2026:DHC:5069-DB

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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 10th April, 2026

\+ CUSAA No. 36/2026 & CM APPL. 23250/2026

M/S ANAX AIR SERVICES PVT. LTD
H-4/120, MAHAVIR ENCLAVE
NEW DELHI - 110045 **.....APPELLANT**

Through: Mr. Salil Arora and Ms. Reeva Chugh Arora, Advocates

Versus

COMMISSIONER OF CUSTOMS,
AIRPORT & GENERAL, NCH,
NEW DELHI-110037 **.....RESPONDENT**

Through: Mr. Harpreet Singh, Senior Standing Counsel with Ms. Suhani Mathur, Mr. Jatin Kumar Gaur, Advocates

CORAM:
HON'BLE MR. JUSTICE NITIN WASUDEO SAMBRE
HON'BLE MR. JUSTICE AJAY DIGPAUL

JUDGMENT (ORAL)

NITIN WASUDEO SAMBRE, J.

1. The present Appeal is filed under *Section 130 of the Customs Act, 1962* challenging the order dated 15th December, 2025 passed by the Central Excise & Service Tax Appellate Tribunal (hereinafter referred as "CESTAT"), whereby the Customs Broker license of the appellant,

under the *Customs Brokers Licensing Regulations, 2018* (h*ereinafter referred as CBLR*), has been revoked, the security deposit has been forfeited, and a penalty of Rs. 50,000/- has been imposed upon the appellant.

2. The facts leading to the filing of the present appeal are as follows:

i. The appellant is a Customs Broker (hereinafter referred to as "CB"), namely M/s. Anax Air Services Private Limited, having its office at H-4/120, Mahavir Enclave, New Delhi – 110045, bearing Customs Broker Licence No. R-5/93 (AAACA1708).

ii. The appellant filed three shipping bills i.e. 9513589, 9515729 dated 30th April, 2024 and Shipping Bill No. 9120888 dated 15th April, 2024, at Mundra Port in the name of M/s. Shivam Enterprises for the purported export of mangoes and pomegranates. On the basis of specific intelligence, the said consignments were intercepted and examined under a *Panchnama* dated 26th May, 2024, and it was found that instead of the declared goods, *i.e.* Mangoes & Pomegranates, onions whose export was prohibited, were contained in the consignments.

iii. That examination of the said consignments was carried out by the officers of *Customs Intelligence Unit* (CIU), Custom House, Mundra on 30th April, 2014. During the course of examination, it was found that all five containers covered under the above mentioned three shipping bills were loaded with reticulate PP bags. After opening of the PP Bags, onions were found in all the PP Bags. The exported goods were found 100% mis-declared in terms of both description and classification.

iv. The details with respect to description of goods declared in shipping bill, and found during examination, *i.e.* quantity, value declared and calculated as per MEP Notification No. 10/2024-25 dated 04.05.2024 issued by the DGFT are as under: -

Shipping Bill No. & date	Description of goods declared in the shipping Bill	Description of goods found during examination	Declared Qty in shipping Bill (Kgs)	Actual Qty found during examination (Kgs)	Declared assessable value in shipping bill (Rs.)	Value of goods calculated as per MEP (Rs.)
9515729 dt. 30.04.2024	Fresh India Mango (HSN 08045029)	Onion	27.310	24.070	10,16,341/-	10,94,824/-
9513859 dt. 30.04.2024	Fresh India Mango (HSN 08045029)	Onion	54.620	52.730	20,32,683/-	23,98,424/-
9120888 dt. 15.04.2024	Fresh India Pomegranates (HSN 08109010)	Onion	54.620	54.930	20,30,255/-	24,95,470/-

3. Based on the aforesaid, the goods were confiscated under Section *113 (d) of the Customs Act, 1962* and were, accordingly, seized under *Section 110 of the Customs Act, 1962.*

