IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, CHENNAI

Customs Appeal No.42090 of 2018

(Arising out of Order in Original No. 63765/2018 dated 6.6.2018 passed by the Commissioner of Customs, Chennai – VIII)

M/s. Raj Brothers Shipping Pvt. Ltd. **Appellant**
64/23, Jeeva Rathinam Salai
Tondiarpet, Chennai – 600 081.

Vs.

Commissioner of Customs (Import) **Respondent**
Custom House
No. 60, Rajaji Salai
Chennai – 600001.

APPEARANCE:

Shri N. Viswanathan, Advocate for the Appellant
Shri Anoop Singh, Authorized Representative for the Respondent

CORAM

Hon'ble Shri P. Dinesha, Member (Judicial)
Hon'ble Shri M. Ajit Kumar, Member (Technical)

FINAL ORDER NO. 40631/2025

Date of Hearing: 08.01.2025
Date of Decision: 20.06.2025

Per M. Ajit Kumar,

Appeal No. C/42090/2018 is filed by the appellant, a Customs Broker (**CB**), against the Order in Original No. 63765/2018 dated 6.6.2018 passed by the Commissioner of Customs, Chennai – VIII imposing a penalty of Rs.50,000/- under Regulation 18 of CBLR, 2013.

2. Brief facts of the case are that the appellant Raj Brothers Shipping Pvt. Ltd. were the holders of a Customs Broker License issued by the Chennai Customs. S/Shri T. T. Manohar Boopathy, Hari Prabhu and Thirumalai Thyagarajan (Power of Attorney) were the Directors of the company. Based on the inputs received that the goods imported under two bills of entry were mis-declared in respect of weight, these

were detained by SIIB officers for detailed examination. The importer M/s. Global Impex, Mysore had declared the weight of the containers as 7124 kgs and 6448 kgs whereas the on examination it was found that the goods were 13520 kgs and 14718 kgs respectively. Since there were huge variation between the quantities, documents for past imports were sought from the concerned CFS. It was ascertained that the importer had imported 18 such consignments in the past. On scrutiny of the said weighment slips, it was found that the importer had mis-declared the weight in respect of 10 previous consignments. The mis-declared weight worked out to 65529 kg. On perusal of the dockets, it was observed that weighment slips were not available for 6 dockets. It was also observed that out of 10 consignments wherein the importer had mis-declared the weight, 9 consignments were cleared from M/s. Continental Warehousing Corporation and there were mis-match of weight in weighments slips available in the dockets and weight shown in the weighment slips by Continental Warehousing Corporation. After due process of law, the Ld. Adjudicating Authority issued an Order in Original (**OIO**), imposing a penalty of Rs.50,000/- on the appellant under Regulation 18 of the Customs Brokers Licensing Regulations, 2013 (**CBLR 2013**). Hence the present appeal.

3. We have heard Shri N. Viswanathan, learned counsel for the appellant and Shri Anoop Singh, Ld. Authorized Representative for the respondent-department.

3.1 The learned counsel for the appellant Shri N. Viswanathan submitted as follows:-

i. The initiation of the present proceedings even after revocation of their license once again with the same proposals is not proper or permissible in law. The proceeding initiated and concluded even after their license was revoked treating them as a CB is not proper or correct.

ii. The order passed having not complied with the mandatory time limit of 180 days to pass the order from the date of issue of the notice render the very proceedings bad and unsustainable.

iii. The suo moto initiation of the proceeding without showing the receipt of any offence report is contrary to the mandate as contained in the CBLR and hence the order needs to be vacated on this ground also.

iv. The respondent also traversed beyond the scope of the notice issued to them which only alleged that they had not brought to the fact of difference in weight to the notice of the AC/DC to invoke regulation 11 [d] of the CBLR the finding recorded as if they connived with the importer and forged the documents which are contrary to the true facts on record and beyond the scope of the notice issued to them makes the order totally redundant and otiose.

v. The respondent also failed to realise that there is no statutory requirement for the CB to verify the weight of the consignments which is actually the job of the customs authority posted at the CFS and as CB they are only expected to file the bill based on the documents provided and advice the client of the requirements of the customs law and therefore the finding recorded without considering that the weighment of the goods at the CFS do not come within their purview and it is between the CFS and the customs authority it was not proper or correct on the part of the respondent to have sustained the penalty on them which appears to be passed on a gross bias and prejudice.

vi. The respondent also erred in accepting the ex-parte enquiry report that too holding them guilty of regulation 11 [e] which is not the provision charged against them.

vii. The alleged regulation 11 [d] invoked having only provided for advising the importer of the legal requirements to be complied with by them as per law and which cannot be pressed into service when importer commits any mis-declaration without the knowledge of the CB as in this case there is no justification for imputing the said contravention against them especially when their director had cleared stated that he was not aware of the said mis-declaration against which no contrary evidence has been brought on record.

