$~
* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
% ***Judgment reserved on: 06.08.2026***
Judgment pronounced on: 14.08.2026
Judgment uploaded on: 14.08.2026

\# **DLHC010233712025**
\+ CUSAA 67/2025 & CM APPL. 24316/2025
M/S GOODWINGS MARITIME PRIVATE LIMITED ......Petitioner
Through: Mr. Pradeep Jain, Mr. Shubhankar Jha, Mr. Sambhav Jain, Mr. Pranav Raj Singh, Ms. Alibha Mishra and Ms. Gouri Agarwal, Advs.

versus

COMMISSIONER OF CUSTOMS (AIRPORT & GENERAL), NEW DELHI .....Respondent
Through: Ms Arunima Dwivedi, SSC Customs with Ms. Himanshi Singh, Adv.

CORAM:
HON'BLE MR. JUSTICE ANIL KSHETARPAL
HON'BLE MS. JUSTICE SHAIL JAIN

J U D G M E N T

ANIL KSHETARPAL, J.:

1. Through the present Appeal, the Appellant assails Final Order dated 23.09.2024 [hereinafter referred to as 'Impugned Order'] passed by the Principal Bench of the Customs, Excise and Service Tax Appellate Tribunal [hereinafter referred to as 'CESTAT'] in Customs Appeal No. 53964/2023. By the Impugned Order, the CESTAT dismissed the Appellant's appeal and upheld the Order-in-Original dated 19.12.2022 passed by the Commissioner of Customs (Airport & General), New Delhi [hereinafter referred to as 'the Adjudicating Authority'], whereby the Customs Broker licence of the Appellant

was revoked, its security deposit was forfeited and a penalty of Rs.50,000/- was imposed upon it.

2. The issue which arises for consideration in the present Appeal is whether the revocation of the Customs Broker licence of the Appellant, along with forfeiture of its security deposit and imposition of penalty, is sustainable in law in the facts and circumstances of the case, where the Bill of Entry was filed in the name and using the Customs Broker credentials of M/s Prakhar Gupta, but the Appellant, despite holding its own Customs Broker licence, was found to have undertaken the clearance-related activities in respect of the subject consignment.

FACTUAL MATRIX:

3. In order to appreciate the controversy involved in the present Appeal, the relevant facts, in brief, are required to be noticed.

4. The Appellant is a Customs Broker holding Customs Broker Licence No. R-14/DEL/CUS/2020, stated to be valid up to 30.07.2030. The proceedings against the Appellant arose out of the import of a consignment by M/s JCS Botanicals, Greater Kailash, New Delhi, under Bill of Entry No. 7368812 dated 04.02.2022, filed at ICD, Jhattipur, Panipat. The Bill of Entry reflected M/s Prakhar Gupta as the Customs Broker. The goods declared therein comprised the following:

S.No.	*Item Description*	*Quantity*	*Value (Rs.)*
1.	*Dried Root Crocus (Crocus Sativus L.)*	*10,000 kgs*	*Rs.11,49,032.81*

2.	*Gulgafiz (Gentiana Oliveri Griseb)*	*2,720 kgs*	*Rs.5,20,894.88*
3.	*Salab (Dactylorhiza Hatagirea)*	*240 kgs*	*Rs.55,153.58*
4.	*Shikakal (Pastinaca Sativa Linn)*	*10,000 kgs*	*Rs.11,49,032.81*

5. Acting upon intelligence, the aforesaid consignment was put on hold and subjected to examination by the Customs authorities. Samples of the goods were forwarded to the Regional Plant Quarantine Station, which reported that the goods could not be imported. Samples were also examined by the Wildlife Crime Control Bureau, which opined that the goods did not attract the provisions of the Wildlife (Protection) Act, 1972. The Customs authorities thereafter proceeded to investigate, *inter alia*, the manner in which the Bill of Entry had been filed and the persons who had dealt with the subject consignment.

6. During the course of investigation, the statement of Shri Sanjay Kumar, a G-Card holder associated with the Appellant, was recorded on 24.02.2022. He stated that he had been authorised by M/s Prakhar Gupta, *vide* authorisation letter dated 21.02.2022, to remain present during examination of the goods and that he had been directed by Shri Awadhendra Kumar, Director of the Appellant, to attend the examination proceedings.

