CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, MUMBAI

REGIONAL BENCH - COURT NO. V

Customs Appeal No. 86938 of 2026

[Arising out of Order No. 11/2026-27 dated 16.09.2026 (F. No. GEN/CB/245/2026) passed by the Principal Commissioner of Customs (General), New Custom House, Mumbai]

Navbharat Consolidation Pvt. Ltd. **.... Appellant**
5D1, 5th Floor, D Wing, Gundecha Onclave,
Khairani Road, Sakinaka, Andheri (E),
Mumbai 400 072.

Versus

Principal Commissioner of Customs, Mumbai-I **....Respondent**
New Custom House, Ballard Estate, Mumbai 400 001.

APPEARANCE:

Shri Sujit Sahoo with Shri Zainab Burmawala and Shri Sunny Gupta, Advocates for the Appellant
Shri Ashish Sharma, Authorised Representative for the Respondent

CORAM:

HON'BLE MR. AJAY SHARMA, MEMBER (JUDICIAL)
HON'BLE MR. P. ANJANI KUMAR, MEMBER (TECHNICAL)

FINAL ORDER NO. 86362/2026

Date of Hearing: 29.10.2026
Date of Decision: 30.10.2026

PER: P. ANJANI KUMAR

M/s. Navprabhat Consolidation Pvt. Ltd., the appellant, filed this appeal against the impugned order dated 16.09.2026 suspending the licence of the appellant Customs Broker.

2. Briefly stated, the facts of the case leading to this appeal are that the CIU, Nhava Sheva initiated investigation on the basis of an intelligence received that unscrupulous importers are resorting to large scale evasion of customs duty by deliberately misdeclaring the country of origin and were claiming the benefit contained under South Asian Free Trade Area (SAFTA). The appellant broker is alleged to have filed six Bills of Entry on behalf of the

importer, M/s. Transworld Commercial Enterprises for import of walnut kernels. It was also alleged that the Managing Director of the appellant, i.e. Shri Prashant Dwivedi was also a Managing Partner of the importer. A statement of Shri Prashant Dwivedi was recorded on 26/27.02.2026 and an initial investigation report dated 27.04.2026 was sent to the Commissioner of Customs, New Custom House, Mumbai, recommending action against the appellant Customs Broker. Accordingly, learned Principal Commissioner of Customs (G) vide the impugned order suspended the licence of the appellant. Hence this appeal.

3. Shri Sujit Sahoo, Advocate, learned counsel for the appellant, submits that the first investigation report was received by the respondent on 27.04.2026. The respondent claimed to have received the relied upon documents on 21.08.2026. Learned counsel further submits that a combined reading of the suspension orders dated 31.08.2026 and 16.09.2026 does not disclose which specific material was found in the relied upon documents received on 27.04.2026 to order immediate suspension; the orders also do not speak out as to how the material received by them on 21.08.2026 altered the position and necessitated the emergent requirement for immediate suspension of the licece.

3.1 Learned counsel further submits that the offence report was admittedly available to the respondent on 27.04.2026 whereas the action of suspension was initiated on 31.08.2026 after a gap of four months; even after allegedly receiving the documents on 27.04.2026, the respondent took about ten days to issue the suspension order. Learned counsel submits that other than stating that the documents are received on 27.04.2026, the respondent has not indicated any immediate cause for suspension of licence. He submits that the term “offence report” is not expressly defined in the Customs Broker Licensing Regulations, 2018 (CBLR, 2018); the scope and legal significance has been enunciated in many judicial pronouncements holding that the substance of the communication and allegation conveyed to the licensing authority is more important than the nomenclature used; the respondent authorities cannot postpone the commencement of the applicable timeline merely stating that the documents have been received later. More so, when it is not spelt out as to which additional material evidence has been made available by the documents supplied on 27.04.2026, learned counsel for the

appellant submits further that Section 146 of the Customs Act and CHALR, 2004, CBLR, 2013 and CBLR, 2018 demonstrated that immediate suspension of licence is an exceptional and preventive measure distinct from the ordinary disciplinary process culminating into revocation etc.; the existence of contemplation of an enquiry is not by itself sufficient to justify immediate suspension; the licensing authority is required to have a reasonable satisfaction that immediate suspension is necessary; suspension of a licence affects the appellant's ability to carry out the work and, therefore, is required to be exercised in caution; the impugned order was in violation of Circular No.9/2010, which is neither withdrawn nor superseded till date and has to be taken into consideration regarding timeline. Under the circumstances, the conditions for exercise of exceptional jurisdiction under Regulation 16(1) were not satisfied and, therefore, the order is liable to be set aside. He relies on the following cases:-