He prayed that the Tribunal may be pleased to set aside the impugned order and allow their appeal.

3.2 Shri Anoop Singh, Ld. Authorized Representative for the respondent-department has taken us through the impugned order. He has in particular drawn our attention to paras 25, 27 and 28 of the impugned order, to stress that the CB was involved in aa blame worthy act in not reporting the actual weight of the containers at the time of clearance of cargo and that the action taken them is commensurate

with the action as the licence has not been revoked of deposit forfeited and only a penalty has been imposed. He stated that evidence need not always be direct, especially in clandestine matters and can also be circumstantial. The above-mentioned paras of the OIO are reproduced below for ease of reference.

> "25. The CB in his written submissions has tried to misdirect the attention of focus by stating that procedure contemplated under the Customs Act 1962 do not at all provide or contemplate for a possibility to check the original weight of the consignment with the actual weight. The custom broker submission that the CB filed the subject bill of entry based on the documents provided to him by the importer can be accepted. But at the time of doing the clearance of cargo from CFS the CB only collects the weighment slip and at that time the CB should have intimated the Customs about the huge difference in the declared weight and the Weight found in the weighment slip but the CR ailed in this aspect. Not only that, as per the statements of the CFS operations in charge, the weighment slips differed in the font size, dotted lines etc. to entertain a reasonable belief that forged weighment slips were put with dockets to match the misdeclared weight in the bill of entry and this part of handling of dockets are done only by the employees of the CB. Collecting it from the weighbridge of the CFS, obtaining OOC and submitting the docket. Though the CB plead innocence, seen in the background of the statements of CFS weighbridge incharge personnel, one gets an inescapable conclusion that the CB employees who had handled this portion of the work only should be privy to inserting forged weighment slips and the CB is culpable to that extent by vicarious responsibility.
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> ***** ***** ******
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> 27. In view of the facts and discussions stated above, the CB had failed to bring to the notice of the AC/DC as per Regulation 11(d) of Customs Brokers Licensing Regulations, 2013 the misdemeanors of the Importer and actively connived with him to forge the documents. It is the duty of the CB to advise their client to comply with the provisions of the Customs Act, 1962 and should bring it to the notice of AC/DC in case of non-compliance and thus the charges of violating Reg 11(d) of CBLR, 2013 stands proved. However imposing penalty is sufficient to meet the ends of justice. I don't find it a fit case for revocation of license or forfeiture of security.
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> 28. On the basis of facts, findings and discussion as above and in exercise of the powers conferred upon me under the provisions of Regulation 2017) of the Customs Brokers Licensing Regulations, 2013, I order as below:
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> (i) I impose a penalty of Rs 50,000/- (fifty thousand rupees only) on the Customs Broker, M/s. Raj Brothers Shipping Pvt. Ltd, Licence No. CHN/R-294/2013 (PAN No. AAGCR394M) under Regulation 18 of CBLR, 2013.

(ii) I neither revoke the CB license nor order for forfeiture of security deposit."

He hence prayed that the appeal may be rejected.

4. We have heard the Ld. Counsel for the appellant and the Ld. AR for revenue representing the contesting parties. We have also perused the Appeal Papers and considered the facts of the case. We find that the issues at Sl. No. (2) and (3) at para 3.1 involve a mixed question of fact and law. The pleading is found to be beyond the issue in the file of the Original Authority. The issues were also not taken up in their written submission dated 31.05.2018 before the original authority, in response to the SCN, as seen filed along with their appeal. It is hence rejected as inadmissible at this stage as it would allow a totally new proceedings to be started. As stated by the Hon'ble Apex Court in **Warner Hindustan Ltd. Vs Commissioner** [1999 (113) E.L.T. 24]. It is impermissible for the Tribunal to consider a case that is laid for the first time in appeal because the stage for setting out the factual matrix is before the authorities below.

