CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL

NEW DELHI

PRINCIPAL BENCH – COURT NO. – I

CUSTOMS APPEAL NO. 51013 OF 2025

[Arising out of Order-in-Original no. 10/VPS/Policy/2025 dt. 27.02.2025 passed by the Commissioner of Customs (Import and General), New Custom House, New Delhi]

M/s. Anubhav Cargo Movers **... Appellant**
C-92, Sector 20, NOIDA
Distt. Gautam Budh Nagar
Uttar Pradesh 201301

VERSUS

Commissioner of Customs
(Import & General) **..Respondent**
New Custom House,
Near IGI Airport
New Delhi

APPEARANCE:
Shri Ramchander Sankhla and Shri Rahul Sankla Counsel for the Appellant

Shri Amit Arora, Authorised Representative for the Revenue

CORAM:
HON'BLE DR. RACHNA GUPTA, OFFICIATING PRESIDENT
HON'BLE MR. P.V. SUBBA RAO, MEMBER (TECHNICAL)

DATE OF HEARING: 6.10.2026
DATE OF DECISION:28 .10.2026

FINAL ORDER NO. 51635/2026

P V SUBBA RAO

M/S. Anubhav Cargo Movers[1] filed this appeal to assail the Order dated 27.2.2025[2] passed by the Commissioner of Customs (Import & General) under Regulations 14 & 18 and Regulation 17(7) of the Customs Brokers Licensing Regulations, 2018[3] revoking the Customs Broker licence of the appellant, forfeiting the security deposit made by the appellant and imposing a penalty of Rs. 50,000/- on the appellant.

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1 Appellant
2 Impugned order
3 CBLR

2. The Commissioner passed the impugned order for the reason that he found that the appellant had violated Regulations 10(d) and 10 (e) of the CBLR which read as follows:

> **"10. Obligations of Customs Broker**.— A Customs Broker shall —
>
> ……..
>
> (d) advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;
>
> (e) 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;"

3. The facts of the case are that the appellant had filed two Bills of Entry dated 20.10.2020 and 13.01.2021 at Inland Container Depot[4], Dadri on behalf the importer M/s. Anil Enterprises for import of 'Boiled Betelnuts' imported from Indonesia classifying them under **Customs Tariff Item[5] 2106 90 30** and the goods were cleared.

4. After almost an year, on 2.12.2022, a Show Cause Notice was issued to the importer and to the appellant proposing to re-classify them under **CTI 0802 80** and recover the differential duty with interest and to impose penalties both on the importer and on the appellant. The proposals in the SCN were decided by Assistant Commissioner (Policy), NOIDA Customs Commissionerate and a copy of that order was sent to the Commissioner of Customs (Import & General), New Delhi. Treating the order as an offence report, the Commissioner issued an SCN dated 18.9.2024 proposing action against the appellant under CBLR. Shri Jitender Kumar, Assistant Commissioner was

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4 ICD
5 CTI

appointed as the Inquiry Officer and he submitted his report on 3.12.2024 stating that the appellant had violated Regulations 10(d) and 10(e) of CBLR.

5. After considering the report of the inquiry officer and the submissions made by the appellant, the Commissioner passed the impugned order.

Submissions of the appellant

6. Learned counsels for the appellant made the following submissions:

(i) No malafide can be attributed to the appellant in matters of classification as it is only a matter of interpretation.

(ii) The classification of betel nuts was done by the appellant as per its understanding. It was open to the proper officer to re-assess the goods.

(iii) Although the goods were cleared through self-assessment, even if the self-assessment is not correct, it cannot be treated as a violation.

(iv) In every Bill of Entry even when the goods are cleared on the basis of self-assessment, instructions are issued by the system to the officer giving out of charge of the Customs. In the Bills of Entry, the instructions included to verify the classification of the imported goods under 2106. The goods were given out of charge. Evidently, the officer giving out of charge was also satisfied that the classification of the goods was correct.

(v) In a similar issue, the Commissioner, ICD, Dadri has revoked the suspension of another Customs Broker.

(vi) There was no violation of Regulations 10(d) and 10(e) of CBLR by the appellant.

(vii) The impugned order may be set aside and the appeal may be allowed.

(viii) The Commissioner may also be directed to unblock the appellant's Customs Broker details on the ICEGATE portal so that the appellant can immediately start operating.

Submissions of the Revenue

7. Learned authorised representative for the Revenue vehemently supported the impugned order and asserted that it calls for no interference. He submitted as follows:

(i) As the Customs broker, the appellant had to fulfil all the obligations under Regulation 10 of the CBLR.

(ii) Regulation 10(d) requires the Customs broker to advise his client to comply with the provisions of the Act and Rules and in case of non-compliance, report to the Assistant Commissioner or Deputy Commissioner.

(iii) The appellant failed to advise its client, the importer and classified the imported boiled betelnuts under CTI 2106 90 30 when the correct classification was CTH 0802 80 which had implications in terms of duty, Minimum Import Price prescribed by the DGFT, etc.

(iv) By failing to advise the importer correctly, the appellant had violated Regulation 10(d).

(v) Regulation 10(e) requires the customs broker to exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work relating to Customs clearance.

(vi) The appellant had not advised the client about the correct classification and thus violated Regulation 10(e).

(vii) The impugned order may be upheld and the appeal may be dismissed.

