

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

CUSTOMS APPEAL NO. 50858 OF 2025

[Arising Out Of Order In Original No. 19/Vps/Policy/2025 Dated 12.03.2025 Passed By The Commissioner Of Customs (Airport & General), New Delhi]

M/S ATR LOGISTICS INDIA PVT LTD**APPELLANT**

H. No. 11, First Floor, Kh. No. 28/18,
Nagar Daily Gali, Opp. Baglamukhi Mandir
Himgiri Enclave, Nilothi Extn, Chander Vihar,
New Delhi-110037

Vs.

**COMMISSIONER OF CUSTOMS AIRPORT
& GENERAL-NEW DELHI****RESPONDENT**

APPEARANCE:

Shri Amit Atri and Shri Nikhil Singh, Advocates for the appellant

Shri Girijesh Kumar, Authorised Representative for the respondent

CORAM:

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

FINAL ORDER NO. 51765 /2025

**DATE OF HEARING : 03/11/2025
DATE OF DECISION : 18/11/2025**

P.V. SUBBA RAO

The Order dated 12.3.2025¹ passed by the Commissioner of Customs (Airport & General) New Delhi² is assailed in this appeal by M/s. ATR Logistics India Pvt. Ltd.³

2. The appellant is Customs Broker licenced under the Customs Brokers' Licensing Regulations, 2018⁴. It's licence was revoked, it's security deposit was forfeited and a penalty of Rs. 50,000/- was imposed on it by the Commissioner in the

**1 Impugned order
2 Commissioner
3 The appellant
4 CBLR**

impugned order for violating Regulations 10 (d), 10 (e) and 10 (n) of the CBLR.

3. The two questions before us are:

a) Whether the appellant violated Regulations 10(d), 10 (e) and 10 (n) of CBLR; and

b) If so, if revocation of licence, forfeiture of its security deposit and imposition of penalty of Rs. 50,000/- is proportionate to the violations.

4. The facts which led to the issue of the impugned order are that the Directorate General of Analytics and Risk Management⁵ of the Central Board of Indirect taxes and Customs analysed the data and identified risky exporters involved in execution of fraudulent exports and got verification done by the jurisdictional GST officers and identified exporters who could not be found at all physically at their registered premises. DGARM also found that exports by these exporters were handled by certain Customs Brokers including the appellant herein and reported them to the respective Commissionerates including the Respondent herein. The allegation with respect to the appellant is that it had filed Shipping Bills in the name of the following two exporters, who, on physical verification by the field officers, were found to not exist at their business premises indicated in their importer exporter code⁶ and GST Identification Number⁷:

(i) M/s. M J Expo Trade India

(ii) M/s. Roomwell Tradex Pvt. Ltd.

5 DGARM
6 IEC
7 GSTIN

5. The case of the appellant is that it had taken all due precautions and obtained the Know Your Client⁸ documents from both the exporters before filing the Shipping Bills. Copies of the KYC documents obtained by the appellant have been placed at pages 71 to 103 of the appeal.

6. The Commissioner issued a Show Cause Notice⁹ dated 18.9.2024 to the appellant and appointed an Inquiry officer. The appellant never appeared before or participated in the proceedings before the inquiry officer. However, the appellant submitted a written reply and thereafter, the Commissioner fixed a personal hearing. Learned counsel for the appellant appeared before the Commissioner and made submissions.

7. The Commissioner passed the impugned order holding that the appellant had violated Regulations 10 (d), 10 (e) and 10 (n) of CBLR and accordingly passed the impugned order. These regulations read as follows:

"10. Obligations of Customs Broker.— A Customs Broker shall-

(d) advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

(e) exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;

(n) 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;

Regulation 10(d) and 10 (e)

8. The findings of the Commissioner in the impugned order with respect to these two regulations is that the appellant, despite knowing that an inquiry officer has been appointed, did not participate in the inquiry at all. Therefore, the appellant had violated Regulations 10(d) and 10 (e). The relevant portion of the impugned order is as follows:

8.10.3 First of all, I Completely disagree with the submission of the CB that they has not violated the provision of the Regulation (d) & (e) of CBLR, 2018. In this connection, I find that a Show Cause Notice was issued to M/s ATR Logistics India Private Limited therein it was, inter-alia informed as follows: -