4. During inquiry of the subject matter, statement of the *G- Card holder* namely *Shri. Dasari Naraynmurthi* was recorded under *section 108* of the *Customs Act,1962* on 29th May, 2024, the relevant extract of which are reproduced as under:

a) Wherein it was duly deposed by the *G-Card holder namely Shri. Dasari Narayanmurthi* the *Customs Broker of M/s Anax Air Services Pvt. Ltd. CB No. R-5/93 (AAACA1708)* that *he received the work of clearance of goods for export in the name of exporter M/s. Shivam Enterprises, Morbi from his friend Shri Raviraj Sinh Jadeja for a consideration of Rs. 1200/- per container and all the documents for filing shipping bills for export in the name of exporter M/s. Shivam Enterprise, Morbi have also received from Shri Raviraj Sinh Jadeja; that he has handled the clearance work without KYC verification of the exporters and without knowing any of them; that all the export related activities at CFS and Customs were taken care of by Shri Raviraj Sinh Jadeja; that he had merely handled the paper work; He have handled the clearance work neither by verifying the KYC of the exporters nor being present during the* 110 *carting of the goods at CFS; that the CB license of M/s. Anax Air Services Pvt Ltd (CB No. AAACA1708JCH008) are being used by many persons they have monetarily compensated to M/s. Anax Air Services Pvt. Ltd for making use of the Customs Brokers License; that he have handled the clearance work without KYC verification of the exporters and without knowing any of them or even having met any of them.*

5. Thereafter, the Deputy Commissioner of Customs (CIU), *Mundra* conveyed the details of the above case considering it as an offence report to the respondents through an *e-mail* dated 31stMay, 2024. On the basis of Offence report, it was submitted by the Inquiry Officer that the appellant has violated the regulations under 1(4), 10(a), 10(e), 10(m) & 10 (n) of the CBLR, 2018 and is liable for further action under the provisions of the said regulation.

6. The Commissioner of Customs (Airport & General), New Customs House, New Delhi by exercising the powers conferred under the regulation 16(1) of CBLR, 2018 suspended the customs broker license No. R-5/93 of the Appellant company *vide* Order in original dated 12thJune, 2024.

7. A personal hearing was granted to the Appellant for post-decisional hearing on 25th June, 2024. The Appellant, along with his Advocate, appeared and filed written submissions, and reiterated the same.

8. Considering all the aspects, the Assistant Commissioner of Customs, ICD *Tughlakabad* Export, New Delhi has drawn Inquiry Report on 06th November, 2014 and forwarded the same to the Commissioner of Customs (Airport & General).

9. Relying upon the Inquiry Report submitted by the Assistant Commissioner, the appellant was served with a Show Cause Notice dated 23rd August, 2024, calling upon him as to why its Customs Broker Licence should not be revoked and the security deposit be forfeited for violations of Regulations 1(4), 10(a), 10(d), 10(e), and 10(n) of the Customs Brokers Licensing Regulations, 2018.

10. The appellant filed reply to the Show Cause Notice on 28th September, 2024 *vide* e-*mail* dated 6th October, 2024. However, the same was not within the stipulated time period of 30 days. Thereafter, the appellant has not appeared before the Inquiry Officer.

11. The Appellant, thereafter, filed a reply before the Learned Commissioner of Customs, ICD *Tughlakabad* Export, Delhi. An opportunity of personal hearing was also offered to the appellant on 17th January, 2025. It was contention of the appellant-company that the

Inquiry Report by the Assistant Commissioner was drawn *ex-parte* as the appellant has not received the communication for the personal hearing as the office address of the appellant has undergone change.

12. It is urged that, the reply of the appellant to the Show Cause Notice was not considered by the Inquiry Officer.

13. Amongst other the legal submissions of the appellant were that they have requested for the cross-examination of the *G-Card* holder namely *Shri. Dasari Narayanmurthi,* which was neither considered by the inquiry officer nor granted.

14. After duly considering the written submissions and granting an opportunity of hearing to the appellant, the Commissioner of Customs, *vide* Order-In-Original dated 03rd February, 2025, passed the following order:

> *"(i) I hereby revoke the Customs Broker Licence No. R-5/93 (AAACA1708J) of M/s Anax Air Services Private Limited,*
> *(ii) I direct the Customs Broker to immediately surrender the Original CB License No. R-5/93 (AAACA1708J) along with all 'F /G/H' Cards issued there under;*
> *(iii) I order for forfeiture of the whole amount of security deposit furnished by themin terms of Regulation 14 and Regulation 17 of CBLR, 2018;*
> *(iv) I impose a penalty of Rs. 50.000/- qn M/s Anax Air Services Private Limited, (PAN No. AAACA1708J) under the provisions of Regulation 18 of CBLR 2018 and Regulation 17 of CBLR, 2018."*

