CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
ALLAHABAD

REGIONAL BENCH - COURT NO.I

Customs Appeal No.70672 of 2025

(Arising out of Order-In-Original No.CUS/POL/CB/28/2025-CB/280 dated 03.07.2025 passed by Commissioner, Customs, Noida)

M/s Unique International, **.....Appellant**
(**Through its Proprietor Mr. Amir Ahmed Khan**
Flat No.111-C, Pocket A, Mayur Vihar Phase-II,
Delhi-110091)

VERSUS

Commissioner, Customs, Noida **....Respondent**
(ICD Dadri, Greater Noida-201311)

APPEARANCE:

Shri Suhail Ahmad Ansari, Advocate for the Appellant
Smt. Chitra Srivastava, Authorized Representative for the Respondent

CORAM: HON'BLE MR. P.K. CHOUDHARY, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO.-70424/2026

DATE OF HEARING : 31.08.2026
DATE OF DECISION : 08.10.2026

P. ANJANI KUMAR:

This appeal, preferred by **M/s Unique International,** assails the Order of Suspension of Customs Broker License vide order C.No.CUS/POL/CB/28/2025-CB/280 dated 03.07.2025 and continuation of the Suspension vide order C.No.CUS/POLCB/28/2025-CB/323 dated 22.07.2025 passed by Commissioner, Noida Customs Commissionerate, ICD Dadri.

2. The brief facts of the case are that an information was gathered by Delhi Customs Preventive Department that M/s Bella Ciao Hub Private Limited, Third Floor, 301, Plot No. 6, Pankaj Arcade, Pkt-4, Sector-11, Dwarka, New Delhi (IEC-AALCB3577F) (herein after referred to as "Importer") had filed warehouse Bill of Entry (BoE) No. 8425098 dated 22.10.2023 and 8079118

dated 29.09.2023 at Port Code INDEL4 through Customs Brokers, namely, **M/s Unique International (the Appellant)** & M/s Dilip Kumar Thakur for import of **"Dirham Fr Premium Oudh Essential Oil"** and **"Premium Luxury Base Oud Oil for High end Fragrances MF attar**" respectively and had declaring value for the said goods. These goods had been declared to be imported from two suppliers, namely M/s Sun Prosperous Goods Wholesalers Co LLC and M/s Beautiful Creation General Trading LLC, both based in Dubai, United Arab Emirates. It has been further declared in the said BoEs that these goods are to be re-exported to third country under Para 2.46 of FTP. Based on the premise that the goods appear to have been mis-declared in terms of CTH and value, the said consignments were put on hold by the Customs Preventive, Delhi. The officers informed the Appellant telephonically not to process with these Bills of Entry, as they wanted to see the importers. The Appellant neither proceeded with the impugned BoE nor issued NOC to the importer. Despite several emails sent, neither any importer has replied nor has any authorized representative appeared before the custom authorities. The Appellant sent a letter dated 23.02.2024 to the customs department to take action on the importers. No action was taken by the SIIB for a very long time.

2.1. Investigation was initiated, in the month of March, 2024, nearly after 5 months of the warehousing of the subject goods. Officers of Delhi Customs Preventive conducted examination of the above-mentioned goods imported vide BoE Nos. 8425098 dated 22.10.2023 and 8079118 dated 29.09.2023 on 19.03.2024 in the presence of two independent Panchas and came to a preliminary conclusion that goods were mis declared and overvalued. The goods were declared to be "Dirham Fr Premium Oudh Essential Oil"/"Premium Luxury Base Oud Oil for High end Fragrances MF attar" whereas the CRCL in its test report described the goods as "Preparation containing mixture of odoriferous substances". Three show cause notices were issued on 17.3.2025 by the Principal Commissioner of Customs, ACC-Import, New Delhi to all concerned seeking to reclassify and re-

determine the value of the goods imported by **M/s Bella Ciao Hub Pvt Ltd** and seeking to impose penalties. The Appellant submitted his reply to all the three show cause notices on 16.7.2025 through his counsel denying all allegations levelled against him in all the three show cause notices. Commissioner, Noida Customs, ICD Dadri, issued the impugned orders.

