor in addition to the CFS Surveyor, and also one of their staff was sent to look after the export. To the specific question asked by the Superintendent of Customs, Tuticorin, at the time of recording of the said statement "In spite of appointing an additional surveyor and office staff, why were you not able to find out sugar stacked in raw rice gunny bags?", Shri. N Jayachandran stated that their surveyor and office staff were counting the bags and they had no doubt because all gunny bags were printed with same brand and marking.

4. The CB further stated the appellant were informed by the Exporter that goods kept for export, mentioned in Shipping Bill were 'Raw Rice' bags and from the documents submitted by the Exporter to them, it was only mentioned as 'Raw Rice' and hence they filed the Shipping Bill as 'Raw Rice'. That if they were informed that the gunny bags with sugar were mixed with 'Raw Rice' bags, they would not have filed the Shipping Bill. As regarding the omission alleged by the

respondent, Learned Counsel submits that the appellant had filed an affidavit /undertaking letter on behalf of M/s. Pattinathar Trading, Chennai; but due to a clerical /cut and paste error, the name and designation was changed. Shri. N Jayachandran also stated that only after receiving proper KYC, appellant filed the Shipping Bill, that only at the time of examination they came to know that the goods were sugar along with 'Raw Rice'. They were unaware of the fact that sugar bags were mixed with 'Raw Rice' bags.

5. The Learned Counsel further submits that as per paragraph 26 of the impugned order, the adjudicating authority found that the appellant failed to produce evidence regarding the claim made by appellant that appellant's employee intimated Customs authority about the concealment of sugar bags among the rice bags. In this regard, Learned Counsel submitted that as evident from letter dated 31.05.2023 issued by Shri. Marimuthu, Surveyor of M/s. M-Tech Service which was available on record, appellant produced evidence regarding the claim made by appellant that they intimated Customs authority about the concealment of sugar bags among the rice bags. Thus, the finding that the appellant failed to intimate the Department about the non-compliance of the Regulation 10(d) of the CBLR, 2018 is unsustainable. Moreover, the Inquiry Officer specifically found that the allegation of violation of the Regulation 10(d) of the CBLR, 2018 against the appellant is not proved. Further, it is submitted that there is no mention in the impugned order that the adjudicating authority could find out corroborative evidence over and above the findings of the Inquiry Officer to allege that the appellant violated Regulation 10(d) of the CBLR, 2018. Hence, the impugned order is unsustainable since it is issued without application of judicial mind.

6. As regards reliance on the statement made by N. Jayachandran on 26.09.2022, H-card holder of the appellant. The Adjudication Authority noted that he had made a statement that it was the first business of the appellant with the exporter M/s. Pattinathar Trading and known as regular exporter of Wheat flour. Due to that reason

adjudicating authority held that exporter approached the appellant for filing shipping bill for export of Raw Rice which amounts to violation of the provisions of the Regulation 10(e) of the CBLR, 2018. In this regard, learned counsel submits that there is nothing on record to show that the appellant had knowledge that the goods mentioned in the shipping bills did not reflect the truth of the consignment sought to be exported. Moreover, it is evident that the exporter is not exporting the raw rice for the first time. The Learned counsel draws our attention to the Shipping Bill No.1373696 dated 13.05.2023 and submits that exporter had exported raw rice in the year 2022 to the same destination "Colombo". Thus, submits that there is nothing on record to show that the appellant had knowledge regarding the illegal export of sugar as alleged. In this regard, Learned Counsel also relied on the judgment of the Hon'ble High Court of Delhi in the matter **Kunal Travels Vs. CC reported in 2017 (354) ELT 447 (Del.)** and submits that when such an allegation is made, it cannot be deemed to be misdeclaration by CHA and hence there could be no guilt, wrong or fault or penalty on the appellant if any doubt about the issuance of IE code concerned. Customs House agent is not expected to do a background check of the importer-exporter who approaches them for facilitation services in export and imports. The documents prepared by CHA is based on the instruction of the document received from the importer-exporter and therefore any wrong information provided by the importer-exporter cannot be attributed as against the CHA. Learned Counsel also relied on the following decisions