5. While examining the appeal it has to be borne in mind that the proceedings under CBLR are in essence disciplinary proceedings to ensure compliance with the regulatory provisions. [See: **SMS LOGISTICS Vs COMMISSIONER OF CUSTOMS (GENERAL), NEW CUSTOMS HOUSE, NEW DELHI** [2024 (387) E.L.T. 157 (Del.)]. In such case the role of the Tribunal while examining an appeal is to examine the deficiency in the decision-making process, rather than the decision itself. It is not expected to re-appreciate the evidence. The Tribunal is not expected to interfere with the original authority's decision unless the findings are not based on any evidence, illogical or

suffers from procedural impropriety or was shocking to the conscience, in the sense that it was in defiance of logic or moral standards.

5.1 The primary issue in this appeal is thus to examine whether the appellant had received fair treatment in the proceedings before the Original Authority. The Hon'ble Supreme Court in the case of **Shri Parma Nanda Vs. State of Haryana and others** [1989 (2) Supreme Court Cases 177], held that the Tribunal could exercise only such powers which the civil courts or the High Courts could have exercised by way of judicial review. The Supreme Court in that case further observed as under:

> "....The jurisdiction of the Tribunal to interfere with the disciplinary matters or punishment cannot be equated with an appellate jurisdiction. The Tribunal cannot interfere with the findings of the Inquiry Officer or competent authority where they are not arbitrary or utterly perverse." (emphasis added)

5.2 Again the Hon'ble Supreme Court in its judgment in **State Bank of India Vs Samarendra Kishore Endow** [1994 (1) SLR 516], has reiterated its earlier rulings that a High Court or Tribunal has no power to substitute its own discretion for that of the original authority. The Supreme Court in that case further observed as under

> "On the question of punishment, learned counsel for the respondent submitted that the punishment awarded is excessive and that lesser punishment would meet the ends of justice. It may be noticed that the imposition of appropriate punishment is within the discretion and judgement of the disciplinary authority. It may be open to the appellate authority to interfere with it but not to the High Court or to the Administrative Tribunal for the reason that the jurisdiction of the Tribunal is similar to the powers of the High Court under Article 226. The power under 'Article 226 is one of judicial review'. It "is not an appeal from a decision, but a review of the manner in which the decision was made". In other words the power of judicial review is meant "to ensure that the individual receives fair treatment and not to ensure that the authority, after according fair treatment, reaches on a matter which it is authorised by law to decide for itself a conclusion which is correct in the eyes of the Court." (emphasis added)

5.3 In **Caretel Infotech Ltd. Vs Hindustan Petroleum Corpn. Ltd.,** (2019) 14 SCC 81 also the Hon'ble Supreme Court observed that Courts are expected to exercise restraint in interfering with the administrative decision and ought not to substitute their view for that of the administrative authority. Mere disagreement with the decision-making process would not suffice.

6. The appellant has stated that the initiation of the present proceedings even after revocation of their license, once again by treating them as a CB with the same proposals is not proper or permissible in law.

6.1 After examination of the issue we are of the opinion that cancellation of a license is a one-time action that terminates the license's validity. Any subsequent action on that license, while it remains terminated or cancelled, would be redundant and ineffective. We find that a similar matter relating to the revocation of a Customs Brokers license, once again during the period of its revocation, was examined by CESTAT, Mumbai in the case of **S.A. DALAL & CO. VERSUS COMMISSIONER OF CUSTOMS (G), MUMBAI [2017 (2) TMI 85 - CESTAT MUMBAI / 2017 (358) E.L.T. 366 (Tri. - Mumbai)],** wherein it was held;

> 4. We find that the impugned order is ***non est*** order for the simple reason that the Commissioner of Customs (General), Mumbai, has recorded that the CHA licence of the appellant is already revoked by order-in-original No.59/CAO/CC(G)/PKA/ 2013-14 dated 16.4.2013, and stated that this impugned order in this appeal or revocation will automatically become operative in the eventuality of the order dated 16.4.2013 being set aside by any appellate or higher judicial authority, as this order is being issued under independent separate proceedings. In our considered view, the impugned order is *non est* order inasmuch, order for revocation of licence connot be in thin air. A CHA licence which is already revoked, cannot be again revoked subject to it being reinstated by higher authorities. In our view, this

> order of the adjudicating authority is not correct passed without any application of mind and needs to be set aside and we do so.