3. Shri Suhail Ahmad Ansari, Learned Counsel for the Appellants, submits that the impugned orders were passed arbitrarily and without any powers passed suspending the License without considering the reply by the Appellant and without recording any individual findings; though more than 8 months have elapsed, neither any show cause notice has been issued nor suspension have been revoked as required under Regulation 17 of the CBLR 2018. He submits that the Appellant has fulfilled his responsibility and taken due diligence as contemplated under regulations; vide written submission dated 09.07.2025denied the allegations levelled in the show cause notice and has also given explanation regarding compliance of provisions of Regulation 10 (d, e, m & n) of the CBLR, 2018; there is no whisper in the order contradicting the reply and explanation given by the Appellant; The order passed is completely without jurisdiction; the show cause notices, for alleged misdeclaration and over valuation, have been issued by the Principal Commissioner of Customs, ACC- Import, New Customs House, New Delhi under Notification No.28/2022 dated 31.3.2022 and the impugned order has been issued by Commissioner of Customs, Dadri; the order impugned is perverse, illegal and bad in law.

4. Learned Counsel submits that before filing the Bills of Entry, the Appellant had obtained the self-attested copies of all the documents relating to filing of the said Bill of Entry such as, Invoice, Packing List, Airway Bill, KYC, IEC & GST Registration etc.; Appellant was totally unaware about the mis-declaration in terms of value and quality of the imported goods at the stage of filing of the said documents; there is nothing in the Show Cause

Notice which show any *mensrea* on the part of the Appellant; part; also, there is nothing in the SCN which would show that the Appellant have colluded with the importer or any other person for gaining any monetary benefits by resorting to mis-declaration of the imported goods; they had only filed the Bills of Entry, but had not proceeded or pursued any further for clearing the goods once the Department instructed; Appellant role was only of a CHA/CB who had filed the Bills of Entry on behalf of the importer; it is neither practicable nor possible for any CHA/CB to carry out investigation or an enquiry about the actual existence of the importer before filing of the Bills of Entry; as CHA/CB they obtained all necessary KYC documents like IEC, GST Registration Certificate, PAN Card, Aadhar Card etc., to ascertain that the importer is genuine and duly exists on record in the documents issued by the Government; there was no intentional omission on the part of the CHA/CB; suspension of license would be totally unjustified; the impugned order concludes, on the basis of surmises and conjectures without any proof or evidence, that the Appellant has concluded with the importer and has not complied the provisions of Regulation 10(d), 10(e), 10(m) and 10(n) of CBLR, 2018; there is no evidence either in the form of any document or any statement under Section 108 of the Customs Act, 1962 that in the present case the Appellant had violated any provisions of the Customs Act, 1962 or CBLR, 2018. He relies on the following cases:-

- **Cargo World Versus Commissioner Of Customs, New Delhi 2009 (245) E.L.T. 780 (Tri. - Del.)**

- **Jai JagdambaMalleables Pvt. Ltd. Versus Commissioner of C. Ex., Kanpur 2009 (245) E.L.T. 648 (Tri. - Del.)**

- **Sachin Kumar Versus Commissioner of Customs, Mangalore 2020 (374) E.L.T. 775 (Tri. - Bang.)**

- **P & J AuromaticsVersus Commissioner of Customs of Central Excise, DELHI-II 2016 (334) E.L.T. 675 (Tri. - Del.)**

- **King Export Vs Commissioner of Customs, Amritsar 2011 (266) ELT 0388 (Tri. Delhi)**