7. The statement of Shri Prakhar Gupta was recorded on 04.03.2022. While disputing that he had himself issued the authorisation letter dated 21.02.2022, he acknowledged that the Bill of Entry in question had been filed using his Customs Broker licence. He stated that the Bill of Entry had not been filed by him and that the work relating to the consignment had been undertaken by M/s

Goodwings Maritime Private Limited. He further stated that there was a verbal understanding between him and Shri Awadhendra Kumar under which papers could be filed in the name of his Customs Broker licence, although there was no written authorisation or agreement permitting the Appellant to undertake such work in the name of M/s Prakhar Gupta.

8. The importer, in its communication dated 15.03.2022, identified M/s Prakhar Gupta as its Customs Broker and furnished his contact particulars. It also stated that correspondence in relation to the consignment had been conducted through Shri Awadhendra Yadav, who, according to the importer, worked with Shri Prakhar Gupta.

9. The statement of Shri Awadhendra Kumar, Director of the Appellant, was recorded on 07.03.2022. He stated that the documents relating to the consignment had been received by him on behalf of M/s Prakhar Gupta and that he had filed the documents on behalf of the said Customs Broker. He further stated that the original authorisation letter dated 21.02.2022 had been signed by Shri Prakhar Gupta and handed over to an employee of the Appellant, who thereafter forwarded a scanned copy thereof to Shri Sanjay Kumar. He also stated that the employees of the Appellant, including Shri Sanjay Kumar and Ms. Sneha, also worked for M/s Prakhar Gupta and that both entities were operating from the same premises. During the investigation, Shri Awadhendra Kumar also produced an agreement dated 16.07.2018 recording an arrangement between him and Shri Prakhar Gupta concerning the mutual handling and transaction of business.

10. Pursuant to the aforesaid investigation, the Joint Commissioner of Customs, Preventive Commissionerate, New Delhi, passed Order-in-Original dated 28.03.2022, whereby, *inter alia*, a penalty of Rs.1,00,000/- each was imposed upon Shri Awadhendra Kumar, Director of the Appellant, and Shri Prakhar Gupta under Section 114AA of the Customs Act, 1962 ['Customs Act']. A copy of the said order was thereafter forwarded to the Commissioner of Customs (Airport & General), who treated the same as the offence report for the purposes of initiating proceedings against the Appellant under the Customs Brokers Licensing Regulations, 2018 ['CBLR'].

11. Subsequently, vide communication dated 27.04.2022, forwarded by email on 05.05.2022, Shri Prakhar Gupta stated that the Bill of Entry had been filed by Shri Awadhendra Kumar on his directions and that the G-Card holder of the Appellant had been sent to witness the examination proceedings at his request. He further stated that M/s Goodwings Maritime Private Limited, in its capacity as a Customs Broker, was not involved in the matter and requested that a lenient view be taken.

12. The aforesaid material formed the basis for proceedings against the Appellant on the allegation that, notwithstanding that M/s Prakhar Gupta was reflected as the Customs Broker in the Bill of Entry, the Appellant had, in substance, undertaken the functions of a Customs Broker in respect of the subject consignment by using the Customs Broker credentials of M/s Prakhar Gupta, thereby contravening the obligations cast upon it under the CBLR.

13. The Appellant's Customs Broker licence was thereafter suspended and the suspension was subsequently confirmed. A Show Cause Notice dated 24.06.2022 was then issued proposing revocation of the licence on account of alleged violations of the CBLR.

14. An Inquiry Officer was appointed to inquire into the allegations. The Inquiry Officer found violations of Regulations 10(a), 10(b), 10(d), 10(e), 10(f), 10(k) and 10(n) of the CBLR. Upon consideration of the Inquiry Report and the material on record, the Adjudicating Authority did not sustain the charge under Regulation 10(b), but found the Appellant to have contravened Regulations 10(a), 10(d), 10(e), 10(f), 10(k) and 10(n) of the CBLR.

15. Consequently, by Order-in-Original dated 19.12.2022, the Adjudicating Authority revoked the Appellant's Customs Broker licence, ordered forfeiture of the entire security deposit and imposed a penalty of Rs.50,000/-.