It is not clear from the impugned order, whether the licence already stood revoked, at the time of its passing. However, even if that be so, the cause of action under the CBLR 2013 is the blame worthy conduct of the appellant. Every time there is sufficient evidence to show a blame worthy act violating CBLR 2013, a cause of action arises so as to initiate proceedings under the said Regulation. The revocation of the appellants license for an earlier act does not mitigate their blame worthy conduct leading to the imposition of a penalty, in a subsequent case when the licence was valid. Hence while it is true that the termination of an already revoked licence is legally untenable, it is not because the blame worthy conduct is extinguished by the cancellation of the licence, but because the penal remedy of cancelling a non-existent licence is not tenable. The same is not the case with the imposition of a penalty against a person. Further the impugned order has neither revoked the licence nor ordered forfeiture of security deposit but has only imposed a penalty under Regulation 18 of the CBLR 2013. The appeal on this ground hence does not succeed.

7. The appellant has stated that the impugned order has traversed beyond the scope of the notice to allege that they connived with the importer and forged the documents which are contrary to the true facts on record and beyond the scope of the notice issued to them makes the order totally redundant and otiose.

7.1 It is seen from paras 25 and 27 of the OIO reproduced above that the order when read in totality is one of the lack of due diligence. We find that CBLR 2013 requires a CB to discharge its functions with

diligence and efficiency. The appellant merely stating that he was not aware of the said mis-declaration would not suffice. Regulation 11(d) requires the CB to advise his client to comply with the provisions of the Act 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. The learned commissioner has observed that the CB who collects the weighment slips should have noticed the discrepancy in the weight from that declared in the Bills of Entry. He should further have noticed the difference in font size, dotted lines etc. on the weighment slips to entertain a reasonable doubt about them being forged for misdeclaration of weight, still he failed to advise the importer to comply with the provisions of the Customs Act or alert the department. Thus by these omissions and commissions he had violated the provisions of the CBLR. We do not find anything illogical about the conclusion arrived at by the Ld. Commissioner, and the plea fails.

8. The appellant has stated that the impugned order has also failed to realise that there is no statutory requirement for the CB to verify the weight of the consignments which is actually the job of the customs authority posted at the CFS and as CB they are only expected to file the bill based on the documents provided and advice the client of the requirements of the customs law.

8.1 The CESTAT, New Delhi, Principal Bench in its Final Order No. 50259/2022, Dated: 21.03.2022 in the case of **M/s Falcon India (Customs Broker) Appellant Vs Commissioner of Customs (Airport & General),** observed that the Customs Broker (or Custom House Agent) is a very important person in the transactions in the Custom House and it is appointed as an accredited broker as per the

Regulations and is expected to discharge all its responsibilities under them. While it is true, as has been decided in a number of cases, that the CB not expected to do the impossible and is not expected to physically verify the premises of the importer or doubt the documents issued by various Governmental authorities for KYC, it is equally true that the CB is expected to act with great sense of responsibility and take care of the interests of both the client and the Revenue.

8.2 The role of Customs is in regulating the flow of goods across borders, collecting duties and taxes, and ensuring compliance with trade regulations. They protect national security and the economy by preventing the entry of prohibited or restricted items and enforcing trade agreements. The CB partners with Customs in executing this important function and in that role they are also the ears and eyes of the department. A partner who is only willing to abide by the letter of law and not its spirit, may jeopardice not only tax revenue but also the security of the nation and the department, who licenced him, may be better of without his services. A chain is as strong as its weakest link. Violations, even without intent, are sufficient to take action against the CB, hence a penalty may be the subject-matter of a breach of statutory duty. It is meant to be a deterrent. In **Noble Agency Vs Commissioner of Customs, Mumbai** [2002 (142) E.L.T. 84 (Tri. - Mumbai)] a Division Bench of the CEGAT, West Zonal Bench, Mumbai observed :-

> "The CHA occupies a very important position in the Customs 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...." (emphasis added)

The Hon'ble Supreme court in **Commissioner of Customs Vs. K M Ganatra & Co** [2016 (332) ELT 15(SC)], approved the aforesaid observations of the CEGAT, Mumbai and unhesitatingly held that misconduct has to be seriously viewed.

8.3 We find that an officer of the rank of Commissioner is well-versed with the subject matter and is in a better position to understand the intricacies of the dispute. He is responsible for happenings in the Customs area and for the discipline to be maintained there. If he takes a decision necessary for that purpose, the Tribunal is not expected to interfere on the basis of its own notions of the difficulties likely to be faced by the CHA. [see: **Commissioner of Customs (General) Vs Worldwide Cargo Movers** - 2010 (253) ELT 190 (Bom.)/ **Commr. of Cus. & C. Ex., Hyderabad-II Vs H.B. Cargo Service** - 2011 (268) ELT 448(A.P.)].