5. The learned Counsel further submits that in terms of Regulation 10 (d) of the CBLR 2018 the Customs Broker is required to advise his clients to comply with the provisions of law and is required to bring the matter to the notice of the Deputy/Assistant Commissioner as the case may be; he has complied with the same; there is no allegation or evidence to say that the Customs Broker Appellant has failed to do so. He relies on cargo services private ltd. (2024) 23 CENTAX 408 (Tri.-Del.) and Maxmiller Agencies (2024) CENTAX 215 (Tri.-Mad.). He further submits that he has not violated regulation 10(n) of the CBLR 2018 and relies on Kunal Travels (Cargo) 2017 (354) E.L.T. 447; **KVS Cargo V/s Commissioner of Customs (General), New Delhi Custom House, New Delhi** Hon'ble High Court vide final **Order dated 09.10.2018 in CUS AA/159/2018;** Advent Shipping Agency Final Order No.A/75371/KOL/2022 dated 05.07.2022; Selected Cargo Services Pvt. Ltd. 2025 (392) ELT 263 (Tri.-Del.) and Kailash Shipping Services Pvt. Ltd. Tribunal Chennai in Customs Appeal No.40232 of 2025. learned Commissioner failed to consider any of these cases before deciding the case.

6. Smt. Chitra Srivastava, Authorized Representative appearing on behalf of the Respondent reiterated the findings recorded in the impugned order.

7. Heard both sides and perused the records of the case.

8. On going through the impugned order we find that learned Commissioner has elaborately discussed the three Show Cause Notices, dated 17.03.2025 issued to the importer and other concerned and makes a statement of the case for the Department. He duly records the submissions of the Appellant in

brief. However, we find that Commissioner has not recorded the submissions of the Appellants relying on various cases. We further find that learned Commissioner in the discussions and findings enumerates the provisions of Regulations 10(d), (e), (m), (n) in Para 5.2 and proceeds to find that the Customs Broker is guilty in Para 5.3 in a very cursory manner. We find that no evidence is put forth and discussed as to how the Appellant Customs Broker has violated the said provisions. We find that such an order cannot be sustained. Suspension of a license of a Customs Broker entails in the loss of livelihood not only for the Appellant but also the employees dependent on them. Therefore, any such suspension of license should be done with utmost precaution and for valid reasons supported by evidence. We find that the allegations and the findings are of a general nature which are not substantiated. Moreover, in their written reply the Appellant has relied upon many cases. Learned Commissioner has not discussed any of them in his order. Thus, the order is rendered unsustainable in the eyes of law.

9. We find that Tribunal and Hon'ble High Courts have been consistent in holding that the violation of Regulations 10(d), (e), (m), (n) cannot be alleged in a casual manner. It has been held in a number of cases that it is enough if the Customs Broker satisfies himself of the genuineness of the importer. We find that this has been done by the Appellant herein by way of obtaining statutory documents. It has also been held that the Customs Broker is not expected to physically verify the premises of the Importers.

9.1 We find that the Principal Bench held in the case of **Selected Cargo Services Pvt. Ltd. Vs Commissioner of Customs (Airport & General), New Delhi 2025 (392) E.L.T. 263 (Tri.-Del) [06-08-2024]** as under :-

> *"17. Merely because an exporter has allegedly violated any provisions of the Act, it cannot be said that the Customs Broker had not advised the exporter to follow the provisions of the Act or Rules. In this case, the*

allegation is of overvaluation of exports by the exporter in order to avail undue drawback. The Customs Broker has neither any obligation nor any power to determine either the transaction value or the assessable value under the Customs Act. Transaction value or price is the consideration which the overseas buyer agrees to pay to the exporter for the goods to be exported. It is a subject matter of negotiation between the buyer and the seller. The customs broker and the officers are strangers to the contract and have no locus standi in deciding the transaction value. Neither the Customs Broker nor any officer can change the transaction value even if the value is fair, too high or too low. Therefore, the Customs Broker has no role or right in deciding the transaction value. He cannot be held responsible even if it is low or high.