"in order to establish the contravention as detailed above, an inquiry/examination is essential. Therefore, in terms of Regulation 17 of CBLR 2018, Shri Sunil Shrivastava, Deputy Commissioner, ICD Tughlakabad (TKD) Import, New Delhi, is being appointed as an Inquiry officer in the above discussed case. M/s ATR Logistics India Private Limited, the authorized Customs Broker is required to join the proceedings before the Inquiry officer and to submit his representation, if any, to the inquiry officer within thirty days of the issuance of this Show Cause Notice."

8.10.4. I find that complete address/contact details of Inquiry Officer was communicated to the CB and M/s ATR Logistics India Private Limited was clearly conveyed to join the proceedings and submit his representation to the inquiry officer within 30 days of the issuance of the Show Cause Notice. However, the CB deliberately chose not to participate in the inquiry. Despite multiple opportunities for a personal hearing provided by the Inquiry Officer, no representative of the CB appeared to defend against the allegations made in the SCN. The CB, M/s ATR Logistics India Private Limited can't claim that they were not aware of the Inquiry Officer or any communication from them, as the Noticee has responded to the SCN in this office. This reflects gross negligence on the part of the CB and indicates that it had no justification for the violations of Regulation 10(d) and 10(e) of CBLR. 2018

8.10.5 Furthermore, even in its submission dated 07.03.2025 which is submitted after the completion of the Inquiry in the matter, the CB merely attempted to defend itself against the alleged violation of Regulation 10(n) of CBLR, 2018. However, it failed to provide any response regarding Regulation 10(d) and whether it had advised the exporter on making correct and accurate declarations/valuations as per the applicable rules. Similarly, the CB, M/s ATR Logistics India Private Limited did not submit any explanation

concerning Regulation 10(e) and whether it exercised due diligence to verify the accuracy of the information provided by the exporter. The answer is evident: the CB failed to exercise due diligence and did not advise the exporter to comply with the provisions of the Customs Act, 1962, and the regulations issued thereunder, particularly considering that RGM exports are categorized as high-risk.

8.10.6. The report from NCTC-DGARM, Mumbai confirmed that the exporter's firm was non-existent at the time of physical verification. Consequently, the question of advising the exporter to comply with customs provisions does not arise. The CB facilitated the filing of a total of 19 shipping bills for the exporter, with a declared Free on Board (FOB) value of ₹3,23,23,201/- This would have resulted in a significant loss to the government exchequer through the wrongful availing of export benefits.

8.10.7. This clearly establishes that the CB, M/s ATR Logistics India Private Limited failed to advise the exporter to comply with regulations of Customs Act, 1962 and other allied acts and regulations pertaining to RoDTEP, ROSCTL, refunds, and other export incentive schemes.

8.10.8. I observe that the intended purpose of introducing Regulations is supposed to be not fulfilled, if each CB started to file the Shipping Bills/Bills of Entry solely based on the information provided by the exporters/importers. Then, it also will be the question why such regulations were established for the CBs in the first place. The very purpose of the F category examination, which is required to be cleared by the CB, would have no meaning if the CBs are merely relying on the exporters/importers' information without proper scrutiny and the regulation's objective would seem weakened. It implies that it was not an unintentional lapse rather deliberate act which has caused loss to government exchequer.

8.10.9. In view of the facts and circumstances narrated above, it's clear that Customs Broker failed to fulfill his obligation as stipulated in the Regulation (d) and Regulation (e) of CBLR, 2018. I, therefore, have no hesitation in holding that Customs Broker had violated the provision of Regulation 10(d) and Regulation (e) of CBLR 2018."

9. The submission of the learned counsel for the appellant is that the appellant did not violate either of these two regulations at all.

10. We do find that the appellant was quite careless in not making submissions and not participating in the proceedings before the Inquiry officer at all. However, such negligence has nothing to do with compliance with or violation of Regulations

10(d) and 10 (e). Regulation 10(d) mandates the Customs Broker to advise his client to follow the Act and Rules and other Acts and Rules and if the client fails to do so, to report to the Assistant Commissioner or Deputy Commissioner. We did not find anything in the records to prove that the appellant had not advised it's clients to follow the Act and Rules. There is not an iota of evidence to suggest that the appellant had violated Regulation 10(d).