15. The appellant, thereafter, filed an appeal challenging the order dated 03rd February, 2025 passed by the learned Commissioner of Customs. After duly considering the submissions of the appellant as well as the department, the learned CESTAT upheld the decision of the Commissioner of Customs, while dropping the allegation of violation of *Regulation 10(e) of the Customs Brokers Licensing Regulations, 2018* and passed the following order:

> *b) We, therefore, find the revocation of licence, forfeiture of security deposit and penalty of Rs. 50,000/- imposed on the appellant are proportionate to the offence committed.*
> *c) In view of the above, we find no infirmity in the impugned order. The impugned order is upheld and the appeal is dismissed.*

16. Aggrieved by the same, the Appellant has filled the present appeal.

17. The appellant has raised number of grounds in this appeal. Amongst other, the question of law which the appellant has tried to canvass are:-

> *A. Whether the Hon'ble CESTAT erred in law in upholding revocation of Customs Broker License under CBLR, 2018 in absence of any evidence establishing mens rea, knowledge or involvement of the Appellant in the alleged misdeclaration by the exporter?*
> *B. Whether the impugned order is vitiated for violation of principles of natural justice, inasmuch as the reply filed by the Appellant to the Show Cause Notice and Inquiry Report was not considered and the inquiry*

proceedings were conducted ex-parte on account of improper service of notice?

C. Whether reliance on an uncorroborated statement of a G-card holder, without any independent evidence, is sufficient to establish violation of Regulation 1(4) of CBLR, 2018 relating to alleged transfer of license?

18. The appellant submits that there is no evidence to establish violation of Regulation 1(4) of CBLR, 2018 or any transfer/sale of Customs Broker Licence for consideration. It is stated that the entire case is based solely on the uncorroborated statement of the *G-card* holder without any independent evidence regarding transfer of licence or receipt of monetary consideration. The appellant also contends that shipping bills were filed on the basis of documents received from *Shri Raviraj Sinh Jadeja* and there was no drawback, IGST refund or export incentive involved in the consignments.

19. It is further submitted that the appellant had obtained and verified KYC documents of the exporter including IEC, GST registration, Aadhaar card, PAN card, bank details, LUT and self-sealing permissions from DGFT, GSTN and ICEGATE portals. The appellant contends that Regulation 10(n) does not require physical verification or personal interaction with the exporter while placing reliance upon the judgment in "***Aradhya Export Import Consultants Pvt. Ltd. v. Commissioner of Customs (Airport and General), New Customs House, New Delhi".*** The relevant observations of the said judgment reads thus:-

"12. A reading of Regulation 10(n) reveals that the CB would not be in violation of its obligations if he has relied on "reliable, independent, authentic documents, data or information" such as the IEC and GSTIN which are issued by the Director General of Foreign Trade and GST Officers respectively. Furthermore,

Regulation 10(n) does not necessitate a physical verification of the veracity of the exporter. We therefore find merit in the contention of the appellant that the CESTAT committed a manifest illegality in holding that the appellant was guilty of having failed to discharge the obligation placed in terms of Regulation 10(n) of CBLR 2018.
16. It is thus apparent that the judgment handed down by the CESTAT is patently erroneous and cannot be sustained."

20. The appellant challenges the extreme punishment of revocation of licence as grossly disproportionate, particularly in the absence of *mens rea*, financial gain, or prior violations. Reliance is placed on ***"Commissioner of Customs & C. Ex. HYD-II v. H.B. Cargo Services 2011 (268) ELT 448 (A.P),*** the relevant paras reads thus:-