(i) *Babaji Shivram Clearing & Carriers Pvt. Ltd. vs. Union of India [2011 (269) ELT 222 (Bom.)]*

(ii) *M.D. Ruparel & Sons vs. Principal Commissioner of Customs (G) [Final order No. 85521/2025 dated 08.04.2025]*

(iii) *Yash Logisys vs. Principal Commissioner of Customs (G) [Final order No. 85727/2022 dated 24.08.2025]*

(iv) *Kailash Shipping Services Pvt. Ltd. vs. Principal Commissioner of Customs [Final order No. 40629/2025 dated 19.06.2025]*

(v) *Ratnadip Shipping Pvt. Ltd. vs. Commissioner of Customs (G), Mumbai [2019 (370) ELT 1765 (Tri.-Bom.)]*

(vi) *Thiru Rani Logistic Pvt. Ltd. vs. Commissioner of Customs, Chennai [2019 (365) ELT 856 (Mad.)]*

(vii) *A.M. Ahmed & Co. vs. Commissioner of Customs (Imports), Chennai [2014 (309) ELT 433 (Mad.)].*

4. Shri Ashish Sharma, learned Authorised Representative, on the other hand, submits that the Customs Broker actively facilitated and organized the revenue fraud in misdeclaring the origin, the transit and the valuation of the imported walnut kernels and raisins to avail the benefit of duty exemption under SAFTA. He submits that the present appeal by the appellant is premature; under Regulation 17(1) of CBLR, 2018, the Commissioner is within his right to issue a formal show cause notice within 90 days from the

receipt of the offence report; as the relied upon documents were received on 19.11.2016, the said period would have expired only on 19.11.2016; however, show cause notice was issued on 09.09.2026.

4.1 Learned Authorised Representative further submits that the appellant Customs Broker has failed to exercise due diligence under Regulation 10 inasmuch as they have identified discrepancy between T-Type and Z-Type declarations and flagged the unverified 1st-leg House Bills of Lading. Learned AR also submits that belated retractions submitted by the key noticees in this regad are not substantiated. The appellant's plea on the basis of loss of livelihood affects is completely baseless and in view of the fact that the promoters operate a vast network of associate and group companies under common ownership and potential revenue loss due to the fraudulent activity of the appellant cannot be ignored. He relies on the following cases:-

(i) *Commissioner of Customs (G) vs. Worldwide Cargo Movers [2010 (253) ELT 190 (Bom.)]*

(ii) *Commissioner of Customs & Central Excise, Hyderabad-II vs. H.B. Cargo Service [2011 (268) ELT 448 (A.P.)].*

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

6. We find that the appellant submits that the offence report is received on 27.04.2026 and enquiry, if any, could have been initiated within the time frame available in the Customs Broker Licensing Regulations, 2018. The respondent authorities have taken their sweet time to issue the suspension order on 31.08.2026 after a period of 90 days expired for initiation of enquiry etc. To cover up their lapse, the respondent Revenue claimed that the documents relied upon have not been received on 21.08.2026, the authorities should have taken requisite action within the permissible period. We find that the offence report was received on 27.04.2026 and the same contains certain information regarding omissions and commissions alleged to have been committed by the appellant Customs Broker. However, the order suspending the appellant's Customs Broker licence was issued on 31.08.2016. On perusal of the order we find that, as alleged by the appellant, no information or assertion on the additional information than that the authorities obtained in the form of relied upon documents, which has resulted in the suspension of the Customs Broker licence vide the order dated

31.08.2026 was necessitated. Under the circumstances, we find that no sense of urgency has been shown and substantiated by the respondent authorities in suspending the licence of the Customs Broker vide order dated 31.08.2026. If at all the respondent authorities had reason to believe that the threat/danger to Government revenue would be warded off by suspending the licence of the appellant Customs Broker, they were free to do so within the reasonable period.

