

**CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL
NEW DELHI
PRINCIPAL BENCH, COURT NO. 1**

CUSTOMS APPEAL NO. 50076 OF 2020

**WITH
CUSTOMS CROSS NO. 50099 OF 2020**

[Arising out of Order-in-Original No. 102/MK/POLICY/2019 dated 27.09.2019 passed by the Commissioner of Customs (Airport & General), New Delhi]

**COMMISSIONER OF CUSTOMS -NEW
DELHI (AIRPORT AND GENERAL)**

.....Appellant

New Customs House, New Delhi-110037

Vs.

M/S ENTIRE LOGISTICS PVT LTD

.....Respondent

B-362, Lok Vihar, Pitam Pura,
New Delhi-110034

Appearance:

Shri Rakesh Kumar, Authorised Representative for the appellant

Shri Salil Arora and Shri Divya Ratna Singh, Advocates for the respondent

CORAM:

**HON'BLE MR. JUSTICE DILIP GUPTA, PRESIDENT
HON'BLE MR. P. V. SUBBA RAO, MEMBER (TECHNICAL)**

FINAL ORDER NO. 58599 /2024

Date of Hearing/Decision : 28/08/2024

P. V. SUBBA RAO:

1. The Order in Original¹ dated 27.9.2019 passed by the Commissioner is assailed in this appeal by the Revenue. In the impugned order passed under the Customs Brokers' Licensing Regulations² 2018 read with CBLR 2013, the Commissioner imposed a penalty of Rs. 50,000/- upon the respondent but refrained from revoking its licence and forfeiting its security

**1 Impugned order
2 CBLR**

deposit. The prayer in this appeal is to modify the impugned order to the extent that the licence of the respondent may be revoked and its security deposit may be forfeited.

2. When the matter was taken up, learned counsel for the respondent submitted that this appeal is not maintainable because the department cannot file an appeal against the order passed by the Commissioner under CBLR. He relied on the judgment of the Delhi High Court in **Commissioner of Customs (Airport & General) vs. Transworld Cargo & Travels³**. In this judgment, Delhi High Court, held that the department had no right to appeal against the order passed against a Customs Broker under Customs Brokers Licensing Regulations, 2013. The relevant portions of the order are as follows:

"6. In the aforesaid context, the Revenue has projected the following question for consideration:

"Whether the Ld. CESTAT is right in law in holding that the right to prefer an appeal under section 129A or 129D of the Customs Act, 1962 against an order passed under Regulations 21 or 23 of the Custom Broker Licensing Regulations, 2013 is available only to a Custom Broker (hereinafter "CB")."

7. In terms of Regulation 21 of the CBLR, 2013, an appeal against the order of the Commissioner is available only to the Custom Broker and not to the Revenue. **The question whether an appeal by the Revenue would be maintainable is covered against the Revenue, by the decision of this Court in Commissioner of Customs (General) v. Falcon India: CUSAA No. 278/2018, decided on 10-10-2018/[2019 (368) E.L.T. 35 (Delhi)].** The said decision was also followed by a Co-ordinate Bench of this Court in Commissioner of Customs (General) v. D.S. Cargo Agency: CUSAA No. 233/2019, decided on 21-9-2022. The Court had held that, CBLR was a complete code. Further, the expression "any person aggrieved" as used in Section 129A of the Customs Act, 1962 would not include Revenue insofar as any order passed by the

Commissioner of Customs under the CBLR, 2013 is concerned.

8. We find no reason to differ from the said decisions.

9. In view of the above, the question of law, as projected by the Revenue, is squarely covered against the Revenue by the decisions of the Co-ordinate Bench of this Court in Commissioner of Customs (General) v. Falcon India (supra) and Commissioner of Customs (General) v. D.S. Cargo Agency (supra).

10. The appeal is, accordingly, dismissed.”

3. Learned departmental representative fairly submitted that in **Transworld Cargo** Delhi High Court held that the Revenue cannot file an appeal against an order passed under CBLR by the Commissioner. Revenue has appealed against this judgment to the Supreme Court but there is no stay on the order.

4. In view of the above, respectfully following the decision of Delhi High Court in **Transworld Cargo**, we dismiss the appeal filed by the Revenue as not maintainable. Cross objections filed by the respondent also stand disposed of.

(Dictated and pronounced in open court)

(JUSTICE DILIP GUPTA)
PRESIDENT

(P. V. SUBBA RAO)
MEMBER (TECHNICAL)