8.4 Great weight is placed by Courts on the decision of the Original Authority who, like in this case, is in a better position to sift and weigh the evidence based on his experience in dealing with procedural aspects of the exim trade, so as to safeguard tax revenue and maintain safety and security at the border while discourage smuggling. When evidence is produced before the Original Authority examining an issue, it is for him to consider that evidence. What weight should be attached to such evidence is a matter in the discretion of the authority. It is not for the Tribunal to reappreciate the evidence. Moreover, as stated by revenue evidence need not always be direct, especially in clandestine

matters which is seldom an open affair, and can also be circumstantial. We do not find any fault in the exercise of his discretionary jurisdiction.

8.5 Hence there is no merit in the submissions made.

9. The appellant has stated that the regulation 11 [d] which provides for advising the importer of the legal requirements to be complied with by them as per law, cannot be pressed into service when importer commits any mis-declaration without the knowledge of the CB as in this case there is no justification for imputing the said contravention against them especially when their director had cleared stated that he was not aware of the said mis-declaration against which no contrary evidence has been brought on record.

9.1 We find that CBLR 2013 requires the appellant to discharge its functions with diligence and efficiency and display the prudence expected of a common man. Merely stating that he was not aware of the said mis-declaration would not suffice. Regulation 11(d) requires the CB to advise his client to comply with the provisions of the Act 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. The learned commissioner has observed that the CB who collects the weight slips should have noticed the discrepancy in the weight at the time of clearance. He should further have noticed the difference font size, dotted lines atcc to entertain a reasonable doubt about misdeclaration of weight but he failed to advise the importer to comply with the provisions of the customs act and when non-compliance was noticed he should have brought it to the notice of the department. By not doing so he had violated the provisions of the CBLR.

9.2 If a CB's actions show that he did not show due diligence or showed recklessness or misconduct in the discharge of his duty or that he acted negligently or omitted to fulfill the prescribed conditions of the Regulations which are essential for the discharge of his duty, he could be found to have committed a blame worthy act, punishable under the CBLR. The Hon'ble Supreme Court in the case of **Chander Kanta Bansal Vs. Rajinder Singh Anand** [AIR 2008 SC 2234] has examined the word "due diligence". It held;

> "The words "due diligence" has not been defined in the Code. According to **Oxford Dictionary** (Edition 2006) the word "diligence" means careful and persistent application or effort. "Diligent" means careful and steady in application to one's work and duties, showing care and effort. As per **Black's Law Dictionary** (Eighth Edition) "diligence" means a continual effort to accomplish something, care; caution; the attention and care required from a person in a given situation. **"Due diligence" means the diligence reasonable expected from, and ordinarily exercised by, a person who seeks to satisfy a legal requirement or to discharge an obligation.** According to Words and Phrases by Drain-Dyspnea (Permanent Edition 13A) "due diligence", in law, **means doing everything reasonable**, not everything possible." (emphasis added)

In the circumstances we find that the appellant was treated fairly, and we do not find any fault with the Commissioner concluding that the appellant had committed a blame worthy act under CBLR 2013 leading to the imposition of a penalty.

10. The appellant states that the enquiry report is ex-parte hence cant be relied. The IO gave report on Regulation 11(e) which is not subject of SCN so he has travelled beyond SCN.

10.1 We find that the IO in his report dated 16.03.2018 has stated that he had given three opportunities to the appellant for a personal hearing, but they did not turn up. However as seen from para 20 of the OIO the appellant gave a letter dated 15.08.2018, much after the completion of the enquiry, stating that they have vacated their office

on 01.12.2017, showing negligence and a lack of due diligence, in intimating the change of address promptly, at a time when they were facing more than one departmental action. This being so the IO cannot be faulted for completing the report without hearing the appellant. As regards the non-mention of a sub section or mentioning a wrong section in the SCN it is seen that the merely omitting to mention a sub-section of a section cited in the SCN, would not vitiate the show cause notice as the assessing officer was otherwise competent to issue the same. This principle has been laid down by the Hon'ble Supreme Court in the case of **JK Steel Vs Union of India** [1978 (2) E.L.T. (J355)], and also in the case of **Sanjana Vs Elphinestone Spinning & Weaving Mills** [1978 (2) E.L.T. (J399)]. No prejudice has been caused to the appellant who was aware that action was being taken against him under Regulation 11 of CBLR 2013, for his alleged blame worthy conduct. It cannot hence be stated that the IO travelled beyond the SCN. Moreso it was due to their own negligence or carelessness that they were not heard during the dates of PH fixed by the IO.

