CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
CHENNAI

REGIONAL BENCH – COURT No. III

Customs Appeal No. 42222 of 2016

(Arising out of Order-in-Original No. 17/2016 dated 26.08.2016 passed by Commissioner of Customs, Custom House, New Harbour Estate, Tuticorin – 628 004)

Mr. Amit K. Dedhia **...Appellant**
No. 30/19, 11th Street,
Bryant Nagar (East),
Tuticorin – 628 008.

Versus

Commissioner of Customs **...Respondent**
Tuticorin Commissionerate,
Custom House,
New Harbour Estate,
Tuticorin – 628 004.

APPEARANCE:

For the Appellants : Mr. N. Viswanathan, Advocate
For the Respondent : Ms. Rajini Menon, Authorised Representative

CORAM:
HON'BLE MR. P. DINESHA, MEMBER (JUDICIAL)
HON'BLE MR. VASA SESHAGIRI RAO, MEMBER (TECHNICAL)

FINAL ORDER No. 40674 / 2026

DATE OF HEARING : 19.01.2026
DATE OF DECISION : 02.06.2026

Per Mr. VASA SESHAGIRI RAO

The present appeal has been filed by the Appellant, M/s. Amit K. Dedhia, against Order-in-Original No. 17/2016 dated 26.08.2016 passed by the Commissioner of Customs, Tuticorin (hereinafter referred to as the Impugned Order), whereby the Customs Broker license of the Appellant was revoked, the security deposit forfeited and penalty imposed under the provisions of Customs Brokers Licensing Regulations, 2013.

1.2 The facts of the case, as borne out from the records including the Statement of Facts, reveal that the Appellant is a licensed Customs Broker holding License No. TRY-43/2002 and had initially engaged a qualified Regulation 9 holder, Smt. K.S. Parvathi. Upon her resignation on 28.05.2011, the Appellant claims to have appointed Shri Antony Raj and intimated the same to the Department vide letter dated 12.07.2011. It is the case of the Department, as reflected in the Show Cause Notice and Inquiry Report, that after resignation of the authorized signatory, the Appellant continued to transact business without a qualified person under Regulation 9 of the Customs House Agents Licensing Regulations, 1984 or Regulation 8 of the Customs House Agents Licensing Regulations, 2004, or the corresponding requirement under Regulation 6 of the Customs Brokers Licensing Regulations, 2013, as applicable during the relevant period and that Shri Amit K. Dedhia, being a G-card holder, handled a large number of documents without proper authorization. Based on the Inquiry Report, proceedings were initiated and the Adjudicating Authority passed the Impugned Order revoking the license, forfeiting the security deposit of Rs. 75,000/- and imposing a penalty of Rs. 50,000/-.

2. Aggrieved by the said Impugned Order, the Appellant has filed the present appeal before this Tribunal.

3. The Ld. Advocate Shri Viswanathan appeared for the appellant and advanced detailed arguments in support of the appeal. The Ld. Authorized Representative Ms. Rajini Menon appeared for the Respondent and supported the Impugned Order.

4. The Ld. counsel for the Appellant submitted that the findings recorded in the Impugned Order are erroneous and contrary to the facts on record. It was contended that the Appellant had duly appointed Shri Antony Raj, a qualified person under Regulation 9, and had intimated the Department vide letter dated 12.07.2011, and that mere absence of acknowledgment of such communication in departmental records cannot be held against the Appellant, particularly when manual submission was the prevailing practice at the relevant time. It was further submitted that under Regulation 11(b) of CBLR, 2013, a Customs Broker is entitled to transact business either personally or through an authorized employee and that Shri Amit K. Dedhia, being a

partner and G-card holder, was competent to sign documents. The Appellant also contended that no discrepancy or irregularity was ever found in any of the documents handled by them and that the alleged lapse, if any, is purely procedural in nature and does not warrant revocation of license. It was further urged that the findings of the Inquiry Officer are biased and beyond the scope of the inquiry and that the recommendation of all three penalties reflects non-application of mind.

5. The Ld. Authorized Representative for the Department supported the Impugned Order and submitted that the Inquiry Report clearly establishes that the Appellant had operated without a qualified Regulation 9 holder for a prolonged period. It was contended that the requirement of employing a qualified person is mandatory and failure to comply renders the operations unauthorized. The Department emphasized that no documentary proof of authorization of Shri Antony Raj was available and that he had not signed any documents, thereby discrediting the claim of the Appellant, and further argued that the continued signing of documents by a G-card holder without proper authorization amounts to violation of Regulation 17, justifying revocation of the license.

6. We have carefully considered the rival submissions, the records of the case, the Show Cause Notice, the Inquiry Report submitted under Regulation 20(5) of the Customs Brokers Licensing Regulations, 2013, the reply filed by the Appellant to the Inquiry Report, and the Impugned Order. Upon consideration of the rival submissions and the records of the case, the short issue for consideration is whether the Appellant Customs Broker has violated the provisions of the Customs Brokers Licensing Regulations, 2013 by operating without a qualified person under Regulation 9 of the Customs House Agents Licensing Regulations, 1984 or Regulation 8 of the Customs House Agents Licensing Regulations, 2004, or the corresponding requirement under Regulation 6 of the Customs Brokers Licensing Regulations, 2013, as applicable during the relevant period and, if so, whether such violation warrants revocation of license, forfeiture of security deposit and imposition of penalty under the Impugned Order.