16. Aggrieved by the aforesaid order, the Appellant preferred an appeal before the CESTAT. The CESTAT, upon consideration of the material on record and the rival submissions, dismissed the appeal vide the Impugned Order dated 23.09.2024. The Tribunal upheld the findings of violation of Regulations 10(a), 10(d), 10(e), 10(f) and 10(k) of the CBLR and found no sufficient ground to interfere with the revocation of the licence, forfeiture of the security deposit or imposition of penalty.

17. It is in the aforesaid circumstances that the Appellant has approached this Court under Section 130 of the Customs Act,

challenging the Impugned Order passed by the CESTAT.

CONTENTIONS OF THE PARTIES:

18. Contentions on behalf of the Appellant:

18.1. It was submitted that the CESTAT erred in holding that the Appellant had misused or sub-let the Customs Broker licence of M/s Prakhar Gupta. It was contended that the Bill of Entry was filed using the credentials of M/s Prakhar Gupta with his knowledge, instructions and consent, and that the importer was already a client of M/s Prakhar Gupta. The Appellant, therefore, could not be treated as having independently or clandestinely utilised the licence of another Customs Broker. It was further submitted that there was no independent motive or advantage sought by the Appellant in using the name of M/s Prakhar Gupta.

18.2. It was further submitted that there was no material to establish any deliberate misdeclaration or *mala fide* on the part of the Appellant. The declarations in the Bill of Entry were made on the basis of documents and information furnished by the importer, while the nature of the goods and their alleged prohibition under the applicable Plant Quarantine Regulations could only be ascertained upon examination and by the competent authorities. It was thus contended that the subsequent finding regarding the importability of the goods could not, by itself, establish any deliberate violation on the part of the Appellant.

18.3. It was further submitted that the CESTAT, Allahabad Bench, had, by Final Order No. 70530-70531/2024 dated 20.08.2024, set aside the revocation of the Customs Broker licence of M/s Prakhar Gupta in relation to the same transaction. It was contended that, when the licence-holder whose credentials were allegedly utilised had himself been granted relief, the continued revocation of the Appellant's licence was unwarranted.

18.4. It was also submitted that, in the adjudication proceedings against the importer, the goods were permitted to be redeemed on payment of a redemption fine of Rs.1,50,000/- and penalty of Rs.1,00,000/-, which, according to the Appellant, was also a relevant mitigating circumstance while assessing the proportionality of revocation of its Customs Broker licence.

18.5. On the question of proportionality, it was further submitted that the Appellant had no history of any prior violation under the Customs Act and that the impugned action constituted a disproportionately severe consequence for the alleged infractions. Reliance was placed upon the judgment of this Court in ***Ashiana Cargo Services v. Commissioner of Customs (I & G)***, 2014 (302) E.L.T. 161 (Del.), affirmed by the Supreme Court, to contend that revocation of a Customs Broker licence must be proportionate to the gravity of the violation and that the consequences of revocation warrant consideration of the mitigating circumstances.

18.6. It was finally submitted that the Appellant's licence had remained under suspension for a substantial period and that such prolonged suspension, coupled with the absence of any prior misconduct, ought to have been taken into account while determining the appropriate penalty.

19. Contentions on behalf of the Respondent:

19.1. *Per contra*, it was submitted that the subject consignment was sought to be cleared by filing the Bill of Entry using the Customs Broker credentials of M/s Prakhar Gupta, whereas the investigation had established that the Bill of Entry was, in fact, filed by the Appellant through its Director, Shri Awadhendra Kumar. It was contended that the Appellant, therefore, could not seek to disassociate itself from the transaction merely because the name of M/s Prakhar Gupta appeared as the Customs Broker in the Bill of Entry.

19.2. It was submitted that the goods imported by M/s JCS Botanicals were prohibited and were liable to confiscation under Sections 111(d) and 111(o) of the Customs Act, 1962. In such circumstances, the Appellant, having undertaken the clearance-related activities in relation to the consignment, was required to advise its client to comply with the provisions of the Customs Act and the allied laws, rules and regulations and, in the event of non-compliance, to bring the matter to the notice of the Deputy Commissioner or Assistant Commissioner of Customs. It was contended that the Appellant had failed to discharge these obligations, thereby contravening Regulations 10(d) and 10(e) of the CBLR.