"11. While issuance of signed blank shipping bills would, by itself, amount to negligence on the part of the CHA, their doing so for a consideration of Rs. 150/- per shipping bill is an act of corruption. It is in this context that the proportionality of punishment imposed on the respondent, and the scope and amplitude of this doctrine, is required to be examined. "Proportionality" is a principle where the court is concerned with the process, method or manner in which the decision-maker has ordered his priorities, reached a conclusion or arrived at a decision. The very essence of decision-making consists in the attribution of relative importance to the factors and considerations in the case. The doctrine of proportionality places in focus the true nature of the exercise – the elaboration of a rule of permissible priorities. "Proportionality" involves "balancing test" and "necessity test". While the former (balancing test) permits scrutiny of excessive onerous penalties or infringement of rights or interests, and a manifest imbalance of relevant considerations, the latter (necessity test) limit infringement of human rights to the least restrictive alternative. [Judicial Review of Administrative Action (1995), pp. 601-05, para 13.085; Wade & Forsyth: Administrative Law (2005), p. 366; Mukul Kumar Choudhuri - (2009) 15 SCC 620]. What is otherwise within the discretionary domain and sole power of the decision maker to quantify the punishment, once the charge of misconduct stands proved, is exposed to judicial intervention if exercised in a manner which is out of proportion to the fault. Award of punishment, which is grossly in excess of the allegations, cannot claim immunity and remains open for interference under limited scope of judicial review. One of the tests to be applied, while dealing with the question of quantum of punishment, would be: would any reasonable person have imposed

such punishment in like circumstances? Obviously, a reasonable person is expected to take into consideration the measure, magnitude and degree of misconduct and all other relevant circumstances, and exclude irrelevant matters before imposing punishment [Mukul Kumar Choudhuri - (2009) 15 SCC 620]. The CHALR enables both suspension and revocation of the license of a CHA for violation of any of the conditions specified therein. If any such ground exists, two courses are open to the Commissioner. One is to suspend the license and the other is to revoke it. Suspension would mean that the license would be inoperative for a particular period. An order of revocation would mean that the license is totally inoperative in future, it loses its currency irretrievably. Suspension/revocation, as the case may be, has to be directed looking to the gravity of the situation in the background of the facts. For minor infraction, or infractions which are not of a serious nature, an order of suspension may suffice. On the contrary, when revocation is directed it has to be only in cases where the infraction is of a serious nature warranting exemplary action on the part of the authorities for, otherwise, two types of actions would not have been provided for. Primarily it is for the Commissioner to decide as to which of the actions would be appropriate but, while choosing any one of the two modes, the Commissioner has to consider all relevant aspects, and draw a balance sheet of the gravity of the infraction and the mitigating circumstances. The difference in approach for consideration of cases warranting revocation or suspension has to be borne in mind while dealing with individual cases. The proportionality question is of great significance as action is under a fiscal statute, and may ultimately lead to a civil death. [Falcon Air Cargo and Travels (P) Ltd. – 2002 (140) E.L.T. 8].”

21. As against above, contention of the respondent department is that the appellant had failed to participate in the inquiry proceedings despite due opportunity given and chose neither to appear before the Inquiry Officer nor to file its reply within the prescribed time. Only at a belated stage before the Commissioner, a request for cross-examination was raised.

22. Such a request, made after abstaining from the inquiry proceedings, cannot be permitted to frustrate disciplinary proceedings, especially when sufficient independent material exists on record to

establish the violations of Regulation 1(4) of CBLR 2018 which reads thus:-

> *"1(4) Every license granted or renewed under these regulations shall be deemed to have been granted or renewed in favour of the licensee, and no license shall be sold or otherwise transferred."*

23. A bare reading of the aforesaid regulation *i.e.*, 1(4) and the factual matrix of the present case in hand shows that there is a clear violation of the regulation which can be inferred from the voluntary statement made by the *G-card* holder of the appellant namely *Shri. Dasari Naraynmurthi* where he voluntarily stated that the license was used by many other persons apart from this case for the monitory consideration which has also been established from the record. The department (Inquiry Officer) has given sufficient opportunities to the CB on the following dates *i.e.*, on *26/09/2024*, *3/10/2024* and *11/10/2024* to bring on record the agreements or any other information related to the operations done by any other persons. Neither the appellant chose to file any written submissions nor he appeared before the Inquiry Officer on any of the dates.

24. The appellant has come out with a case that there is an element of denial of opportunity of hearing as the appellant has submitted a reply before the Inquiry Officer and there was a failure of the Inquiry Officer to look into the said reply.

25. The record depicts that the reply was submitted by the appellant in the inquiry to the policy branch through an *e-mail* which otherwise should have been submitted to the Inquiry Officer.

26. The reply was in reference to the Show Cause Notice served on the appellant which provides entire details of the authority. The appellant intentionally submitted a reply to a different branch, in this case, a policy branch so as to create artificial ground of denial of opportunity of hearing. Such a conduct of the appellant speaks of the appellant having conducted himself in an unethical manner.