9.2 Further the Principal Bench held in the case of **Kunal Travels (Cargo) V/s CC (1 & G), IGI Airport, New Delhi [2017 (354) E.L.T. 447 (Del.)]** that:-

"*12. The aforesaid clauses do not obligate the CHA to look into such information which may be made available to it from the exporter/importer. The CHA is not an inspector to weigh the genuineness of the transaction. It is a processing agent of documents with respect to clearance of goods through customs house and in that process only such authorized personnel of the CHA can enter the customs house area. What is noteworthy is that the IE Code of the exporter M/s. H.M. Impex was mentioned in the shipping bills, this itself reflects that before the grant of said IE Code, the background check of the said importer/exporter had been undertaken by the customs authorities, therefore, there was no doubt about the identity of the said exporter. It would be far too onerous to expect the CHA to inquire into and verify the genuineness of the IE Code given to it by a client for*

each import/export transaction. When such code is mentioned, there is a presumption that an appropriate background check in this regard i.e. KYC etc. would have been done by the customs authorities. 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. In the absence of such knowledge, there cannot be any mensrea attributed to the Appellant or its proprietor. Whatever may be the value of the goods, in the present case, simply because upon inspection of the goods they did not corroborate with what was declared in the shipping bills, cannot be deemed as misdeclaration by the CHA because the said document was filed on the basis of information provided to it by M/s. H.M. Impex, which had already been granted an IE Code by the DGFT. The grant of the IE Code presupposes a verification of facts etc. made in such application with respect to the concern or entity. If the grant of such IE Code to a non-existent entity at the address WZ-156, Madipur, New Delhi 63 is in doubt, then for such erroneous grant of the IE Code, the Appellant cannot be faulted. The IE Code is the proof of locus standi of the exporter. The CHA is not expected to do a background check of the exporter/client who approaches it for facilitation services in export and imports. Regulation 13(e) of the CHALR, 2004 requires the CHA to: "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" (emphasis supplied). The CHAs due diligence is for information that he may give to its client and not necessarily to do a background check of either the client or of the consignment. Documents prepared or filed by a CHA are on the basis of instructions/documents received from its client/importer/exporter. Furnishing of wrong or

incorrect information cannot be attributed to the CHA if it was innocently filed in the belief and faith that its client has furnished correct information and veritable documents. The misdeclaration would be attributable to the client if wrong information were deliberately supplied to the CHA. Hence there could be no guilt, wrong, fault or penalty on the Appellant apropos the contents of the shipping bills. Apropos any doubt about the issuance of the IE Code to M/s. H.S. Impex, it was for the respondents to take appropriate action.

10. The Appellant further submits that Show Cause Notice in terms of Regulation 17 of the CBLR 2018. We find that Hon'ble High Court of Delhi in the case of HIM Logistics Pvt. Ltd. (supra) held that if the notice issued beyond the period of 90 days from the offence report, impugned order cannot be sustained. We also find that Hon'ble High Court of Delhi in the case of Leo Cargo Services (supra) held that:-

> **"14.** It can be seen that the timelines as prescribed under various Regulations in CBLR, 2018, have been consistently held by the Courts as mandatory in nature. Each timeline is sacrosanct, and the idea of prescribing a time limit by statute becomes redundant if not adhered to. Therefore, it is not just the overall timeline of 270 days (as set forth in the Circular No. 9/2010, dated 8-4-2010) that needs to be followed, but also each and every timeline as prescribed in the CBLR, 2018.
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> **14.1** Timelines cannot be overlooked by Revenue by citing reasons on merits. We are bound by the decisions, as discussed above, passed by the Coordinate Benches of this Court and other High Courts, which state that each timeline is sacrosanct.
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> **14.2** We are unable to persuade ourselves to agree with the decision of the Bombay High Court in the *Principal Commissioner of Customs* v. *Unison Clearing Pvt. Ltd.* (supra) that where a reasonable explanation is given for

such delay and were accounted for, the delay may be condoned. In any event, in the present case, the facts are distinguishable. The Revenue has nowhere in their pleadings before the CESTAT and neither in their Reply affidavit filed in this present appeal given any reasonable explanation for the delay or non-compliance of the timeline prescribed under sub-regulation (5) of Regulation 17 of CBLR, 2018. Revenue is bound to follow the settled law and statutory provisions, including their timelines. Once the limitation is prescribed clearly therein, it cannot be stated that because of other issues, this mandatory requirement can be ignored.