7. However, suspension of the licence after 3-4 months of the receipt of the offence report and without showing any urgency is neither explained nor understood. This is not to say that the respondent authorities cannot initiate action to revoke the licence of the appellant by taking appropriate action in time following the procedure laid down under law. We find that suspension of licence in a belated manner, that too a few days before the initiation of enquiry by issuing show cause notice, is neither warrated by the facts of the case nor sustainable legally. We are of the considered opinion that the respondent department has not made out any case for suspension of the licence of the appellant Customs Broker pending enquiry as they have taken such decision in a belated manner. The very fact that the licence has been suspended after 3-4 months of the offence report negates the emergent condition for taking precipitative action against the appellant Customs Broker.

8. We find that the coordinate Bench of the Tribunal at Chennai in the case of *Kailash Shipping Services Pvt. Ltd. [Final Order No. 40629/2025 dated 19.06.2025]* held as follows:-

> *"10. At this juncture, it would be appropriate to note the Judgement dated 13.10.2017 of the Honourable Madras High Court in C.M.A No.730 of 2016 in the case of M/s.Santon Shipping Services v. The Commissioner of Customs. The relevant portions are reproduced below: "41. In view of the aforesaid Judgments, in our opinion, the issue as to whether the limitation prescribed i.e., 90 days period, under Regulation 22(1) of CHALR 2004, is mandatory or not, is no more res integra. 42. Once the limitation prescribed is mandatory, as has been declared by the courts of law, it cannot be stated that, because of the other issues, that is the merit of the case, this mandatory requirement of the limitation can be ignored. 43. It is not the case of the 1st respondent that the 90 days limitation contemplated under Regulation 22(1), is directory.*

It is also not the case of the 1st respondent that the show cause notice was issued within the limitation period of 90 days from the date of offence report. 44. Since the offence report was dated 22.9.2010 and the show cause notice, admittedly, was issued only on 18.11.2011, there can be no doubt that the said show cause notice was issued well beyond the period of limitation of 90 days. 45. Whatever be the claim and counter claim on the merits, in this appeal can, in our view, they get shadowed by the failure on the part of the Revenue in not acting in time, by issuing the show cause notice, within the period as contemplated under Regulation 22(1) of CHALR, 2004. 46. Therefore, we are of the considered view, and in fact have no hesitation to hold so that, the Revenue has not issued the show cause notice dated 18.11.2011 within the period of limitation prescribed under Regulation 22(1) CHALR, 2004 and thus, the consequent proceedings involving revocation of the appellant's CHA licence and forfeiture of its security deposit, is unlawful".

11. We find that the ratio of the aforesaid Judgement is squarely applicable in the instant case. Respectfully adhering to the same, we hold that the time period for issuance of show cause notice prescribed in Regulation 17(1) is mandatory and that in the instant case the Principal Commissioner of Customs, has not issued the show cause notice No.09/2025 dated 17-03-2025 within a period of ninety days from the date of receipt of an offence report, which is the period of limitation prescribed under Regulation 17(1) of the CBLR 2018. In as much as we have now taken cognizance of the issuance of the said SCN No.09/2025 dated 17-03-2025, we hold that the SCN having been issued beyond the period of limitation, is without jurisdiction and thus being non-est in law, is not maintainable. Having found the consequential proceedings as being without jurisdiction, resultantly, we hold that the proceedings initiated under the impugned order of continued suspension, which is prior to the consequential proceedings under Regulation 17 calling upon the appellant to show cause, does not have an independent continued existence and therefore cannot sustain. Accordingly, we set aside the impugned order."

9. We further find that in the case of *A.M. Ahamed & Co. vs. Commissioner of Customs (Imports), Chennai [2014 (309) ELT 433 (Mad.)*, Hon'ble Madras High Court held as follows:-

"11. The first contention is that the proceedings under Regulation 22 were initiated beyond the time limit prescribed by Regulation 22(1). In order to

test the correctness of the said contention, it is necessary to have a look at the Regulations.