7. The entire dispute revolves around the allegation that the Appellant Customs Broker continued to transact business without a qualified person under Regulation 9 of the Customs House Agents Licensing Regulations, 1984 or Regulation 8 of the Customs House Agents Licensing Regulations, 2004, or the corresponding requirement under

Regulation 6 of the Customs Brokers Licensing Regulations, 2013, as applicable during the relevant period after the resignation of Smt. K.S. Parvathi and that Shri Amit K. Dedhia, being only a G-card holder, handled documentation without proper authorization after May 2011.

8. From the Inquiry Report, it is seen that the department's case is primarily founded on the premise that after surrender of the Form-F card of the earlier authorized signatory (Smt. K.S, Parvathi) on 31.05.2011, the Appellant failed to appoint or obtain approval for a qualified person under Regulation 9 and continued to transact business. It is further alleged that more than 3500 customs documents were handled during this period by Shri Amit K. Dedhia without authorization from the department and that the alleged appointment of Shri Antony Raj was not substantiated by any documentary evidence available on departmental records.

9. The Inquiry Officer has also relied upon the statement attributed to Shri Antony Raj that he had been relieved from the firm in April 2013 and had not signed any documents during the relevant period. On this basis, the Inquiry Report concluded that the claim of appointment of a Regulation 9 qualified person is not supported by evidence

and that the Appellant had violated the provisions of Regulation 17 and other applicable provisions of CBLR, 2013.

10. The Appellant, in reply to the Inquiry Report, reiterated that Shri Antony Raj was appointed and that intimation had been given. It has been categorically stated that Shri Antony Raj, who had passed the Regulation 9 examination, was appointed as an authorized employee and that such appointment was duly intimated to the department vide letter dated 12.07.2011. The Appellant has further submitted that the absence of acknowledgment of such letter cannot be construed against them, particularly when the practice of manual submission of communications was prevalent and instances of non-traceability of documents in departmental records are not uncommon.

11. The Appellant has also contended that even assuming that the department did not have a record of such intimation, the same would at best amount to a procedural lapse and not a substantive violation warranting revocation of license. It has been further argued that under Regulation 11(b) of CBLR, 2013, a Customs Broker is entitled to transact business either personally or through an employee duly approved by the competent authority and that Shri Amit K. Dedhia, being a partner of the firm and a G-card holder, was competent to transact business.

12. The Department, on the other hand, has emphasized that the requirement of employing a qualified Regulation 9 person is mandatory and that failure to comply with the same strikes at the root of the licensing framework. It has been argued that the absence of documentary proof of authorization of Shri Antony Raj and the fact that he had not signed any documents clearly establishes that the Appellant had operated without compliance of statutory requirements. The Appellant also could not produce any acknowledged copy of the intimation allegedly given to the Department.

13. Upon careful evaluation of the above rival contentions, we find that the central issue is not merely whether Shri Antony Raj had signed documents or whether his appointment was acknowledged by the department, but whether the Appellant had made a bona fide attempt to comply with the regulatory requirement and whether the alleged lapse is of such a nature as to justify the extreme penalty of revocation. It is also noted that the Appellant could not produce any acknowledged copy of the intimation; however, mere absence of acknowledgment, in the facts of the present case, cannot be treated as conclusive proof of non-intimation."

14. It is an admitted fact emerging from the records that Shri Amit K. Dedhia, being a G-card holder and partner, had been signing the shipping bills and bills of entry. It is also not in dispute that no discrepancy, misdeclaration or revenue loss has been alleged in respect of any of the documents handled by the Appellant. The entire case of the Department rests on the technical ground that the Appellant did not have a duly approved qualified person under the applicable licensing framework, namely a qualified person under Regulation 9 of the Customs House Agents Licensing Regulations, 1984 or Regulation 8 of the Customs House Agents Licensing Regulations, 2004, or the corresponding requirement under Regulation 6 of the Customs Brokers Licensing Regulations, 2013, as applicable during the relevant period.

15. The Inquiry Report proceeds on the assumption that in the absence of departmental acknowledgment, the appointment of Shri Antony Raj cannot be accepted. However, such a conclusion overlooks the explanation offered by the Appellant that intimation had been sent and that non-availability of records cannot be attributed to them. The law is well settled that where an assessee asserts compliance and provides a plausible explanation, the burden

shifts to the Department to establish non-compliance through cogent evidence.

16. In this regard, it is pertinent to note that the Department has not produced any positive evidence to establish that no such intimation was ever given or that the Appellant had deliberately suppressed the same. The finding of the Inquiry Officer is based on absence of record rather than presence of contrary evidence, which weakens the foundation of the allegation.