19.3. It was further submitted that Regulation 10(f) of the CBLR required the Customs Broker to inform the client of the relevant rules and regulations governing clearance of goods through Customs. The

Appellant had failed to inform the importer of the restrictions applicable to the subject goods under the Plant Quarantine laws and had instead proceeded with the filing of the Bill of Entry. The violation of Regulation 10(f) was, therefore, stated to have been rightly sustained.

19.4. It was further submitted that the proprietor of the importer, Shri Archit Sharma, had stated that the documents and details relating to the consignment were sent to the email address of the Appellant on the directions of Shri Awadhendra Kumar, Director of the Appellant. It was contended that Shri Awadhendra Kumar had also collected the original documents from the importer but had failed to produce the same before the Customs authorities. The Appellant had, therefore, also contravened Regulation 10(k) of the CBLR, which required maintenance of proper and up-to-date records relating to its business as a Customs Broker.

19.5. It was lastly submitted that the plea of proportionality and the reliance upon ***Ashiana Cargo Services*** (supra) are misplaced. The present case, according to the Respondent, does not concern a minor or isolated infraction, but involves the unauthorised use of the credentials of another Customs Broker for filing a Bill of Entry in respect of goods found to be prohibited for import. In these circumstances, the revocation of the licence, forfeiture of the security deposit and imposition of penalty were justified having regard to the nature and gravity of the misconduct.

ANALYSIS & FINDINGS:

20. This Court has carefully considered the submissions advanced on behalf of the parties and perused the material on record.

21. At the outset, it is necessary to notice that there is no real dispute regarding the manner in which the Bill of Entry came to be filed. The Bill of Entry dated 04.02.2022 reflected M/s Prakhar Gupta as the Customs Broker. However, the material on record, including the statements of Shri Prakhar Gupta and Shri Awadhendra Kumar, as well as the other material on record, establish that the clearance-related activities were undertaken by the Appellant. The importer had furnished the relevant documents to the email address of the Appellant and the examination proceedings were attended by Shri Sanjay Kumar, who was an employee and G-Card holder of the Appellant. Shri Awadhendra Kumar, Director of the Appellant, also acknowledged that he had received the documents from the importer and had filed the same on behalf of M/s Prakhar Gupta.

22. The Appellant's principal defence is that the use of the credentials of M/s Prakhar Gupta was with his knowledge, instructions and consent and that there was a mutual understanding between the parties. However, this submission does not advance the Appellant's case. The fact that M/s Prakhar Gupta may have permitted the Appellant to use his Customs Broker credentials does not authorise the Appellant to undertake Customs Broker functions in a transaction in which it had not obtained authorisation from the importer in its own name or to file the Bill of Entry using the credentials of another Customs Broker. The very circumstance relied upon by the Appellant, namely, that M/s Prakhar Gupta had permitted the use of his

credentials, demonstrates that the use of those credentials was conscious and not inadvertent.

23. The statutory scheme governing Customs Brokers does not contemplate one Customs Broker undertaking the functions of another Customs Broker by using the latter's credentials. A Customs Broker is required to transact business in accordance with the authorisation obtained from the importer and to discharge the obligations cast upon it under the CBLR. The Appellant, despite holding its own Customs Broker licence, chose to undertake the clearance-related activities under the licence of M/s Prakhar Gupta. The fact that the latter may also have participated in, or consented to, such an arrangement cannot absolve the Appellant of its own obligations under the CBLR.

24. This conclusion is further reinforced by the manner in which the transaction was actually conducted. The importer had not directly contacted M/s Prakhar Gupta in relation to the clearance of the subject consignment. Instead, the relevant documents were sent to the email address of the Appellant, and the clearance-related activities were undertaken by persons associated with the Appellant. The Appellant's Director, Shri Awadhendra Kumar, also acknowledged that the employees of the Appellant were involved in the transaction and that both entities were operating from the same premises. The subsequent statement of Shri Prakhar Gupta that there existed a mutual understanding between him and Shri Awadhendra Kumar for filing papers in the name of his Customs Broker licence, therefore, does not detract from the conclusion that the Appellant had itself undertaken the transaction.