11. Regulation 10(e) mandates the Customs Broker to exercise due diligence in ensuring the correctness of the information which he provides to the client. He should not impart incorrect information. There is nothing in the facts of this case to show that the appellant had imparted any incorrect information to it's clients. The case of the department is that the clients did not exist at all. Therefore, the finding of the Commissioner that the appellant had violated Regulation 10(e) cannot also be sustained.

Regulation 10(n)

12. The finding in the impugned order is that the appellant had violated Regulation 10(n). It is also the finding that although the appellant had obtained the IEC, GSTIN, PAN and other KYC documents before filing the Shipping Bills, the appellant did not verify the existence and functioning of the exporters at the registered premises, i.e., the premises indicated in the IEC and GSTIN. On verification by the field formations of GST, it was found that the exporters were not existing at all at the places.

13. The Commissioner further recorded that IEC is issued after verification of the address but the exporter may not necessarily

inform the authorities about any change in address. Therefore, he reasoned that the documents such as IEC, GSTIN, etc. cannot be called reliable, independent and authentic. Since the appellant had not verified physically the existence and operation of the exporters from the premises, he reasoned that the appellant violated Regulation 10(n) of CBLR. The findings of the Commissioner regarding Regulation 10(n) are reproduced below:

“8.11.4. If I consider the documents submitted by the CB even after the completion of the inquiry, I concur with the CB's submission to the extent that the documents were submitted and that the Customs Broker (CB) conducted verifications regarding the Importer Exporter Code (IEC), Goods and Services Tax Identification Number (GSTIN), and the identity of the client.

8.11.5. However, I find that the NCTC-DGARM, Mumbai report confirmed that the exporter firm was non-existent at the time of physical verification. This raises a critical question: how can it be said that the Customs Broker (CB) properly verified the functioning of its client at the declared address?

8.11.6. I also, observe that the IEC Code or GSTIN is issued to importers/exporters upon the physical verification of addresses, as and when required. However, it does not guarantee that the importer/exporter will continue to operate from the registered address, nor does it imply that the department monitors whether the importer/exporter remains at the declared address. Customs Brokers (CBs) cannot absolve themselves of responsibility merely by asserting that the IEC or GSTIN has been verified through online mode without further ensuring that the importer is operating business at the declared address.

8.11.7. In the present case, the Customs Broker (CB) has facilitated the customs clearance of the said exporter which were non-existing at the time of physical verification. Then, the question arises as to whether only IEC or GSTIN can be considered reliable, independent, and authentic documents, data, or information for verifying the functioning of the client at the declared address and whether they are sufficient for such verification. It is also a fact that while the identity of a client may be confirmed based on the IEC number, GSTIN, Voter ID card, etc., these documents cannot be considered reliable and authentic for verifying the actual

functioning of the client. This is because entities may change their addresses without informing the government, often with the intent to defraud the exchequer as happened in present matter.

8.11.8. In view of the aforesaid factual matrix of the case, I find that the activity exercised by the CB, happens to be comprehensive loss to the Government Exchequer, hence, in my view, it apparently, constitute fulfilment of Regulation 10(n).

14. The submission of the appellant is that he did not violate this Regulation at all.

15. Regulation 10(n) requires the Customs Broker to **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.** This obligation can be broken down as follows:

- a) Verify the correctness of IEC number
- b) Verify the correctness of GSTIN
- c) Verify the identity of the client using reliable, independent, authentic documents, data or information
- d) Verify the functioning of the client at the declared address using reliable, independent, authentic documents, data or information

