CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL, WEST ZONAL BENCH : AHMEDABAD

REGIONAL BENCH - COURT NO. 3

CUSTOMS Appeal No. 12628 of 2019

[Arising out of Order-in-Original/Appeal No OIA-KND-CUSTM-000-COM-11-2019-20 dated 29.10.2019 passed by Commissioner of Customs, Kandla]

B N Thakkar & Company **.... Appellant**
Plot No. 142, Sector 1/A, First Floor, Girish Complex,
Gandhidham, Kutch, Gujarat

VERSUS

Commissioner of Customs, Kandla **.... Respondent**
Custom House, Near Balaji Temple,
Kandla, Gujarat

APPEARANCE :

Shri Chiranjeev Tandon, Advocate for the Appellant
Shri Vinod Lukose, Superintendent (AR) for the Respondent

CORAM: HON'BLE MR. RAMESH NAIR, MEMBER (JUDICIAL)
HON'BLE MR. RAJU, MEMBER (TECHNICAL)

FINAL ORDER NO. A/11103 / 2020

DATE OF HEARING : 11.02.2020
DATE OF DECISION : 04.06.2020

RAJU :

This appeal has been filed by M/s. BN Thakkar & Company against revocation of Customs Broker License for future on security deposit and imposition of penalty under Customs Broker Licensing Regulations, 2018 (CBLR).

2. Learned Counsel for the appellant narrated the facts as under:-

Date	Event
February, 2017	The Appellant through Mr. Manoj Kannar — proprietor of M/s. Samar Shipping received work for export of garments on behalf of five exporters from Mundra Port to Jebel Ali Port, Dubai. The Appellant received following documents from all five exporters before filing of Shipping Bills on their behalf

	1.KYC 2. Certificate of Importer Exporter Code 3. Registration Certificate of Establishment under the Maharashtra Shops and Establishment Act, 1948 4. Authority Letter to act as Customs Broker and declaration under the Customs Act 5. Bank verified account details of exporter 6. Photo ID card of authorized person of exporter firm
March 1-2, 2017	The Appellant filed 6 Shipping Bills on behalf of five exporters on ICEGATE portal
March 10, 2017	The Preventive Officer (SIIB), Mundra conducted examination and seized cargo on ground that it is overvalued and liable for confiscation
March 21, 2017	The Customs Department, Mundra conducted market enquiries for valuation of seized cargo and in terms of market enquiry report by Superintendent, SIIB, Customs House, Mundra it was observed that cargo was overvalued.
April 27-28, 2017	Statement of Mr. Sagar Thakkar, authorized person of the Appellant and Mr. Manoj Kannar proprietor of forwarder — Samar Shipping was recorded by the Superintendent, SIIB, Customs House, Mundra.
September 7, 2017	Show Cause Notice was issued to the appellant by the Additional Commissioner of Customs, Mundra thereby proposing to impose penalty under Section 114 and 114AA of the Customs Act.
February 26, 2019	The Additional Commissioner, Mundra vide 010 imposed penalty of Rs. 20,00,000/- and Rs. 5,00,000/- under Section 114 and 114AA of the Customs Act.
April 11, 2019	Principal Commissioner of Customs, Kandla vide 010 suspended the customs broker license of the Appellant with immediate effect.

April 22, 2019	During post decisional hearing the Appellant filed written submissions thereby denying all allegations and observations made in the 010 dated April 11, 2019.
April 30, 2019	The Principal Commissioner of Customs, Kandla vide 010 confirmed suspension of customs broker license of the Appellant.
	The Appellant filed Appeal before the CESTAT, Ahmedabad against 010 dated April 30, 2019 on ground that suspension was not immediate in terms of provisions of the CBLR, 2018 and other grounds mentioned therein.
May 21, 2019	Show cause notice was issued by the Principal Commissioner of Customs, Kandla thereby alleging non-compliance/violation of Regulation 10(a), 10(d), 10(m) and 10(n) of the CBLR, 2018 and proposing to revoke customs broker license along with forfeiture of security and imposition of penalty under CBLR, 2018.
August 5, 2019	The CESTAT Ahmedabad vide Order held that suspension of customs broker license has to be done immediately after detection of the case by concerned authority. The order of suspension dated April 11, 2019 was passed after period of two years, accordingly, 010 dated April 11, 2019 was quashed and set aside.
August 16, 2019	The Inquiry Officer submitted Inquiry Report to the Principal Commissioner thereby confirming all allegations made in the show cause notice dated May 21, 2019.
September 23, 2019	Principal Commissioner of Customs, Kandla vide Order restored customs broker license of the Appellant in compliance to the Order dated August 5, 2019 by the CESTAT, Ahmedabad.
October 10, 2019	The Appellant appeared for personal hearing before the Principal Commissioner of Customs,