17. The next aspect relates to the nature of the role performed by Shri Amit K. Dedhia. The Appellant has relied upon Regulation 11(b), which permits a Customs Broker to transact business personally. It is not disputed that Shri Amit K. Dedhia is a partner of the firm and a G-card holder. The regulations do not prohibit a partner from signing documents; rather, they require that the Customs Broker ensure compliance with regulatory requirements. The absence of signature of Shri Antony Raj, therefore, does not ipso facto render all transactions unauthorized.

18. We observe that the reliance placed by the Department on the decision in *Shipping & Travel (Agents) Pvt. Ltd. vs Commissioner of Customs, Mumbai,* reported in

2000 (117) E.L.T. 518 (Tri.) is clearly distinguishable on facts. In that case, the Tribunal was dealing with a situation where, after the death of the only qualified person holding the requisite permanent pass under Regulation 9, the Customs House Agent continued to operate for several years without any qualified person whatsoever and, more importantly, failed to inform the department of such crucial change. The Tribunal recorded a categorical finding that there was complete absence of a qualified person within the organization and that the CHA knowingly continued to function despite lacking competence, which was held to be a grave and substantive violation justifying suspension.

19. In contrast, in the present case, the Appellant has consistently maintained that a qualified person, namely Shri Antony Raj, had been appointed and that such appointment was duly intimated to the Department, though the same is not traceable in departmental records. The allegation is thus not of total absence of a qualified person but of lack of documentary acknowledgment, which at best constitutes a procedural lapse rather than a substantive violation. Further, there is no finding of deliberate suppression, fraud, or revenue implication in the present case, and the Appellant, being a partner and G-card holder, had been signing documents in the course of business.

Therefore, the ratio of the said decision, which turned on complete absence of qualification and conscious non-disclosure, cannot be mechanically applied to the facts of the present case, and the reliance placed by the Department is misplaced.

20. The Appellant has not placed reliance on any specific judicial precedents but has primarily contested the allegations on facts, regulatory interpretation and proportionality of the action taken.

21. The Inquiry Report also records that Shri Antony Raj had stated that he had been relieved in April 2013 and had not signed documents. Even if this statement is accepted, it does not conclusively establish that no qualified person was engaged during the entire period or that the Appellant had deliberately violated the regulations. At best, it indicates a possible gap or irregularity in documentation.

22. In the present case, the nature of the alleged offence is essentially procedural, relating to documentation and approval of authorized personnel. There is no finding of any fraudulent activity, misdeclaration or revenue implication. In such circumstances, the extreme penalty of revocation and forfeiture of security deposit appears to be

disproportionate. The Appellant has also raised a valid contention that the Inquiry Officer's recommendation of all possible penalties indicates a pre-determined approach rather than an objective assessment of facts. While this by itself may not invalidate the findings, it reinforces the need for careful scrutiny of the evidence. We find that in the case of *Kunal Travels (Cargo) v. Commissioner of Customs, 2017 (354) E.L.T. 447 (Del.)* The Delhi High Court held that revocation is unjustified in the absence of mens rea or active facilitation of fraud by the CHA. It emphasized that procedural lapses or minor infractions do not warrant the extreme penalty of revocation. Similarly, in *Commissioner of Customs v. Worldwide Cargo Movers, 2010 (253) E.L.T. 190 (Bom.),* it has been held that punishment must be commensurate with the nature of the violation.

23. Taking into account the entirety of the facts and circumstances, including the absence of any fraud, misdeclaration or revenue implication, we are of the considered view that the Department has not established any deliberate or substantial violation of the Customs Brokers Licensing Regulations, 2013 warranting the extreme penalty of revocation. Accordingly, the Impugned Order is not sustainable to the extent it orders revocation of license and forfeiture of security deposit, as the same are

disproportionate to the nature of the alleged violation. However, considering the lapse in ensuring proper documentation and regulatory compliance, the imposition of penalty is found to be justified and commensurate with the conduct of the Appellant.

24. In the light of the foregoing findings, it is held that the alleged violations are procedural in nature and do not warrant the extreme penalty of revocation of license and forfeiture of security deposit. However, at the same time, the Appellant cannot be absolved of responsibility, as there has been lack of due diligence in ensuring proper documentation and compliance with the regulatory requirements relating to appointment and intimation of a qualified person under the Customs Brokers Licensing Regulations.

25. Accordingly, while the revocation of license and forfeiture of security deposit are set aside as being disproportionate to the nature of the violation, the imposition of penalty is found to be justified and commensurate with the lapse on the part of the Appellant.

26. Accordingly, the appeal filed by the Appellant is partly allowed. The Impugned Order is set aside to the extent it orders revocation of license and forfeiture of

security deposit. However, the penalty of Rs.50,000/- imposed on the Appellant is upheld.

(Order pronounced in open court on 02.06.2026)

Sd/-
(VASA SESHAGIRI RAO)
MEMBER (TECHNICAL)

Sd/-
(P. DINESHA)
MEMBER (JUDICIAL)

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