16. Of the above, (a) and (b) require verification of documents which are issued by Government departments. The IEC number is issued by the Director General of Foreign Trade and the GSTIN is issued by the GST officers under the Central Board of Indirect Taxes and Customs of the Government of India or under the Governments of State or Union territory. The question which arises is whether the Customs broker has to satisfy himself that these documents or their copies given by the client were, indeed,

issued by the concerned government officers or whether the Customs Broker has to ensure that the officers had correctly issued these documents. In our considered view, obligations under Regulation 10(n) of CBLR cannot be read to mean the latter as it would amount to treating the Customs Broker as one who can and is responsible to oversee and ensure the correctness of the actions by the Government officers. It would also mean that the Regulations under the Customs Act prevail over the actions under the Foreign Trade (Development and Regulation) Act, 1992 under which the IEC is issued by DGFT and the Central Goods and Services Tax Act (or state GST Act) under which the GSTIN is issued by the GST officers which is not the correct construction of the legal provisions. Therefore, the verification of certificates part of the obligation under Regulation 10(n) on the Customs Broker is fully satisfied as long as it satisfies itself that the IEC and the GSTIN were, indeed issued by the concerned officers. This can be done through online verification, comparing with the original documents, etc. and does not require an investigation into the documents by the Customs Broker.

17. The legal presumption is that a certificate or registration issued by an officer or purported to be issued by an officer has been correctly issued. Section 79 of the Evidence Act, 1872 requires even Courts to presume that every certificate which is purported to be issued by the Government officer to be genuine.

It reads as follows:

"79. Presumption as to genuineness of certified copies. The Court shall presume to be genuine every document purporting to be a certificate, certified copy or other document, which is by Law declared to be admissible as evidence of any particular fact and which

purports to be duly certified by any officer of the Central Government or of a State Government, or by any officer in the State of Jammu and Kashmir who is duly authorized thereto by the Central Government.

Provided that such document is substantially in the form and purports to be executed in the manner directed by law in that behalf.

The Court shall also presume that any officer by whom any such document purports to be signed or certified, held, when he signed it, the official character which he claims in such paper."

18. The onus on the Customs Broker cannot, therefore, extend to verifying that the officers correctly issued the IEC or GSTIN Registration. It has been held by the High Court of Delhi in the case of **Kunal Travels¹⁰** that **"the CHA is not an inspector to weigh the genuineness of the transaction. It is a processing agent of documents with respect of clearance of goods through customs house and in that process only such authorized personnel of the CHA can enter the customs house area..... It would be far too onerous to expect the CHA to inquire into and verify the genuineness of the IE code given to it by a client for each import/export transaction. When such code is mentioned, there is a presumption that an appropriate background check in this regard i.e., KYC, etc. would have been done by the customs authorities....."** (emphasis supplied)." Of course, if the Customs Broker comes to know that its client has obtained these certificates through fraud or misrepresentation, nothing prevents it from bringing such details to the notice of Customs officers for their consideration and action as they deem fit. However, the Customs Broker cannot sit in judgment over the certificate or registration issued by a Government officer so long

10. 2017 (3) TMI 1494- Delhi High Court

as it is valid. In this case, there is no doubt or evidence that the IEC and the GSTIN were issued by the officers. So, there is no violation as far as the documents are concerned.

19. The third obligation under Regulation 10(n) requires the Customs Broker to verify the identity of the client using reliable, independent, authentic documents, data or information. In other words, he should know who the client is and the client cannot be some fictitious person. This identity can be established by independent, reliable, authentic

- a) documents;
- b) data; or
- c) information

20. Any of the three methods can be employed by the Customs Broker to establish the identity of his client. It is not necessary for the Customs Broker to conduct a physical verification or launch an investigation. So long as he can find some documents which are independent, reliable and authentic to establish the identity of his client, this obligation is fulfilled. If a document is issued by any other person not interested in the relationship of the client and the Customs Broker, it can be called independent. But it should also be reliable and authentic and not one issued by any Tom, Dick and Harry.

21. The Commissioner remarked that the IEC and GSTIN issued by the officers were not independent, reliable or authentic which is a very serious and unwarranted aspersion on the officers who had issued the IEC and GSTIN. These and other documents issued by the Government officers certainly qualify as independent documents as none of these departments have any

interest in the relationship between the client and the Customs Broker. These documents are, as no contrary evidence is presented, presumed to be authentic. Documents issued by Government officers must be treated as reliable. We find it impermissible to say, without any evidence in support, that documents issued by other State or Central Government officers are NOT independent, dependable or authentic. We are fully satisfied that the appellant has fulfilled this part of the obligation under Regulation 10(n).

