CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL BANGALORE

REGIONAL BENCH - COURT NO. 2

Customs Appeal No. 20634 of 2021

(Arising out of Order-in-Original Sl. No.BLR-CUSTM-CTY-COM-05-21-22 dated 29.06.2021 passed by the Commissioner of Customs, Bengaluru)

Commissioner of Customs,
C.R. Building, Queens Road,
PB No.5400,
Bangalore-560 001. ....**Appellant(s)**

VERSUS

M/s. Titan Sea & Air Services Pvt. Ltd.,
No.1038, Ground Floor, 18th Main Road,
Opp. Pride Pavilion Apartments,
Rajajinagar 5th Block, No.301-311, Gokul Arcade,
B Subhash Road, Near Gateway House,
Vile Parle East,
Mumbai-400 057. ....**Respondent(s)**

APPEARANCE:

Mr. M. Sreekanth, Asst. Commissioner (AR) for the Appellant.
Mr. J.C. Patel, Advocate for the Respondent.

CORAM:

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

Final Order No. 20782 /2026

Date of Hearing:17.12.2025
Date of Decision: 16.06.2026

PER: P.A. AUGUSTIAN

The issue in the present appeal is whether proceedings can be initiated under the Customs Broker Licensing Regulation, 2018 against the Respondent who had carried out activities in an independent capacity as Free Trade Warehousing Zone unit (FTWZ) under the approval of Development Commissioner, CSEZ.

2. The brief facts are that alleging violation of Regulation 11 (d), (e) and (n) of Customs Broker Licensing Regulations, 2013 (corresponding

Regulation 10 (d), (e) and (n) of CBLR, 2018), Show cause Notice (SCN) was issued and Adjudication authority as per the order dated 24.12.2020 revoked the suspension and appointed an Inquiry Officer (IO) on 30.12.2020. The Inquiry officer submitted inquiry report on 30.03.2021, concurring with the finding of the Inquiry Officer, the proceedings were dropped by the Adjudication authority. Aggrieved by the said order, present appeal is filed by Revenue before the Tribunal.

3. When the appeal came up for hearing, the Learned Authorised Representative (AR) for the Revenue submits that the adjudicating authority has dropped the proceedings initiated on the ground that a Customs Broker operates only in a Customs Station; Free Trade Warehousing Zone / Special Economic Zones are neither covered under the definition of Customs Station under Section 2(13) nor are notified under Section 7 of Customs Act, 1962. Further as held by the Inquiry Officer, no Form 'C' intimation procedure to SEZ/ FTWZ is provided under Regulation 7(3) of Customs Broker Licensing Regulations, 2013/ 2018. The observation of the adjudicating authority is found to be factually incorrect in view of the SEZ Act, 2005. As per sub-section (2) of Section 53 of the SEZ Act, 2005; SEZ shall be deemed to be a port, inland container depot, land station and land customs station under Section 7 of the Customs Act, 1962.

4. Learned AR further submits that during the period 2015-2017, in terms of the said Letter of Approval (LOA), the said FTWZ unit of the Respondent, rendered services to two foreign entities viz. Land Star Ltd, UAE and Al-Daqiq General Trading LLC, UAE and their associates relating to their imports/ purchases and exports from Arshiya Free Trade Warehousing Zone. In respect of the said imports /purchases and exports, the Directorate of Revenue Intelligence (DRI) undertook investigations into the alleged diversion of the goods which were exported from Arshiya Free Trade Warehousing Zone by the said two entities and their associates. During such investigations, DRI recorded statements of the Respondent's Directors, Chandrashekhar Rai and M. Jagannath Rai, which are exculpatory and there is no admission of any knowledge on Respondent's part about the alleged diversion of the

export goods by the said two entities and their associates. The said Show Cause Notice contended that the Respondent did not care to verify the genuineness of the said foreign entities to whom the Respondent provided services as FTWZ unit in relation to the imports /purchases in and exports from Arshiya Free Trade Warehousing Zone.

5. Learned AR further submits that the proceedings were initiated on the ground that Respondent has not checked actual transportation of the goods from the FTWZ to foreign destination, failed to verify correctness of particulars in invoices provided by them, failed to collect proof of export and submit to the customs authority and was aware of the fraud played by the said entities but did not report the same to the customs. Based on these allegations/ contentions, show cause notice (SCN) dated 18.09.2020 was issued alleging that the Respondent is involved in diversion of goods on behalf of the consignees and a suspension order was issued on 04.11.2020 suspending the Respondent's Customs Broker license.

6. Learned Authorized Representative (AR) also draws our attention to the relevant provisions of SEZ Act, 2005 and submits that in terms of statutory provision read with Section 2(13) of the Customs Act, 1962, all notified SEZs are deemed to be Customs station and the said finding in the impugned order appears to be erroneous. It has also been mentioned by the Adjudicating Authority that no express permission has been granted by Customs authorities to the noticee to work as Customs Broker in FTWZ and therefore no action can be taken under Customs Broker Licensing Regulations, 2018 (CBLR, 2018) for the transactions in FTWZ. In this regard reference is made to Regulation 7(3) of the CBLR, 2018 wherein it has been prescribed that the Customs Brokers holding the license granted under Sub-regulation (2) of Regulation 7 of CBLR, 2018 shall be eligible to work as Customs Broker in all Customs Stations subject to intimation in Form 'C' to the Principal Commissioner or Commissioner of Customs of the Customs Station where he intends to transact business and a copy of this intimation shall also be sent to the Principal Commissioner or Commissioner of Customs who has issued the license in Form B1 or Form B2, as the case may be. The respondents'