27. As such, his contention that there is no violation of Sub-clause (4) of Clause (1) of the Regulation cannot be inferred.

28. Section 108 of the Customs Act, 1962, contemplates a statement can be recorded under Section 108 which is in the form of confessional statement. In the case in hand, the confessional statement of *G-Card holder* was recorded which was neither denied nor retracted. Such statement continues to hold the field in the present proceedings. There is no element of any error or scope to infer that such statement was non-voluntary statement.

29. In the said statement a specific narration is made as regards the mode and manner in which the appellant has conducted in the matter of the clearance of the banned goods of which by giving a false declaration, an export was sought.

30. As such, the observations drawn by both the authorities below that there is a violation of subclause (e) of clause 10 of the Customs Broker Licensing Regulation is just and proper and does not call for any interference.

31. Apart from above both the authorities in categorical terms have dealt with the issue as regards the violation of clause 10(a) and 10(d). Clause 10(a) and 10(d) of the Regulation deals with the authorization to be obtained from each of the companies, firms, individual who have employed appellant as a customs broker and produce such authorization whenever required.

32. Clause 10(d) provides for the advice to be imparted by the appellant to his client to comply with the provisions of the Acts.

33. The cumulative effect of the conduct of the appellant in the case in hand is dealt with by both the authorities.

34. It is apparent that the appellant has never advised his client to comply with the provisions of the act, at least no material to that effect was placed by him though sufficient opportunities were provided.

35. Apart from above, there is absence of authorization in favour of the appellant as could be inferred from the records. In this backdrop the violation of the clause as has been noted above was rightly inferred. The appellant also cannot come out of the findings recorded *qua* the violation of clause 10(n), wherein there is a failure to verify the correctness of the details *viz.*, Importers Export Code, Goods and Service Tax Identification Number *etc.*,

36. The statement of the *G-card* holder *Shri Dasari Narayanmurthi* was recorded under Section 108 of the Customs Act, 1962 during the course of investigation and forms a part of the evidentiary material corroborated by the attending facts and conduct of the Appellant.

37. The contention raised by the Appellant regarding denial of cross-examination of the *G-card* holder namely *Shri Dasari Narayanmurthi* is

wholly misconceived and does not vitiate the proceedings in the facts and circumstances of the present case.

38. The Commissioner of Customs has very appositely dealt with the said issue as follows:

> *"8.4.5 I find that the Customs Broker (CB) has acknowledged receipt of the Show Cause Notice through their registered e-mail. It is observed that the complete address and contact details of the Inquiry Officer were duly communicated to the CB, and the CB was explicitly directed to participate in the proceedings and submit their representation to the Inquiry Officer within 30 days of the issuance of the Show Cause Notice. However, the CB chose not to participate in the inquiry. Consequently, I find that the Customs Broker has forfeited their entitlement to cross-examine Shri Dasari Narayanmurthi, G-Card holder, which was required to be conducted before the Inquiry Officer as per Regulation 17(4) of the CBLR, 2018."*

39. It is the contention of the appellant that the denial of cross-examination of the *G-Card* holder has violated his fundamental rights, and entire finding is based solely on uncorroborated statement of the G-*card holder*, without any independent evidence or proof of monetary gain.

40. The right of cross-examination is not an absolute or unfettered right and its grant depends upon the facts and circumstances of each case, particularly, the nature of proceedings and the material available on record.

41. In the present case, the proceedings under the Customs Brokers Licensing Regulations, 2018 are departmental and regulatory in nature, intended to examine the conduct and obligations of a Customs Broker operating under a statutory license.

42. The findings against the Appellant are not founded solely upon the statement of the *G-cardholder*, but are supported by undisputed documentary material and surrounding circumstances, including the shipping bills for prohibited goods, complete failure of 'KYC' verification, handling of export consignments through unknown intermediaries, and the admitted non-compliance with statutory obligations cast upon the Customs Broker under the CBLR, 2018.

43. It is a settled principle of law that principles of natural justice are flexible and cannot be applied in a straitjacket formula. Cross-examination is necessary only where the adjudication exclusively relies upon a disputed statement and where prejudice is demonstrated.

