

**IN THE CUSTOMS, EXCISE AND SERVICE TAX APPELLATE TRIBUNAL
EASTERN ZONAL BENCH: KOLKATA**

REGIONAL BENCH – COURT NO. 1

Customs Appeal No. 75370 of 2019

(Arising out of Order-in-Original No. Kol/Cus/Airport/Admn/12/2018 dated 06.06.2018 passed by the Commissioner of Customs 15/1, Strand Road, Customs House, Kolkata-700 001)

M/s. GMC & Co.

Chartered Bank Building,
1st Floor, 4, N.S. Road,
Kolkata-700001

: Appellant

VERSUS

**Commissioner of Customs (Airport &
Administration)**

Customs House, 15/1, Strand Road,
Customs House, Kolkata-700 001

: Respondent

APPEARANCE:

Shri H. K. Pandey, Advocate for the Appellant

Shri T. Sulaiman, Authorized Representative for the Respondent

CORAM:

HON'BLE SHRI ASHOK JINDAL, MEMBER (JUDICIAL)

HON'BLE SHRI K. ANPAZHAKAN, MEMBER (TECHNICAL)

FINAL ORDER NO. 76887/ 2025

DATE OF HEARING: 18.06.2025

DATE OF PRONOUNCEMENT: 10.07.2025

ORDER: [PER SHRI ASHOK JINDAL]

The appellant is in appeal against the impugned order wherein their Customs Broker Licence has been revoked and security deposit has been forfeited.

2. The facts of the case are that the appellant engaged a G-card Holder, namely, Shri Nitesh Patel by executing a Power of Attorney in his favour, to function on their behalf as a Customs Broker at Mumbai Customs.

Appeal No.: C/75370/2019-DB

3. The impugned proceedings were initiated against the appellant on the basis of an Offence Report dated 08.09.2017 from the Joint Director, DRI, Mumbai Zonal Unit, on the allegation of irregularities committed by Shri Nitesh Patel. The said Offence Report mentions two Show Cause Notices alleging complicity on the part of Shri Nitesh Patel, as under: -

SCN dated 04.08.2017

Importer- Bright Traders

Bill of Entry No. 8462837 dated 07.02.2017

Goods imported-Mobile Phone and other electronic goods

Allegation- MRP valuation and BIS violation

Investigation done- Proprietor of the Import firm Binod Shrstha was examined and stated to have lent his IEC to some Manoj Shukla. Shri Manoj Shukla accepted the mis-declaration. (Page 160 and payment particulars P-53)

(ii) SCN dated 31.07.2017 (page 162)

Importer- Bright ways

Bill of Entry Nos. 8462140 dated 07.02.2017, 8462176 dated 07.02.2017 & 8562072 dated 15.02.2017

Goods imported- PVC Sheets and vacuum Flask

Allegation- Undervaluation

Investigation done- The importer Pravin Bhawanidas Modi appeared before the Investigating Officer and accepted to have made the import for himself and accepted undervaluation to save duty. (P-162).

4. On the basis of the said allegations, an investigation was conducted and proceedings against the appellant were initiated, for revocation of their

Customs Broker Licence. Initially, their Customs Broker Licence of the appellant was suspended and finally, the Customs Broker Licence was revoked on 06.06.2018 by way of the impugned order.

5. Against the said order, the appellant is before us.

6. The Ld. Counsel appearing on behalf of the appellant submits that there is no dispute that Shri Nitesh Patel was a G-Card Holder and there was nothing wrong in his engagement by the appellant. It is submitted that although it has been alleged that Shri Nitesh Patel took the help of other persons for accessing the computer system or other ancillary work in filing Bills of Entry, the same does not in any way whatsoever indicate that their Licence was sold / transferred; there is nothing brought on record by the Revenue to the effect that the appellant has received any one-time consideration for allowing the said Shri Nitesh Patel to work on their behalf of for authorising him to use the said Licence as per his wishes. It is further stated that in import-export business, there are a number of stakeholders besides the importers and exporters, such as transporters, clearing and forwarding agents, etc.; that a Customs Broker has to be in touch with a number of persons and takes their help.

7. The Ld. Counsel for the appellant points out that the crux of the case is that there was mis-declaration and undervaluation, which was admitted by the importers when detected; it is not the case that the said undervaluation was known to the appellant or the G-Card Holder. It is also submitted that there was a third person, namely, Shri Pragnesh Gandhi between the Customs Broker and the

importers in this case, who is stated to have been earlier working with some other Customs Broker and now jobless; that the importers were introduced to Shri Nitesh Patel (G-Card Holder) by him.

8. The Ld. Counsel for the appellant also contends that the finding that the appellant's Customs Broker Licence had been transferred is based on the assumption that Shri Nitesh Patel took the help of Shri Pragnesh Gandhi; he submits that the allegation of sale or transfer of Licence is very serious in nature and cannot be sustained merely on the basis of assumptions and presumptions. In this regard, he relied on the decision in the case of *B.K. Clearing Agency v. Commissioner of Customs (Admn. & Airport)* [2024 (14) Centax 64 (Tri. - Kol.)], which has been affirmed by the *Hon'ble Calcutta High Court as reported in 2024 (14) Centax 65 (Cal.)*.

9. Thus, the Ld. Counsel for the appellant prayed that the impugned order be set aside.

10. On the other hand, the Ld. Authorized Representative supported the impugned order, and submitted that the G-Card Holder, namely, Shri Nitesh Patel gave access to one Shri Pragnesh Gandhi, of his computer, allowing him to use their password and ID, which is equivalent to sale of their Licence.

11. Accordingly, the Ld. Authorized Representative of the Revenue submits that the appellant's Customs Broker Licence has been rightly revoked.

12. Heard the parties and considered their submissions.

Appeal No.: C/75370/2019-DB

13. In this case, the allegation against that the appellant is that their G-Card Holder, i.e., Shri Nitesh Patel has given his ID and password to one Shri Pragnesh Gandhi to allow him access to the Licence. In the general business of a Customs Broker, such providing of ID and password is common which can be misused.

14. In this case, the access given by the G-Card holder led the misuse of the facility and on that basis misdeclaration of import consignments were detected. If the G-Card holder would not give his ID and password in that circumstances the misdeclaration, by the importer would have been avoided.

15. Therefore, considering the fact that in this case also, the allegation has been made more serious against the appellant therefore, we hold that the revocation of Customs Broker Licence of the appellant is sustainable in the eyes of law.

16. In view of this, we uphold the impugned order and therefore, the order of revocation of the Customs Broker Licence of the appellant and forfeiture of security deposit is confirmed.

17. In the result, the appeal is dismissed.

(Order Pronounced in Open court on 10.07.2025)

(ASHOK JINDAL)
MEMBER (JUDICIAL)

(K. ANPAZHAKAN)
MEMBER (TECHNICAL)

RKP