contention is that they have not intimated to Bombay Customs House. The adjudicating authority finds that no action can be taken under CBLR, 2018 for the transactions in FTWZ when no express permission has been granted by Customs authorities. This non-intimation in Form 'C' should have been treated as omissions and commissions of the respondent rather than the respondent not being a Customs broker for the reason that no intimation has been given to Principal Commissioner of Customs, Mumbai. The Adjudicating Authority has stated that technically, SEZ not being a Customs Station, the provisions of Customs Broker Licensing Regulations, 2018 which are sub-ordinate legislation cannot be applied. There are no findings regarding the violation or non-violation of Regulation 10 (d), (e) and (n) of CBLR 2018, alleged in the show cause notice. Further, proceedings under the CBLR, 2018 proposing revocation of license is a separate proceeding from show cause notice for demand of duty issued to the Noticee. Regulation 18(3) of the CBLR, 2018 provides that the imposition of penalty or any action taken under these regulations shall be without prejudice to the action that may be taken against the Customs Broker or 'F' card holder or 'G' card holder under the provisions of the Customs Act, 1962 (52 of 1962) or any other law for the time being in force.

7. Learned AR further submits that as per Notification No. S.O.196 E dated 10.02.2006 issued vide F/1/7/2005 EPZ dated 10.02.2006, w.e.f 10.02.2006 all Sections of the SEZ Act, 2005 (excluding Section 20 to 24 and Section 31 to 41) will come into force. Hence from 10.02.2006, Section 53 will come into force and all SEZs are Customs Stations. The CBIC Circular No. 29/2006 Customs dated 27.12.2006, clarifies the above position. The non-intimation of their working in SEZ Area as Customs Broker is a lapse on their part and cannot be taken as alibi that no permission has been given by the Proper Officer of Customs to work in SEZ Area, under CBLR, 2018. The importer/ exporter and the respondent Customs Broker are only having same name but are different legal entities. The respondent is not an SEZ unit but provided broking services to their own unit situated in SEZ (Group Company).

8. Learned Counsel appearing for the Respondent submits that Respondent is holding a valid Customs Broker License and it is renewed from time to time. In addition to said activities, Respondent had carried out business as FTWZ unit in Ashtriya Free Trade Warehousing Zone in SEZ as a separate entity with staff and providing services to international traders who wish to import goods into and export goods from said FTWZ. Respondent has not acted as Customs Broker under the Customs broker license granted under CBLR, but it was carried out as per the Letter of Approval issued by the Development Commissioner

9. Learned Counsel draws our attention to the Inquiry report dated 30.03.2021 and submits that as per the inquiry report, activities of the Respondent in FTWZ unit in SEZ are not under the authority of Customs Broker (CB) License. Further there is a finding that even on examination of the allegation in the show cause notice, there has been any violation of Regulation 10(d), (e) & (n) of CBLR, 2018.

10. Learned Counsel further submits that without prejudice to the aforesaid submissions, in any event, FTWZ is not even a Customs Station as defined in Section 2(13) of the Customs Act 1962 as it is not a customs port appointed by Notification of the Board under Section 7 ibid. The ground taken in the department's appeal that under Section 53 (2) of the SEZ Act 2005 the SEZ is deemed to be a Port under Section 7 of the Customs, when so notified by the Central Government, is entirely irrelevant. Customs Station as defined under Section 2(13) covers only the Customs Port appointed under Section 7 of the Customs Act, 1962 by the Board and not a deemed port under Section 7 for the purposes of SEZ Act. Merely because SEZ is deemed to be a Port, it does not become a Customs Station.

11. Learned Counsel further submits that as per the provisions of CBLR, 2018, there is a provision only for filing appeal by the Customs Broker and not the Department. In this regard Learned Counsel relied on the following decisions:-

a. CC Vs. Transworld Cargo & Travels- (2023) 10 Centax 122 (Del),

b. ***CC Vs. Evershine Shipping Customs C & F: Final Order No.50893 dated 6-6-2025,***

c. ***CC Vs. Mukadam Freight Systems P. Ltd – 2018 (359) ELT 612.***

12. Heard both sides and perused the records.

13. We find that the entire issue is regarding authority of the Appellant to proceed against the Respondent under the provisions of Customs Broker Licensing Regulations, 2018 (CBLR, 2018). As per the grounds of appeal, the Respondent is involved in illegal import of goods. However, we find that the activities are carried out under the provisions of Special Economic Zone and in the absence of any form 'C' intimation under Regulation 7(3) of CBLR, 2018 for extending the Customs Broker license to SEZ, it cannot be said that activities in FTWZ were undertaken under Customs Broker license and there is no evidence available on record to prove that customs broker license was issued for transacting business in SEZ unit. Further we find that when proceedings initiated under CBLR, 2018, inquiry report is the crucial document regarding the alleged violations of the provisions of CBLR, 2018. Once the inquiry report states that charges of violation of Regulation 10(d), (e) & (n) of the CBLR, 2018 against Respondent are not proved, present appeal seeking revocation of Respondent's Customs Broker license, forfeiture of security and imposition of penalty on the Respondent are not maintainable and specially when there is no such ground in the appeal filed before this Tribunal.

14. Accordingly, the impugned order is sustainable and appeal filed by the Revenue is dismissed.

(Order was pronounced in Open Court on 16.06.2026)

(P. A. AUGUSTIAN)
MEMBER (JUDICIAL)

(PULLELA NAGESWARA RAO)
MEMBER (TECHNICAL)

Gm/Sasi...