12. In exercise of the powers conferred by sub-section (2) of Section 146 of the Customs Act, Central Board of Excise and Customs issued a set of Regulations known as Customs House Agents Licensing Regulations, 2004. Under the said Regulations, no person shall carry on business as a Customs House Agent relating to the entry or departure of a conveyance or the import or export of goods at any Customs Station unless such person holds a licence granted under the Regulations. Regulation 20 empowers the Commissioner of Customs to revoke the licence of an agent and order the forfeiture of the whole or part of the security, on certain specific grounds stated in Clauses (a), (b) and (c) of sub-regulation (1) of Regulation 20. The procedure for suspending or revoking licence under Regulation 20 is prescribed in Regulation 22.

13. In other words, the power to suspend or revoke the licence is to be traced to Regulation 20 and procedure for suspending or revoking the licence is to be found in Regulation 22. The power of the first respondent to pass the impugned order is traceable to Regulation 20 and since there is no dispute in this case with regard to the same, it is enough if we take note of Regulation 22. Hence Regulation 22 is extracted as follows :-

*"**22. Procedure for suspending or revoking licence under Regulation 20. -** (1) The Commissioner of Customs shall issue a notice in writing to the Customs House Agent within ninety days from the date of receipt of offence report, stating the grounds on which it is proposed to suspend or revoke the licence and requiring the said Customs House Agent to submit within thirty days to the Deputy Commissioner of Customs or Assistant Commissioner of Customs nominated by him, a written statement of defense and also to specify in the said statement whether the Customs House Agent desires to be heard in person by the said Deputy Commissioner of Customs or Assistant Commissioner of Customs :*

Provided that the procedure prescribed in regulation 22 shall not apply in respect of the provisions contained in sub-regulation (2) to regulation 20.

(2) The Commissioner of Customs may, on receipt of the written statement from the Customs House Agent, or where no such statement has been received within the time-limit specified in the notice referred to in sub-regulation (1), direct the Deputy Commissioner of Customs or Assistant

Commissioner of Customs to inquire into the grounds which are not admitted by the Customs House Agent.

(3) The Deputy Commissioner of Customs or Assistant Commissioner of Customs shall, in the course of inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material to the inquiry in regard to the grounds forming the basis of the proceedings, and he may also put any question to any person tendering evidence for or against the Customs House Agent, for the purpose of ascertaining the correct position.

(4) The Customs House Agent shall be entitled to cross-examine the persons examined in support of the grounds forming the basis of the proceedings, and where the Deputy Commissioner of Customs or Assistant Commissioner of Customs declines to examine any person on the grounds that his evidence is not relevant or material, he shall record his reasons in writing for so doing.

(5) At the conclusion of the inquiry, the Deputy Commissioner of Customs or Assistant Commissioner of Customs shall prepare a report of the inquiry recording his findings and submit his report within ninety days from the date of issue of a notice under sub-regulation (1).

(6) The Commissioner of Customs shall furnish to the Customs House Agent a copy of the report of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, and shall require the Customs House Agent to submit, within the specified period not being less than thirty days, any representation that he may wish to make against the findings of the Deputy Commissioner of Customs or Assistant Commissioner of Customs.

(7) The Commissioner of Customs shall, after considering the report of the inquiry and the representation thereon, if any, made by the Customs House Agent, pass such orders as he deems fit within ninety days from the date of submission of the report by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, under sub-regulation (5).

(8) Any Customs House Agent aggrieved by any decision or order passed under regulation 20 or sub-regulation (7) of regulation 22, may prefer an appeal under section 129A of the Act to the Customs, Central Excise and Service Tax Appellate Tribunal established under sub-section (1) of section 129 of the Act."

14. Under sub-regulation (1) of Regulation 22, the Commissioner of Customs should issue a notice in writing to the Customs House Agents within

90 days from the date of receipt of offence report. There is no dispute on the question of law that if a notice in writing is not issued within 90 days from the date of receipt of offence report, the proceedings under Section 22(1) will stand vitiated. But in the case on hand, there is a dispute about two things namely, (1) as to what an offence report is; and (2) as to how to calculate the period of 90 days prescribed in Regulation 22(1).

