

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL  
NEW DELHI.**

**PRINCIPAL BENCH, COURT NO. 1**

**CUSTOMS APPEAL NO. 52731 OF 2019**

[Arising out of the Order-in-Original No. 99/MK/POLICY/2019 dated 18/09/2019 passed by Commissioner of Customs (Airport & General), New Delhi.]

**M/s Star CHA Management Services LLP, ...Appellant**  
B-503, Karam Hi Dharma Society,  
Plot No. 84, Sector 55,  
Gurgaon - 122 011.

versus

**Commissioner of Customs, ...Respondent**  
**(Airport & General),**  
New Customs House, Near I.G.I. Airport,  
New Delhi.

**APPEARANCE:**

Shri R.P. Jindal, Advocate for the appellant.  
Shri Nagender Yadav, Authorized Representative for the Department

**CORAM:**

**HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT**  
**HON'BLE MR. RAJU, MEMBER (TECHNICAL)**

**FINAL ORDER NO. 50637/2022**

**DATE OF HEARING: 17.06.2022**  
**DATE OF HEARING: 22.07.2022**

**RAJU**

This appeal has been filed by M/s Star CHA Management Services LLP<sup>1</sup> against forfeiture of security and imposition of penalty.

2. Learned Counsel for the appellant argued that the appellant was a Limited Liability Partnership<sup>2</sup> with two partners namely Umesh Kumar Bhalla and Ashu Chauhan. The appellant obtained a Customs

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**1. appellant**  
**2. LLP**

Broker License on 21.07.2014. On 20.06.2017, one of the partners Ashu Chauhan expired. On 11.12.2017 a new partnership deed was executed between Umesh Kumar Bhalla, John Verghese and Ajit Singh Malik w.e.f. the earlier date i.e. 20.06.2017 to revive the LLP in terms of section 7 of the Limited Liability Act, 2008. The details of reconstituted partnership deed were registered with Ministry of Corporate Affairs on 01.09.2018. The appellant filed their first Bill of Entry<sup>3</sup> on 06.10.2018 and on 10.10.2018 intimation was filed with Customs for addition of new partners in the Customs record.

3. Learned Counsel pointed out that proceedings were initiated against the appellant for violating the Customs Broker Licensing Regulation, 2018<sup>4</sup> as the appellant failed to follow the second proviso to Regulation 7 (2) of CBLR, 2018. Thereafter, after enquiry, the impugned order was issued by Commissioner of Customs for forfeiture of security deposit of Rs. 5 lakhs and a penalty of Rs. 50,000/- was imposed on the appellant. Aggrieved by the said order, the appellant is before this Tribunal.

4. The learned Counsel for the appellant pointed out that the appellant did not pick up any business during this period and the delay in reporting the change of constitution of LLP occurred because the surviving partner was not in a right frame of mind after the death of his partner. He further pointed out that the delay was not significant and the same has been recognized by the impugned order

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3. BE  
4. CBLR, 2018

as the impugned order does not revoke the license but only forfeits the security and imposes penalty.

5. Learned Counsel further pointed out that in terms of Regulation 14, it was not open to the Principal Commissioner to forfeit the security without revoking the license, even if the appellant had violated CBLR, 2018.

6. Learned Counsel further pointed out that the Customs Broker License was taken by the appellant under the earlier Regulations, namely Customs Broker Licensing Regulations, 2013<sup>5</sup>. He pointed out that the CBLR, 2013 contained a different period for reporting the changes in Regulation 12 and 13. He argued that the registration with Ministry of Corporate Affairs was obtained on 01.09.2018 and the intimation to the Customs was given on 10.10.2018. It was well within the time limit prescribed in Regulation 7 of the CBLR 2018 as well as Regulation 13 of CBLR, 2013. In view of above submissions, learned Counsel sought full waiver of forfeiture of security as well as penalty imposed in the impugned order.