44. The law laid down by the Apex court in the matter of "***Kanungo & Co. Vs. Collector of Customs, Calcutta & Others" [1983 (13) E.L.T 1486 (S.C)*** is reproduced as under:-

> ***"12.*** *We may first deal with the question of breach of natural justice. On the material on record, in our opinion, there has been no such breach. In the show-cause notice issued on August 21, 1961, all the material on which the Customs Authorities have relied was set out and it was then for the appellant to give a suitable explanation. The complaint of the appellant now is that all the persons from whom enquiries were alleged to have been made by the authorities should have been produced to enable it to cross-examine them. In our opinion, the principles of natural justice do not require that in matters like this the persons who have given information should be examined in the presence of the appellant or should be allowed to be cross-examined by them on the statements made before the Customs Authorities. Accordingly we hold that there is no force in the third contention of the appellant."*

45. In "***Surjeet Singh Chhabra Vs. Union of India" 1997 (89) E.L.T.***

646 (SC), the Apex Court observed as under:

> *"3. It is true that the petitioner had confessed that hepurchased the gold and had brought it. He admitted that he purchased the gold and converted it as a kara. In this situation, bringing the gold without permission of the authority is in contravention of the Customs Duty Act and also FERA. When the petitioner seeks for cross-examination of the witnesses who have said that the recovery was made from the petitioner, necessarily an opportunity requires to be given for the cross-examination of the witnesses as regards the place at which recovery was made. Since the dispute concerns the confiscation of the jewellery, whether at conveyor belt or at the green channel, perhaps the witnesses were required to be called. But in view of confession made by him, it binds him and, therefore, in the facts and circumstances of this case the failure to give him the opportunity to cross-examine the witnesses is not violative of principle of natural justice. It is contended that the petitioner had retracted within six days from the confession. Therefore, he is entitled to cross-examine the panch witnesses before the authority takes a decision on proof of the offence. We find no force in this contention. The customs officials are not police officers. The confession, though retracted, is an admission and binds the petitioner. So there is no need to call panch witnesses for examination and cross-examination by the petitioner."*

46. In ***Patel Engineering Ltd. Vs. Union of India [2014 (307) E.L.T. 862 (Bom.)],*** the High Court of Bombay observed as under :

> *"**21.** Thus, the consistent view is that may be and only in case of want ofNotice to the affected party in all other cases it is not enough to allege breach of principles of natural justice but also demonstrate that prejudice is caused by such breach. This is for the simple reason that any departure or every breach does not necessarily result in miscarriage of justice or*

gross failure of justice. Further, the principles of natural justice are not a straight-jacket formula. Which principles of natural justice or which facet of the same is applicable, depends upon the nature of the lis, the statute under which an adjudication is undertaken and several other factors. This has been now firmly established in the decision of Bar Council of India v. High Court of Kerala reported in (2004) 6 SCC 311 : AIR 2004 SC 2227. In that case, in the SCC report, this is what is held:—

49. In N.K. Prasada v. Govt. of India [(2004) 6 SCC 299] this Court observed : (SCC p. 308, paras 24-25)

"24. The principles of natural justice, it is well settled, cannot be put into a straitjacket formula. Its application will depend upon the facts and circumstances of each case. It is also well settled that if a party after having proper notice chose not to appear, he at a later stage cannot be permitted to say that he had not been given a fair opportunity of hearing. The question had been considered by a Bench of this Court in Sohan Lal Gupta v. Asha Devi Gupta [(2003) 7 SCC 492] of which two of us (V.N. Khare, C.J. and Sinha, J.) are parties wherein upon noticing a large number of decisions it was held : (SCC p. 506, para 29)

'29. The principles of natural justice, it is trite, cannot be put in a straitjacket formula. In a given case the party should not only be required to show that he did not have a proper notice resulting in violation of principles of natural justice but also to show that he was seriously prejudiced thereby.'

25. The principles of natural justice, it is well settled, must not be stretched too far."

(See also Mardia Chemicals Ltd. v. Union of India [(2004) 4 SCC 311 : (2004) 4 Scale 338] and Canara Bank v. Debasis Das [(2003) 4 SCC 557 : 2003 SCC (L&S) 507].)

