

Custom broker is not responsible for overseeing the correctness of documents issued by Government Authorities

The Customs Excise and Service Tax Appellate Tribunal, New Delhi (“**the CESTAT**”) in the cases of *M/s. Surya Jyoti Global Logistics, Custom Broker Vs. Commissioner of Customs (Custom Appeal No. 50789 of 2021)*, vide [*Final order No. 51144-51146/2022*] dated December 06, 2022 held that custom brokers are not responsible for overseeing the correctness of the documents provided by the client issued by government authorities for verification of the exporters as per Regulation.

Facts:

M/s. Surya Jyoti Global Logistics, M/s. Hari Mohan Dwivedi and M/s. Rajinder P. Kapur (collectively referred to as “**Custom Brokers**” or “**the Appellants**”) were clearing goods on behalf of exporters. A few of exporters were later categorized as ‘risky exporters’ by the Directorate General of Analytics and Risk Management of the Central Board of Excise & Customs (“**DGARM of CBEC**”) and respective jurisdictional Commissionerate of Customs ordered concerned customs officers to conducted physical verification of business premise of such risky exporters. Subsequently, on physical verification it was found that such exporters did not operate from registered premise. It was concluded that such exporters did not exist at all. Show Cause Notices (“**SCNs**”) were issued to the Appellants alleging that they had not fulfilled their obligation under Regulation 10(n) of the Custom Broker Licensing Regulations, 2018 (“**the CBLR**”). Thereafter, on June 10, 2021 Commissioner of Customs (“**the Respondent**”) passed Orders In Original (“**the OIO**”) against the Appellants whereby license of custom brokers were revoked and security deposit were forfeited and penalty were imposed.

The Appellants contended that they had complied with the Regulation 10(n) of the CBLR as they have verified the document issued by the independent parties including government

department such as the Goods and Services Tax Identification Number (“**the GSTIN**”), Importer Exporter Code (“**IEC**”) for verification of exporters as per Regulation 10(n) of the CBLR.

Aggrieved by the order passed by the Respondent the Appellants filed Custom Appeals before the CESTAT.

Issue:

Whether custom brokers were responsible for ensuring the correctness of the documents issued by the authorities which were relied upon by them for the purpose of verification as per Regulation 10(n) of the CBLR?

Held:

The CESTAT held that:

- There is nothing in the Regulation 10(n) of the CBLR which requires Custom Brokers to check if the exporter is risky in the opinion of any officer or to obtain NOC certificate for confirming exporter is bona-fide.
- Further, Custom Broker were not responsible for checking the correctness of the documents on which they have relied, issued by government authorities.
- CESTAT allowed the appeal and set aside the impugned Orders.

Relevant Provisions

Regulation 10(n) of the CBLR

A custom broker shall verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information.

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