14.3 In view of the aforegoing discussion and having regard to the consistent view of the Courts across the Board, we are not inclined to take a contrary view. The surviving question of law as framed as set forth in paragraph 3(i) herein is answered in favour of the Appellant and against the respondent.

15. Accordingly, we allow the appeal and set aside the impugned order dated 1-10-2019 passed by the CESTAT. Consequently, the proceedings involving revocation of the Appellant's custom broker license, forfeiture of its security deposit and imposition of penalty, will also stand set aside."

11. We further find that Hon'ble High Court of Chennai in the case of Aristo Shipping Services (supra) held that when the timelines are not adhered to the impugned order has no legs to stand. We further find that the Hon'ble Delhi High Court in the case of Necko Freight Forwarders Ltd. (supra) held that:-

"18. A conjoint reading of Regulations 19 and 20(1) indicates that the Commissioner of Customs may in appropriate cases suspend the License without hearing but must provide a hearing within a period of fifteen days and pass the order confirming the suspension within a period of fifteen days thereafter. Assuming that the

Commissioner has passed an order suspending the license immediately on receipt of offence report, he would provide a further period of sixty days to issue a notice to the Customs Broker indicating the grounds on which it is proposed to revoke the License or impose a penalty. This is so because in terms of Regulation 20(1) of the CBLR, such notice is required to be issued within a period of 90 days from the receipt of offence report. The order suspending the License of a Customs Broker cannot continue indefinitely and must yield to the procedure under Regulation 20 of CBLR.

19. The Customs Broker is required to respond to the notice under Regulation 20(1) of the CBLR within a period of thirty days. The Commissioner of Customs is, thereafter required - in terms of Regulation 20(2) of CBLR - to direct the Deputy Commissioner of Customs or Assistant Commissioner of Customs to inquire into the grounds, which are not admitted by the Customs Broker and to submit a report. The Deputy Commissioner of Customs/Assistant Commissioner of Customs is further required to submit the report within a period of ninety days from the date of issue of the notice under Regulation 20(1) of the CBLR.

20. In terms of Regulation 20(6) of the CBLR, the report of the Deputy Commissioner of Customs/Assistant Commissioner of Customs is required to be furnished to the Customs Broker requiring him to make a representation within a period of thirty days, thereafter.

21. In terms of Regulation 20(7), the Commissioner of Customs is required to pass a final order within the period of ninety days of the receipt of the report of the Deputy Commissioner of Customs/Assistant Commissioner of Customs under Regulation 20(5) of CBLR. Thus, within a period of 270 (two hundred and seventy) days from the receipt of the offence report, the Commissioner of Customs has to pass an order either revoking the order of

suspension or to revoke the License of the Customs Broker and/or impose a penalty as specified under Regulation 20(2) of the CBLR.

22. A Customs Broker cannot carry on its business without a License and, therefore, revocation or suspension of such License has serious adverse consequences as it results in preventing the Customs Broker from carrying on its vocation. Given the serious nature of such action, strict timelines have been specified under Regulations 19 and 20 of the CBLR and the same must be adhered to.