50. In Union of India v. Tulsiram Patel [(1985) 3 SCC 398 : 1985 SCC (L&S) 672] whereupon reliance has been placed by Mr Reddy, this Court held : (SCC p. 477, para 97)

"97. Though the two rules of natural justice, namely, nemo judex in causa sua and audi alteram partem, have now a definite meaning and connotation in law and their content and implications are well understood and firmly established, they are nonetheless not statutory rules. Each of these rules yields to and changes with the exigencies of different situations. They do not apply in the same manner to situations which are not alike. These rules are not cast in a rigid mould nor can they be put in a legal straitjacket. They are not immutable but flexible. These rules can be adapted and modified by statutes and statutory rules and also by the constitution of the Tribunal which has to decide a particular matter and the rules by which such Tribunal is governed."

22. xxxxxxxxxxx

23. Therefore, we are of the opinion that it will not be correct to hold that irrespective of the facts and circumstances and in all inquiries, the right of cross examination can be asserted. Further, as held above which rule or principle of natural justice must be applied and followed depends upon several factors and as enumerated above. Even if there is denial of the request to cross examine the witnesses in a inquiry, without anything more, by such denial alone, it will not be enough to conclude that principles of natural justice have been violated. Therefore, the judgments relied upon by Shri Kantawala must be seen in the factual backdrop and peculiar circumstances of the assessee's case before this Court."

47. In the matter of "***M/s Vallabh Textiles Vs. Additional Commissioner Central Tax GST, Delhi East &Ors." bearing W.P. (C) No. 4576/2025 decided on 9th April, 2025***, this Court observed as under:

"15. While cross-examination can be granted in certain proceedings, if it is deemed appropriate, the right to cross-examine cannot be an unfettered right. This has been so held recently by this Court in ***Sushil Aggarwal v. Principal***

> ***Commissioner Of Customs (2025:DHC:698-DB)***. *The relevant portion of the decision reads as under:*
>
> *"15. Accordingly, this Court is of the opinion that in order to ensure that there is compliance of Section 138(B) of the Act,* ***though the same cannot be claimed as an unfettered right in all cases, in the facts of the present case****, both Mr. Sushil Aggarwal and Mr. Aidasani are afforded an opportunity to cross examine Mr. Bhalla."*

48. It is the case of the appellant that he never received any of the communication dated 26.09.2024, 03.10.2024 and 11.10.2024 from the Inquiry officer and he proceeded and conducted the proceedings *ex-parte* by taking a ground that the office address and the *E-mail ID* of the appellant has been changed. The same also imposes an obligation on the CB to inform it to the customs authority within two days as laid down under *CBLR,2018* and hence the same cannot be cannot be a ground for the relief sought by the appellant as the same was on the appellant to inform the change of address to the said respondent department which he has failed to.

49. The appellant, as observed hereinabove, has received the SCN and submitted a reply before the wrong section of department of which he intends to take benefit of.

50. Therefore, mere denial of cross-examination, in the peculiar facts of the case, does not render the inquiry proceedings illegal nor does it invalidate the concurrent findings recorded by the Commissioner and affirmed by the learned CESTAT.

51. The co-ordinate bench of this Court in the matter of "***Sriaanshu Logistics Through Proprietor Vs. Commissioner of Customs (General)***

2024 SCC OnLine Del 1744(2024) 388 ELT 682, relevant para of the same reads thus:-

> *"13) We are unable to accept the submission of the learned counsel for the petitioner for the reason that a Customs Broker occupies a very important position in the customs house. A lot of trust is kept in the customs broker by the importers, exporters as well as by the Government agencies. To ensure appropriate discharge of such trust, the Customs Broker Licensing Regulations have been framed and there has to be strict compliance thereof. Any contravention of such obligation would invite sanction as provided in the Regulations.*

52. The relevant paras in the matter of ***"Commissioner of Customs Vs. K.M. Ganatra and Company" (2016) 4 SCC 687*** reads thus:-

> *18. In this regard, Ms Mohana, learned Senior Counsel for the appellant, has placed reliance on the decision in Noble Agency v. Commr. of Customs [Noble Agency v. Commr. of Customs, (2002) 142 ELT 84 (Tri)] wherein a Division Bench of CEGAT, West Zonal Bench, Mumbai has observed: (ELT p. 87, para 12)*
>
> *"12. The CHA occupies a very important position in the Custom House. The Customs procedures are complicated. The importers have to deal with a multiplicity of agencies viz. carriers, custodians like BPT as well as the Customs. The importer would find it impossible to clear his goods through these agencies without wasting valuable energy and time. The CHA is supposed to safeguard the interests of both the importers and the Customs. A lot of trust is kept in CHA by the importers/exporters as well as by the government agencies. To ensure appropriate discharge of such trust, the relevant regulations are framed. Regulation 14 of the CHA Licensing Regulations lists out obligations of the CHA. Any contravention of such obligations even without intent would be sufficient to invite upon the CHA the punishment listed in the Regulations."*

We approve the aforesaid observations of CEGAT, West Zonal Bench, Mumbai and unhesitatingly hold that this misconduct has to be seriously viewed."