15. According to the petitioner, the Department of Revenue Intelligence investigated into the alleged incident and issued a show cause notice on 18-5-2010. This show cause notice was allegedly sent to the Chennai Commissionerate also and hence the issuance of the show cause notice by DRI has to be taken as the date of receipt of the offence report. Alternatively, it is contended by the petitioner that at least the date of the Order-in-Original namely 31-1-2011 imposing penalty could have been taken as the date of receipt of offence report, since the same was also communicated to the Chennai Commissionerate. The first respondent has calculated the period of 90 days only from the date of receipt of the prohibition order issued by the Commissioner of Customs, Tuticorin on 6-9-2012. This, according to the petitioner, will not satisfy the requirement of Regulation 22.

16. The respondents have filed a counter affidavit. In the counter affidavit, it is claimed by the respondents that the petitioner was granted licence by the Chennai Customs and that they were operating in Tuticorin Customs. According to the respondents, the Commissioner of Customs, Tuticorin forwarded the case of the petitioner to the Commissioner of Customs at Chennai only by a letter dated 6-9-2012 and hence based upon the same, a show cause notice was issued on 12-11-2012 within the period of 90 days prescribed in sub-regulation (1) of Regulation 22. In the counter affidavit, the respondents have not chosen to deny the averments of the petitioner in ground No. (b) of Para 16 of the affidavit that the show cause notice dated 18-5-2010 issued by the DRI and the Order-in-Original dated 31-1-2011 passed by the Additional Commissioner, Tuticorin were all marked to the Chennai Commissionerate and that the Chennai Commissionerate had knowledge about the same.

17. Unfortunately, the Regulations do not define what an offence report is and the Regulations do not even state as to how an offence report is to be sent. The Regulations do not even use the expression "offence report" anywhere else other than Regulation 22(1). Even the grounds on which a

licence can be revoked or suspended, mentioned in Regulation 20(1), do not include the definition of the expression offence or offence report. There are only three grounds on which a licence can be suspended or revoked under sub-regulation (1) of Regulation 20. Regulation 20(1) reads as follows :-

*"**20. Suspension or revocation of licence. -** (1) The Commissioner of Customs may, subject to the provisions of regulation 22, revoke the licence of a Customs House Agent and order for forfeiture of part or whole of security, or only order forfeiture of part or whole of security, on any of the following grounds, namely :-*

(a) failure of the Customs House Agent to comply with any of the conditions of the bond executed by him under regulation 10;

(b) failure of the Customs House Agent to comply with any of the provisions of these regulations, within the jurisdiction of the said Commissioner of Customs or anywhere else;

(c) any misconduct on his part, whether within the jurisdiction of the said Commissioner of Customs or anywhere else which in the opinion of the Commissioner renders him unfit to transact any business in the Customs Station."

18. The above regulation has only 3 ingredients namely (i) failure to comply with the bond conditions, (ii) failure to comply with the regulations and (iii) a misconduct, for any of which, the licence can be revoked. Since the above regulation does not use the expression "offence report", we have to presume that a report indicating the availability of any one of the above 3 ingredients should be construed as an offence report. Consequently, the date of knowledge gained by the Commissioner, by means of any communication, be it show cause notice or order-in-original, has to be construed as the date of receipt of the offence report. Otherwise, a report about anyone of the above 3 ingredients can be sent at any time, even after five years or ten years.

19. The Regulations not only fail to prescribe what an offence report is and how it is to be sent, but they do not also prescribe the person competent to send it. In such circumstances, the interpretation sought to be given by the petitioner is more acceptable.