23. The respondent's contention that a License of a Customs Broker can be suspended indefinitely awaiting a final conclusion of the investigations and the period of suspension would be contingent on as and when the final show cause notice is issued and militates against the scheme of Regulations 19 and 20 of the CBLR. The rationale of providing strict timelines is to ensure that the work of the Customs Broker is not suspended indefinitely and any action against him is concluded in the time bound manner. The interpretation that the License of a Customs Broker can be suspended without immediately following the same proceedings under Regulation 20(1) of the CBLR would defeat the very objective for which such strict timelines have been provided"

12. We also find that in the recent times, Courts have been taking a strict view of the timelines prescribed under CBLR, 2018. It is not prudent on the part of the Revenue to accuse the customs broker of the violation of the CBLR, 2018 when they do not themselves adhere to the same Regulations. We further find that it was incumbent on the officers to adhere to the procedures laid down in the law while dealing with the violations. We find that it has been held by the Hon'ble Apex Court in a number of cases that a particular act is to be performed in the particular manner prescribed. We find that Hon'ble Supreme Court in the

case of **Chandra Kishore Jha v. Mahavir Prasad & Ors. - (1999) 8 SCC 266**, held as under:-

> "17.....It is a well-settled salutary principle that if a statute provides for a thing to be done in a particular manner, then it has to be done in that manner and in no other manner. (See with advantage: Nazir Ahmad v. King Emperor [(1935 36) 63 IA 372: AIR 1936 PC 253 (II)], Rao Shiv Bahadur Singh v. State of V.P. [AIR 1954 SC 322: 1954 SCR 1098], State of U.P. v. Singhara Singh [AIR 1964 SC 358: (1964) 1 SCWR 57].) An election petition under the rules could only have been presented in the open court up to 16-5 1995 till 4.15 p.m. (working hours of the Court) in the manner prescribed by Rule 6 (supra) either to the Judge or the Bench as the case may be to save the period of limitation. That, however, was not done....."

13. We further find that Hon'ble Supreme Court in the case of Cherukuri Mani v. Chief Secretary, Government of Andhra Pradesh & Ors - (2015) 13 SCC 722 held that "Where the law prescribes a thing to be done in a particular manner following a particular procedure, it shall be done in the same manner following the provisions of law, without deviating from the prescribed procedure....." (Para 14). Hon'ble Supreme Court further followed the same principle in the case of Municipal Corporation of Greater Mumbai (MCGM) v. Abhilash Lal & Ors. and OPTO Circuit India Limited v. Axis Bank & Ors (2021) 6 SCC 707and in the case of Mahendra Singh Civil Appeal No. 4807 OF 2022.

14. In view of the above, we are of the considered opinion that the impugned order cannot be sustained. Though, the Appellant – customs broker has been found to have not acted in the true spirit of the Regulations, we find that the Appellant – customs broker has suffered enough due to the suspension of his license. We find that Hon'ble Delhi High Court in the case of Ashiana

Cargo Services (2014 (302) ELT 161 (Del.)) held that even though it is seen that the Customs Broker has violated the trust operating between the customs authorities and the CHA, it has to be borne in mind that the CHA was unable to work with the license for 07 to 08 years; a penalty must be imposed if certain provisions have been violated; the penalty must, as in any ordered system, be proportional to the violation just as the law abhors impunity for infractions, it cautions against disproportionate penalty; neither extreme is to be encouraged. Hon'ble High Court held that a penalty of revocation of license unjustly restricts the Appellant's ability to engage the business of CHA for a long time; importantly, it skews the proportionality doctrine. We find that no penalty was imposed in the instant case. The fact that suspension hit at the very livelihood of the Appellant and his employees, requires to be considered for atonement of the mistakes, if any, on the part of the Appellant – customs broker.

15. In view of the above we are of the considered opinion that the impugned order does not establish that the suspension of the Customs Broker License of the Appellant was either warranted or was correct. For this reason, we find that the impugned order is not sustainable. Accordingly, we set aside the impugned order and allow the appeal with consequential relief, if any, as per law.

(Order pronounced in open court on 08.10.2026)

Sd/-
(P. K. CHOUDHARY)
MEMBER (JUDICIAL)

Sd/-
(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

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