- i. **M/s Perfect Cargo & Logistics Vs. CC (Airport & General) 7 (reported in 2021 (376) E.L.T 649 (Tri. Del)**
- ii. **Advent Shipping Agency 1 Vs. Principal Commissioner of Customs, Kolkata (2023) 2 Centax 157 (Tri.-Cal.)**
- iii. **M/s M.K Sha & Co. Vs. CC (Airport & ACC), Kolkata 2 (reported in 2023 2 Centax 34 (Tri. Cal)**
- iv. **Commissioner of Customs Vs. BK Clearing Agency (2024) 14 Centax 65 (Cal.)**

v. Sinha Shipping Agency Vs. Commissioner of Customs (2024) 14 Centax 17 (Tri.-Cal)

vi. M/s Mauli Worldwide Logistics Appeal No. C/50997/2021-DB Final order No. 50561/2022 dated 04.07.2022.

7. Learned Authorized Representative (AR) reiterated the findings in the impugned order and submits that being a Customs Broker having knowledge of the Act, Rules, Regulations, Notifications under the Customs Act and allied acts, appellant should have complied with all the provisions of the Customs Broker Licensing Regulations (CBLR), 2018. As it was their first business with exporter, CB should have to be more vigilant and done should have due diligence to verify the identity of their client before filing the Shipping Bill on behalf of exporter. On the contrary, the appellant has fully relied on the documents received from the exporter, without making any attempt to ascertain the antecedents of the exporter and the details of export cargo even after the attempt to smuggle sugar in guise of raw rice was established. Learned AR also submits that the appellant filed incorrect affidavit / undertaking letter on behalf of exports and being a Customs Broker, appellant is expected to advise his client to comply with the provisions of the Act, other allied Acts and rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the department. Therefore, the Customs Broker cannot absolve from his responsibility but it appears that the appellant colluded with the exporter and filed the Shipping Bill with incorrect details of goods, thereby allowing the exporter to smuggle sugar in the guise of raw rice. Thereafter, adjudication authority as per the impugned order rightly held that the appellant had violated the provisions of Regulation 10(d), (e) and (n) of the CBLR, 2018 and accordingly, imposed penalty.

8. Heard both sides and perused the records.

9. We find that as per the statement recorded from the branch-in-charge of appellant, it was specifically stated that, if they were having no knowledge regarding presence of sugar and if they were informed

that gunny bags with sugar were mixed with raw rice bags, they would not have filed the shipping bill. They have also filed an affidavit on behalf of the exporter. Thus, appellant was not aware about the illegal export of sugar as rice. There is no reason to allege that the appellant had violated the provisions of 10(d) of CBLR 2018 by not advising his client to comply with the provisions of the act or other allied acts, rules, regulations.

10. As regards violation of the Regulation 10(e) and (n) of the CBLR 2008, though it is admitted fact that there was illegal export of goods, there is no allegation in the impugned order regarding knowledge of the appellant and no admissible evidence to conclude that the appellant being a Customs Broker failed to exercise due diligence to ascertain the correctness of any information which he imparted to his client with reference to clearance of cargo to allege violation of the above said provision. Further, we find that though there was a clerical/typographical error in the name, as per the statement recorded from the Branch manager, it happened due to typographical error and as per the evidence of record, the appellant had obtained KYC of exporter before undertaking the clearance of goods. Fact being so, the allegation of violation of Regulation 10(e) and (n) of the CBLR, 2018 is also unsustainable and the impugned order is liable to be set aside.

11. Accordingly, the penalty imposed on the appellant is set aside with the consequential relief, if any, in accordance with the law.

(Order pronounced in Open Court on 02.06.2026)

(P. A. Augustian)
Member (Judicial)

(Pullela Nageswara Rao)
Member (Technical)

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