22. The fourth and the last obligation under Regulation 10(n) requires the Customs Broker to verify the functioning of the client at the declared address using reliable, independent, authentic documents, data or information. This responsibility, again, can be fulfilled using documents or data or information so long as they are reliable, independent and authentic. Nothing in this clause requires the Customs Broker to physically go to the premises of the client to ensure that they are functioning at the premises. Customs formations are located only in a few places while exporters or importers could be from any part of the country and they hire the services of the Customs Brokers. Besides the fact that no such obligation is in Regulation 10(n), it will be extremely difficult, if not, totally impossible, for the Customs Broker to physically visit the premises of each of its clients for verification. The regulation, in fact, gives the option of verifying using documents, data or information. If there are authentic, independent and reliable documents or data or information to show that the client is functioning at the declared address, this part of the obligation of the Customs Broker is fulfilled. If there

are documents issued by the Government officers which show that the client is functioning at the address, it would be reasonable for the Customs Broker to presume that the officer is not wrong and that the client is indeed, functioning at that address. In these cases, we find that the GSTIN issued by the officers of CBIC itself shows the address of the client and the authenticity of the GSTIN is not in doubt. In fact, the entire verification report is based on the GSTIN. Further, IECs issued by the DGFT also show the address. There is nothing on record to show that either of these documents were fake or forged. Therefore, they are authentic and reliable and we have no reason to believe that the officers who issued them were not independent and neither has the Customs Broker any reason to believe that they were not independent.

23. The responsibility of the Customs Broker under Regulation 10(n) does not include keeping a continuous surveillance on the client to ensure that he continues to operate from that address and has not changed his operations. Therefore, once verification of the address is complete as discussed in the above paragraph, if the client moves to a new premises and does not inform the authorities or does not get his documents amended, such act or omission of the client cannot be held against the Customs Broker. Of course, if the Customs Broker was aware that the client has moved and continues to file documents with the wrong address, it is a different matter.

24. The reports stating that the exporters were not at the places of business indicated in the GSTIN were issued by the

jurisdictional GST officers who, or whose predecessors or colleagues, must have issued the GST registration. Thereafter, if it is found that the registrant was not operating from that address at all and the GST registration was wrongly issued, the responsibility for issuing such false or benami registration rests on the officer who issued the GST Registration and not on the Customs Broker. This wisdom in hindsight of the officer that the GSTIN was wrongly issued at that address cannot be used to penalise the Customs Broker. The appellant relied on the GST Registration Certificates and if relying on them is an offence, issuing them when the firms didn't even exist must, logically be a much graver offence and the officers who issued them must be more serious offenders. There is nothing in the reports of the jurisdictional officers which were the Relied Upon Documents in the SCN to indicate as to why and how the GST registration was issued when the exporters did not exist at all. We also find that there were other documents procured by the appellant issued by various other authorities which have not been alleged to be, let alone, proven to be fake or forged by the Revenue. Evidently, they also must have been issued by concerned officers like the GST Registration issued by the jurisdictional officers.

25. Unless all these officers of various organisations (including the jurisdictional GST officer who issued the registration in December 2018) either acted fraudulently or carelessly, the above could not have been issued.

26. It is possible that all the authorities who issued the above documents had issued them correctly and thereafter, by efflux of

time, when the GST officers went for verification, situation changed. If so, it is a ground for starting a thorough investigation by the officer and is not a ground to suspend/cancel the licence of the Customs Broker who processed the exports. We also find that nothing in the SCN to prove that the exporters did not exist or operate from the addresses at the time the Shipping Bills were filed.

27. To sum up, there is no evidence that the appellant violated Regulations 10 (d), 10 (e) and 10 (n) of CBLR. Consequently, the impugned order cannot be sustained and needs to be set aside.

28. In view of the above, the impugned order is set aside and the appeal is allowed with consequential relief to the appellant. The appellant's licence shall be restored forthwith on production of a copy of this order before the Commissioner.

[Order pronounced on **18/11/2025**]

(JUSTICE DILIP GUPTA)
PRESIDENT

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

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