20. The time limit prescribed in Regulation 22(1) has to be understood in the context of the strict time schedule prescribed in various portions of the

Regulations. Regulation 20(2), for instance, entitles the Commissioner, to suspend the licence of an agent, in appropriate cases where immediate action is necessary. Regulation 22(3) prescribes a time limit of 15 days. Regulation 22(1) prescribes a time limit within which action is to be initiated. It also prescribes the time limit under Regulation 22(5). Therefore, considering the fact that the whole proceedings are to be commenced within a time limit and also concluded within a time frame, I am of the view that the show cause notice issued to the petitioner on 8-5-2010 with a copy marked to the first respondent should be taken as the date of receipt of the offence report. Consequently, the period of 90 days should commence only from that date. If so calculated, the impugned proceedings have obviously been initiated beyond the period of 90 days.

21. The respondents relied upon a circular bearing No. 9/2010-Customs, dated 8-4-2010, issued by the Central Board of Excise and Customs, containing certain decisions. Paragraphs 5.1 and 5.2 of the Circular deal with suspension or revocation. Paragraph 5.2 may be extracted usefully as follows:-

"5.2. Further, it is also clarified that the Commissioner of Customs at a customs station who had authorised a CHA to operate on 'C' form intimation, should inform the details of violations to the Commissioner of Customs at the customs station from where the CHA licence was issued for such CHA, so that necessary action for suspension or revocation of CHA licence, could be initiated by him. This would avoid duplication and ensure uniformity in adjudication of a case against a CHA in suspension or revocation proceedings by the Customs field formations. However, the Commissioner of Customs, who had authorised a CHA to operate on 'C' form intimation at a customs station, may take action in deserving cases under regulation 21 of CHALR, 2004 for prohibiting the working of such defaulting CHA in any section of the Custom House/Customs Station."

22. It is seen from what is extracted above, that the Commissioner of Customs, Tuticorin was obliged to inform the details of the violation to the first respondent herein who had issued licence to the petitioner. The earliest intimation that the first respondent received, was the show cause notice dated 18-5-2010. Even if this communication had not been received by the first respondent, the first respondent received the order-in-original dated 31-1-2011. In Paragraph 16.B of the affidavit in support of the writ petition, the petitioner made a positive averment that the show cause notice and the

order-in-original were received by the first respondent. Therefore, he ought to have issued the show cause notice within 90 days.

23. Relying upon the decision of the Supreme Court in Sambhaji v. Gangabai - 2009 (240) E.L.T. 161 (S.C.), it is contended by Mr. A.P. Srinivas, learned Standing Counsel for the respondents, that a procedural law should not ordinarily be construed as mandatory. But the said contention is wholly unsustainable, for the simple reason that a period of limitation prescribed by a Rule of procedure, cannot be diluted. The decision of the Supreme Court arose out of the refusal of a Civil Court to accept a written statement beyond a period of 90 days stipulated in Order-VIII, Rule 1 C.P.C. Therefore, the decision taken in such a case cannot be relied upon.

24. Similarly, the decision of the Division Bench of the Delhi High Court in Aval Exports v. Union of India - 2014 (301) E.L.T. 14 (Del.), relied upon by the learned counsel for the respondents, cannot also go to the rescue of the respondents. The case before the Delhi High Court was concerned of some applications filed for the issue of value based duty free licences in accordance with the Export and Import policy in vogue. The applications were kept pending for some time and eventually, the policy itself underwent a change. When the matter was taken up, it was argued that the applications ought to have been disposed of within the time stipulated. But the said argument was rejected, on the ground that the time prescribed therein was only directory and not mandatory.

25. In the case on hand, it is not the contention of the respondents that the time limit prescribed in Regulation 22(1) is only directory and not mandatory. It is not even the contention of the respondents that the time limit prescribed in Regulation 22(1) need not be strictly adhered to. On the question that the first respondent is duty bound to initiate proceedings within 90 days from the date of receipt of offence report, there are no two opinions, at least before me. Therefore, the decision of the Division Bench of the Delhi High Court is of no assistance to the respondents. Hence the first contention is to be upheld."

10. In view of the above, we set aside the impugned order and revoke the suspension of licence of the appellant Customs Broker and accordingly the appeal stands allowed.

(Pronounced in court on 30.10.2026)

(AJAY SHARMA)
MEMBER (JUDICIAL)

(P. ANJANI KUMAR)
MEMBER (TECHNICAL)

tvu