25. The next aspect which assumes significance is the nature of the goods sought to be imported. The consignment was subjected to examination and samples were forwarded to the Regional Plant Quarantine Station. The report received from the said authority recorded that the goods could not be imported. The goods were consequently treated as prohibited and were made liable to confiscation under Sections 111(d) and 111(o) of the Customs Act. The fact that the Wildlife Crime Control Bureau did not find the goods to attract the provisions of the Wildlife (Protection) Act, 1972 does not alter the position arising from the Plant Quarantine authorities' report.

26. In this regard, the submission of the Appellant that the prohibited nature of the goods could only be ascertained upon examination cannot be accepted as a complete answer to the violations found against it. A Customs Broker is not merely required to file documents furnished by an importer. The obligations under the CBLR require the Customs Broker to exercise the degree of diligence expected of a licensed intermediary and to advise the client regarding the statutory requirements governing the import and clearance of goods. Where the goods are subject to restrictions or prohibition under the applicable law, the Customs Broker cannot proceed with their clearance by simply filing the Bill of Entry in the name of another Customs Broker.

27. The Appellant's reliance upon the fact that the goods were subsequently permitted to be re-exported upon payment of redemption fine and penalty by the importer also does not materially assist its

case. The fact that the adjudicating authority permitted redemption of the goods for re-export, subject to the statutory conditions, concerns the consequences visited upon the importer in respect of the imported goods. It does not retrospectively validate the manner in which the Appellant undertook the Customs Broker functions or absolve it of compliance with the obligations imposed by the CBLR.

28. The findings recorded by the CESTAT in respect of Regulations 10(a), 10(d), 10(e), 10(f) and 10(k) of the CBLR must, therefore, be examined in this factual backdrop. The violation of Regulation 10(a) follows from the fact that the Appellant, without obtaining authorisation from the importer in its own name, undertook the transaction and filed the Bill of Entry using the credentials of M/s Prakhar Gupta. The Appellant cannot rely upon the fact that another Customs Broker was reflected in the Bill of Entry to avoid the obligations which arose from the activities actually undertaken by it.

29. The finding regarding Regulations 10(d) and 10(e) is also sustainable. Once the Appellant undertook the clearance-related activities in respect of the consignment, it was required to discharge the corresponding obligations of a Customs Broker. The material on record establishes that the goods were subject to restrictions under the Plant Quarantine regime and were not permissible for import in the manner in which they were presented. The Appellant, instead of advising its client regarding the applicable statutory requirements and, in the event of non-compliance, bringing the matter to the notice of the Customs authorities, proceeded with the filing of the Bill of Entry through the credentials of M/s Prakhar Gupta.

30. As regards Regulation 10(f), the obligation of a Customs Broker to ensure that information relating to orders, instructions and public notices concerning clearance of cargo is not withheld from a client assumes significance in the present case. The record does not disclose that the Appellant had adequately informed the importer of the applicable restrictions governing the subject goods. On the contrary, the transaction proceeded through the Appellant notwithstanding the restrictions which ultimately resulted in the goods being treated as prohibited for import. The finding of violation of Regulation 10(f), therefore, cannot be said to be without basis.

31. The finding under Regulation 10(k) is equally supported by the record. The importer had stated that the documents and details relating to the consignment were sent to the email address of the Appellant on the directions of Shri Awadhendra Kumar. Shri Awadhendra Kumar had also acknowledged having collected the original documents from the importer. However, those original documents were not produced before the Customs authorities when called for. The finding that the Appellant failed to maintain and produce the requisite records and documents relating to the transaction, therefore, warrants no interference.

32. The Appellant has placed considerable reliance upon the fact that the Customs Broker licence of M/s Prakhar Gupta, whose credentials were used for filing the Bill of Entry, was subsequently set aside by the CESTAT, Allahabad Bench, by Final Order No. 70530-70531/2024 dated 20.08.2024. This circumstance, however, cannot by itself determine the legality of the action taken against the Appellant.