Findings

8. We have considered the submissions advanced by both sides.

9. Classification of the goods is a part of the assessment under the Customs Act, 1962[6]. This should be done by the importer himself (self assessment) as per section 17 and the proper officer can re-assess the duty. This section reads as follows:

> **"Section 17. Assessment of duty. -**
>
> (1) **An importer entering any imported goods under section 46 , or an exporter entering any export goods under section 50 , shall, save as otherwise provided in section 85 , self-assess the duty, if any, leviable on such goods.**
>
> (2) The proper officer may verify the entries made under section 46 or section 50 and the self assessment of goods referred to in sub-section (1) and for this purpose, examine or test any imported goods or export goods or such part thereof as may be necessary.
>
> Provided that the selection of cases for verification shall primarily be on the basis of risk evaluation through appropriate selection criteria.
>
> (3) For the purposes of verification under sub-section (2), the proper officer may require the importer, exporter or any other person to produce any document or information, whereby the duty leviable on the imported goods or export goods, as the case may be, can be ascertained and thereupon, the importer, exporter or such other person shall produce such document or furnish such information.
>
> (4) **Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.**
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> (5) Where any re-assessment done under sub-section (4) is contrary to the self-assessment done by the importer or exporter and in cases other than those where the importer or exporter, as the case may be, confirms his acceptance of the said re-assessment in writing, the proper officer shall pass a speaking order on the re-assessment, within fifteen days from the date of re-assessment of the bill of entry or the shipping bill, as the case may be.
>
> Explanation. - For the removal of doubts, it is hereby declared that in cases where an importer has entered any imported goods under section 46 or an exporter has entered any export goods

6 Act

> under section 50 before the date on which the Finance Bill, 2011 receives the assent of the President, such imported goods or export goods shall continue to be governed by the provisions of section 17 as it stood immediately before the date on which such assent is received."

10. Section 17 (4) itself provides for re-assessment by the officer as a remedy for any wrong self-assessment by the importer. Unlike the customs officers, the importers or customs brokers are not experts and may make mistakes in self-assessment. It can be remedied through re-assessment under section 17(4) before the goods are cleared for home consumption or by modifying the assessment through an appeal to the Commissioner (Appeals) under section 128 of the Act or through a notice issued under section 28 of the Act.

11. Assessment involves stating some facts such as the nature of the goods, quantity, value, etc. and expressing some opinions such as classification of the goods under the Customs Tariff, applicable exemption notifications, etc. Insofar as the facts are concerned, the importer has to state correct facts and cannot wrongly assess duty by stating incorrect facts. For instance, if one imported 20 MT and declares it as 15 MT or imports good 'A' and declares it as good 'B', it is clearly a mis-declaration and action is warranted.

12. Insofar as any Customs broker is concerned, he only has the documents with him and has no power to open and inspect the goods. He must diligently declare the nature of the goods, quantity, etc. as per the documents available with him. He cannot know, in the normal course of business if the goods actually imported were more or different from what is declared. It is a different matter if there is evidence that the Customs broker

connived to mis-declare or the Customs broker becomes aware of mis-declaration and does not bring it to the notice of the officers.

13. The importer or Customs Broker can only classify the goods as per their understanding. The Act does not require the importer or customs broker to do the impossible task of anticipating if the proper officer would accept his classification or not and if he does not accept, which classification he would find proper and file the Bills of Entry in accordance with the anticipated classification by the proper officer. It is even more impossible for the importer or the customs broker to anticipate that after the goods are cleared, at some stage, during the investigation, the classification will be disputed and if so, which classification the adjudicating authority would ultimately decide and based on such future anticipated decision, file the Bills of Entry. There is no obligation under the Customs Act either on the importer or on the Customs Broker to anticipate the officers' decisions in this fashion and conform to such anticipated decisions while filing the Bills of Entry.

14. If we look at the two competing entries, the appellant classified the betelnut under 2106 90 30 and the department classified under 0802 80 which read as follows:

> **2106 90 30** Betel nut product known as "Supari"
>
> **0802 80** -- Arecanuts

15. Arecanut is the fruit of tree *Areca catechu* which is known in Hindi as Supari. Both classifications are plausible and further detailed examination of the chapter notes, section notes, Rules of Interpretation, etc. can help classify the imported goods under one or the other. Simply because the Customs broker or importer took one view and the adjudicating authority took another view,

it does not prove any wrongdoing on the part of the importer or customs broker.

16. It also needs to be noted that in the Bills of Entry, the instructions to the Out of Charge officer included to verify if the goods fell under 2106 and the Out of Charge was given. Therefore, it is possible that the officer who had given out of charge was also of the opinion that 2106 was the correct heading.

17. Coming to the alleged violations of the appellant under CBLR, Regulation 10(d) requires the customs broker to advise his client to comply with the provisions of the Act and Rules and in case of non-compliance, report to the Assistant Commissioner. The case of the department is that the appellant failed to advise him about the correct classification of the goods.

18. We do not find that the appellant failed to advise about the correct classification of the goods. The appellant classified the goods as per his understanding. The appellant failed to foresee that after a year or so, some officer of the department would reopen the case and further failed to foresee what classification the officer would find appropriate and based on such foresight, advise his client. Needless to say that such foresight and anticipation are humanly impossible and there is no obligation on the Customs Broker to have such a vision into the future or to read the minds of the officers and advise his client accordingly.

19. Thus, we find that the appellant did not violate Regulation 10(d) of CBLR.

20. Regulation 10(e) requires the Customs Broker to exercise due diligence to ascertain the correctness of any information

which he imparts to the client. The case against the appellant is that he did not exercise such due diligence in advising the client about the classification of the betelnuts.

21. Our finding in paragraph 17 above also answers the question if the appellant had violated Regulation 10(e). The answer is negative.

22. In view of the above, we set aside the impugned order and allow the appeal with consequential relief to the appellant. Since it is a matter which is affecting the livelihood of the appellant, we direct the Commissioner to do the needful to enable the appellant to file documents in the ICEGATE immediately.

(Order pronounced on 28.10.2026)

(RACHNA GUPTA)
OFFICIATING PRESIDENT

(P. V. SUBBA RAO)
MEMBER (TECHNICAL)

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