11. We have also examined the penalty imposed. We find that one of the material factor for consideration while imposing a penalty, is whether there was any actual loss or potential loss of revenue as a consequence of the actions of the appellant. We find that the penalty imposed is not disproportionately excessive, which would require to be interfered with by us.

12. Before concluding we must say that we were dismayed to find that the appeal memorandum contained language casting aspersions on the Ld. Commissioner and showing disrespect towards him. Some

portions of the 'Grounds" of the Appeal Memorandum are reproduced below, for illustration;

> "1. **The order of the learned lower adjudicating authority is unjust, unfair, unreasonable, illogical, unfounded, biased, contrary to law** and is passed in gross violation to the principles of natural justice and is also couched by **gross bias and judicial indiscipline** and therefore requires to be vacated in limini holding the same to be totally devoid of any merits, baseless and therefore not sustainable in law.
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> 2. The learned lower adjudicating authority apart from committing gross violation to the principles of natural justice by not judiciously and properly considering the various facts and legal grounds canvassed by the appellant herein before him also erred in inflicting the huge and harsh penalty revoking their CHA license depriving them of their right to carry on business without any justifiable and acceptable reasons thereby **exposing her arbitrariness and bias**
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> 3. The impugned Order passed by the learned lower adjudicating authority in the first place **being totally predetermined and blatantly biased** as can be seen from the outright acceptance of the Inquiry Report, which in the first place was an Exparte Report, i.e. the Report was finalized without hearing the Noticee, and the Report holds the Custom Broker guilty of a charge which they have not been put to Notice.
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> 4. . . . . the lower authority had **totally failed** to address this crucial issue inspite of being put on notice during the personal hearing granted to them **whereas he had exhibiting his bias** and non-application of mind had proceeded to impose the penalty on the Custom Broker for the sole reason of which alone his order merit to be set aside."

13. We had an occasion to deal with a similar matter in the appellants own case and decided in Final Order No. 40626/2025 dated 19.6.2025 wherein we had stated as under;

> "10. Though it is true that an advocates prepare the pleadings and make their submissions before the quasi-authorities/ court on instructions given by their clients, however they should, as an officer of the court, use their legal acumen to assist the authorities in the administration of justice fairly and in a cordial manner by maintaining decorum of language, while conducting legal proceedings on their clients behalf. While they are free to point out portions of the order under challenge, which are felt to be not legal or proper, they should desist from casting aspersions on the decision of quasi-judicial/ judicial authorities. Just as the use of unduly strong, intemperate, sarcastic or extravagant language in a judgment against the parties before them, has been repeatedly disapproved by Constitutional Courts [See: **State of U.P. Vs. Mohammad Naim** - 1964 AIR 703 / 1964 SCR (2) 363]."

A 5 Judge Bench of the Hon'ble Supreme Court of India in **Smt Ujjam Bai vs State Of U.P** [AIR 1962 SUPREME COURT 1621], held;

> "A taxing authority which has the power to make a decision on matters falling within the purview of the law under which it is functioning is undoubtedly under an obligation to arrive at a right decision. **But the liability of a tribunal to err is an accepted phenomenon.** The binding force of a decision which is arrived at by a taxing authority acting within the limits of the jurisdiction conferred upon it by law cannot be made dependent upon the question whether its decision is correct or erroneous. For, that would create an impossible situation. Therefore, though erroneous, its decision must bind the assessee. Further, if the taxing law is a valid restriction the liability to be bound by the decision of the taxing authority is a burden imposed upon a person's right to carry on trade or business. This burden is not lessened or lifted merely because the decision proceeds upon a misconstruction of a provision of the law which the taxing authority has to construe. Therefore, it makes no difference whether the decision is right or wrong so long as the error does not pertain to jurisdiction." (emphasis added)

Hence just because the appellant feels that an authority has erred in his decision should not be an excuse to show disrespect to him. We fervently hope not to find such disrespective language being used in future appeals.

14. As per the discussion on the grounds raised by the appellant, we find that the lower authority has taken a view which is not arbitrary or illogical or suffers from procedural impropriety or was shocking to the conscience or disproportionately excessive and we hence uphold the impugned order and reject the appeal. The appeal is disposed of accordingly.

(Order pronounced in open court on 20.06.2025)

(**M. AJIT KUMAR**)
Member (Technical)

(**P. DINESHA**)
Member (Judicial)

Rex