The proceedings against M/s Prakhar Gupta and those against the Appellant concern the respective statutory obligations of two separate Customs Brokers. The relief granted to M/s Prakhar Gupta in his proceedings cannot erase the independent conduct of the Appellant established on the basis of the material available in the present case.

33. Similarly, the submission that there was no previous violation on the part of the Appellant is a mitigating circumstance which may be relevant while considering the proportionality of the penalty. However, absence of previous misconduct does not render the present violations inconsequential. The Appellant was itself a licensed Customs Broker and, despite possessing its own licence, consciously undertook the transaction using the credentials of another Customs Broker. This was not a case of a mere inadvertent or technical omission.

34. The Appellant has also relied upon the decision of this Court in ***Ashiana Cargo Services*** (supra), which was affirmed by the Supreme Court, to contend that revocation of a Customs Broker licence must satisfy the requirement of proportionality. There can be no quarrel with the proposition that the punishment imposed upon a Customs Broker must bear a reasonable relationship with the nature and gravity of the violation and that the serious civil consequences flowing from revocation cannot be disregarded. The question, however, is whether the facts of the present case warrant interference with the punishment imposed.

35. In the present case, the Appellant did not merely commit an

isolated lapse in the discharge of its functions. Despite holding its own Customs Broker licence, it undertook the clearance-related activities and filed the Bill of Entry using the credentials of M/s Prakhar Gupta. The transaction further concerned goods which were ultimately found to be prohibited for import. Once the goods were described correctly, the Appellant was expected to be aware of the restrictions and prohibitions. It was the Appellant's responsibility to inform the importer. If the importer insisted, the Appellant was required to bring this fact to the notice of the Customs authorities. The use of another Customs Broker's credentials, in these circumstances, had the effect of concealing the identity of the Customs Broker actually undertaking the transaction and undermining the regulatory framework governing Customs Brokers.

36. The nature of the conduct is particularly significant while considering the plea of proportionality. The CESTAT has recorded a finding that the use of the credentials of M/s Prakhar Gupta was not a consequence of carelessness or inadvertence but was a conscious act. The Appellant, therefore, cannot claim the benefit of the principle of proportionality on the footing that the violations were merely technical or procedural in nature. The consequence of revocation may undoubtedly be severe, but the severity of the consequence must be assessed against the gravity of the conduct established on record.

37. The Appellant's further submission that its licence had remained suspended for a substantial period also does not, in the facts of the present case, warrant setting aside the revocation. Suspension is an interim regulatory measure pending adjudication of the allegations,

whereas revocation follows upon a finding that the Customs Broker has committed violations warranting such action. The period during which the licence remained suspended cannot, therefore, by itself, be treated as a substitute for the final consequence of revocation, particularly where the violations found are substantive and relate to the manner in which the Appellant undertook Customs Broker activities.

38. This Court is also mindful that the present proceedings arise under Section 130 of the Customs Act and interference with the findings of the CESTAT would be warranted only upon the existence of a substantial question of law. In the present case, having regard to the deliberate use of another Customs Broker's credentials, the Appellant's actual involvement in the clearance of the consignment, the nature of the goods sought to be imported and the violations of the CBLR sustained by the authorities, the revocation of the licence cannot be characterised as shockingly or manifestly disproportionate.

39. The forfeiture of the security deposit and imposition of penalty of Rs.50,000/- also arise from the same set of established violations. No separate ground has been shown warranting interference with these consequences. The Appellant has, therefore, failed to establish that the Impugned Order suffers from any error of law warranting interference under Section 130 of the Customs Act, 1962.

CONCLUSION:

40. For the aforesaid reasons, this Court finds no merit in the present Appeal and no substantial question of law arises for

consideration.

41. The findings recorded by the CESTAT sustaining the violations of Regulations 10(a), 10(d), 10(e), 10(f) and 10(k) of the CBLR, as well as the consequential revocation of the Customs Broker licence, forfeiture of the security deposit and imposition of penalty, do not warrant interference.

42. Accordingly, the present Appeal, along with the pending application, is dismissed.

ANIL KSHETARPAL, J.

SHAIL JAIN, J.

AUGUST 14, 2026
jai/pal