7. Learned Authorized Representative relied on the impugned order. He argued that even if the license was obtained under CBLR 2013, and the show cause notice invokes CBLR 2018, the proceedings do not get vitiated. He argued that the charges in the show cause notice are crystal clear and mere incorrect invocation of the Regulation does not nullify the show cause notice. Learned Counsel argued that LLP was formed as soon as the partnership deed was executed between the three partners on 11.12.2017 and it is not

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**5. CBLR, 2013**

disputed the fact that intimation to the Customs was filed on 10.10.2018. There was, therefore, substantial delay and so the forfeiture of security and penalty are fully justified.

8. We have considered rival submissions.

9. The second proviso to Regulation 7 (2) of CBLR 2018 reads as follows :-

“Provided further that where a company or a firm which has been granted a license under this regulation undergoes any change in the directors, or managing director or partner, such change shall forthwith be communicated by such licensee to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, within one month of such change”.

10. This proviso has been invoked to assert that the appellant failed to intimate the Customs the change of constitution of the LLP. The partnership deed for the new LLP was made on 11.12.2017 and the same was reported to the Customs on 10.10.2018, involving a delay of for a year, whereas Regulation 7 of the CBLR, 2018 prescribes a time period of one month for reporting. On perusal of the second proviso to Regulation 7 (2) of CBLR, 2018, it is seen that the said proviso only applies to a company or a firm, which has been granted license under “this Regulation”. It implies that only the companies or firms who were granted license under CBLR, 2018 are covered by this provision. In view of above, the allegation that Regulation 7 (2) of CBLR, 2018 has been violated cannot be sustained as appellant was granted license not under CBLR, 2018 but under CBLR, 2013.

11. Learned Authorised Representative argued that merely misquoting a legal provision does not vitiate the proceedings as the

charges of delay of reporting the constitution of LLP has been clearly made out.

12. Now, the provision of CBLR, 2013, under which the appellant was granted the licence, need to be examined. Regulation 13 of the CBLR, 2013 reads as follows :-

**“REGULATION 13. Change in constitution of any firm or a company.** – (1) In the case of any firm or a company, holding a license under these regulations, any change in the constitution thereof shall be reported by such firm or company, as the case may be, to the [Principal Commissioner or Commissioner] of Customs as early as possible, and any such firm or a company indicating such change shall make a fresh application to the said [Principal Commissioner or Commissioner] of Customs within a period of sixty days from the date of such change for the grant of license under regulation 7, and the [Principal Commissioner or Commissioner] of Customs may, if there is nothing adverse against such firm or company, as the case may be, grant a fresh license :

**Provided** that if the existing firm or company moves an application for such changes, then such firm or company may be allowed to carry on the business of Customs Broker with the approval of the [Principal Commissioner of Customs or Commissioner of Customs, as the case may be] till such time as a decision is taken on the fresh application of such firm or company”.

13. This Regulation clearly lays down that the change of constitution of a Customs Broker needs to be communicated within 60 days from the date of such change for the grant of license under Regulation 7. In the instant case, the change was made on 11.12.2014 but it was reported only on 10.10.2018 after a considerable delay. In view of above, there is a clear violation of

CBLR, 2013 under which the appellant was licensed. As mere wrong mention of the relevant CBLR would not vitiate the order, the appellant has violated the provisions.

14. It is noticed that the appellant has claimed that the delay occurred largely due to the fact that one of his partner died and he was not in a right frame of mind. It is noticed that the impugned order has, taking a lenient view, not revoked the license of the appellant.

15. Taking into account the circumstances and the facts of the case, we are inclined to take a further lenient view. The case is not of a significant violation but only that of a delay in reporting. Moreover, the appellant did not process any document during this period. Under these circumstances we find that the forfeiture of security deposit of Rs. 5 lakhs and imposition of penalty of Rs. 50,000/- under Regulation 18 of CBLR, 2018 is excessive. We set aside the order of forfeiture of security deposit of Rs. 5 lakhs but sustain the penalty of Rs. 50,000/- on the Customs Broker for this lapse.

16. The appeal is, accordingly, partly allowed, in the above terms.

(Order pronounced in open court on **22.07.2022**)

**(JUSTICE DILIP GUPTA)**  
**PRESIDENT**

**(RAJU)**  
**MEMBER (TECHNICAL)**