53. The same stand was taken by the Hon'ble High Court of Bombay in the matter of "***Skypak Services Specialists Limited v. Union of India Through the Ministry of Finance" 2025 SCC Online Bom. 2517,***, specifically in paragraphs 46 and 49 and the same read thus:-

"46. The Government has been simplifying the law and procedurerelating to imports through courier from time to time. Accordingly, lotof trust and reliance has been placed on the courier agencies. A veryclear procedure has been put in place by way of Courier Regulations to stream line the imports through courier mode. It was incumbent uponthe Petitioner courier agency to adhere to the Regulations in order tosafeguard the interest of Revenue and the trust placed on them. ThePetitioner was mandated to work within the legal framework of theCustoms Act, 1962, Rules and Regulations made thereunder. ThePetitioner failed to do so. The Petitioner did not exercise due diligencein discharging its obligations under the Regulations. By violating theRegulations, it had given scope for massive misuse of the facility givenin addition to loss of Revenue. In short, the Petitioner courier agencyhas breached the trust reposed on it by the Revenue. Therefore, therevocation of license is justified and any leniency shown in themisconduct of this nature would send wrong signals. Punishment ofrevocation of license would certainly go a long way to act as a deterrent.

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49. It is also important to note that we are not sitting in Appeal fromthe orders of both the Authorities as the petitioner has challenged theorders by invoking our extraordinary jurisdiction under Article 226 ofthe Constitution of India. Our scope of interference is much narrowerthan in an appeal and moreover the petitioner in the present case cannot invoke equitable and discretionary jurisdiction for showing the leniencyin the present facts of the case. We do not find any

infirmity in thedecision-making process of both the Authorities nor is it the case of the petitioner. The findings of both the Authorities are based on facts and on examination independently by us, we also agree with the concurrent findings of facts arrived at by both authorities. Therefore, in our view, no leniency can be accorded to the petitioner and order of revocation and forfeiture of deposit is required to be confirmed and same cannot be treated as disproportionate in the facts of the present case."

54. Hence, while multiple violations of regulations were committed by the CB, the punishment imposed by the authority and upheld by the CESTAT is well established and reasoned, and therefore requires no further indulgence.

55. It is a settled position of law that Customs House Agent is a one of the most important component in the system of processing the request of the exporters/importers in the backdrop, provisions and regulations framed under the customs Act. The custom house agent, in our opinion, first owes a duty and responsibility to the public exchequer of conducting in truthful and most honest manner.

56. They are guided by the regulations and conduct *dehors* the regulation by a Custom House Agent definitely provides for the punishment. The very object of such piece of legislation is to safeguard the customs revenue and most importantly to ensure that the goods exported/imported are not anywhere hampering the national interest of the country and its security.

57. The Custom House Agent cannot seek an excuse for its failure to diligent act in terms of the regulation and claim that there was no criminal intention.

58. It is not the case of the appellant that it is prosecuted in the matter but it can be inferred that the appellant proceeded against for violation of the regulation that too the serious violations.

59. In such an eventuality, in our opinion, the very view expressed by both the authorities below are completely based on analysis of the failure of the appellant and the relevant provisions of the regulation which empowers the imposing of the punishment.

60. There are concurrent findings recorded by both the authorities below which in our opinion is just and proper in the facts and circumstances of the case.

61. That being so, no case for causing interference in extraordinary jurisdiction is made out.

62. The present appeal as such lacks merit and stands dismissed.

63. Pending applications, if any, also stands disposed of.

64. Copy of this judgment be uploaded on the website of this Court.

NITIN WASUDEO SAMBRE
(JUDGE)

AJAY DIGPAUL
(JUDGE)

APRIL 10, 2026/*sky/ok*