	Kandla and filed Reply and written objections to Inquiry Report along with judicial pronouncements relied upon by the Appellant
October 29, 2019	The Principal Commissioner of Customs vide OIO confirmed all allegations made in the show cause notice and ordered as under: 1. Revoked customs broker license under Regulation 14 r/w Regulation 17 of CBLR, 2018 2. Forfeited security deposit under Regulation 14 of the CBLR, 2018 3. Imposed penalty of Rs. 50,000/- under Regulation 18 of the CBLR, 2018

3. Learned Counsel argued that Regulation 10(a) of CBLR, 2018 has been invoked alleging that appellant have failed to obtain authorisation from the exporters. The said regulation reads as under:-

> "10. Obligation of Customs Broker. – A Customs Broker shall –
>
> (a) Obtain an authorisation from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Broker and produce such authorisation whenever required by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;"
> (b)

Learned Counsel argued that they had availed proper authorisation from all the five exporters to act as their customs broker and only after obtaining the said authorisation they filed shipping bills for export cargo on their behalf. He submits that following document were obtained:-

(a) Know Your Customer (KYC)
(b) Certificate of Importer Exporter Code.
(c) Registration Certificate of Establishment under the Maharashtra Shops and Establishment Act, 1948.
(d) Authority letter to act as Customs Broker and declaration under the Customs Act.
(e) Bank verified account details of exporter

(f) Photo identity card of authorized person of exporter firm/ company.

It was argued by the learned Counsel that the fact of having received authorisation by the appellant has not been disputed or pointed out by the Adjudicating Authority. He further argued that Shri Sagar Thakkar, authorised person of the appellant in his statement dated 27.04.2017, recorded under Section 108 of the Customs Act, had specifically stated that they had obtained authorisation from the exporters. He argued that Adjudicating Authority has given reasoning that appellant failed to provide details of courier/ post through which it received authority letters and all authorizations were of around same date. The Adjudicating Authority relied on the fact that exporters were found to be non-existent and Shri Manoj Kannar is untraceable.

4. The next issue raised, relates to Regulation 10(d) of the CBLR. The said regulation requires as follows.

> "(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;"

Learned Counsel pointed out that it has been alleged that the appellant has failed to advise his clients to comply with the provisions of Customs Act. In case of non-compliance, the customs broker has to bring it to the knowledge of the Customs Department but the knowledge of such non-compliance on the part of the customs broker is pre-requisite. It Customs Broker himself is unaware of such facts how can he bring it to notice.

Learned Counsel pointed out that it has been alleged that appellant received two trucks of 'mixed chindi' at Mundra CFS and instead of informing the same to Customs department, the appellant were awaiting instructions of Manoj Kannar and exporter.

Learned Counsel pointed out that the appellant were unaware of overvaluation of cargo. He argued that as soon as they became aware about the issue and the cargo was carted in the CFS, they informed immediately to the Customs department and to the exporters that they will not clear the cargo in question. He argued that in the absence of any prior knowledge of over valuation, there is no question of bringing it in the notice of the Customs department.

Learned Counsel argued that impugned order does not produce any evidence to substantiate the claim that appellant were aware of the over invoicing. He argued that Regulation 10(d) of CBLR places onus on the customs broker but to discharge such onus, the customs broker should have knowledge of such non-compliance. Learned Counsel argued that in the instant case, they had no knowledge of non-compliance and therefore, there was no question of informing to the Customs department.

Learned Counsel further argued that impugned order relies on the fact that appellant in its written submission has confirmed to the fact that appellant received manufacturer invoice describing goods as mixed chindi and awaiting instructions from Manoj Kannar and exporters instead of informing to the department. It was also argued that the statement on the basis of which the allegation has been confirmed (referred in Para 7.2 of the Notice), has not been provided to them. Learned Counsel argued the allegation made in Para 7.2 on the basis of statement which has not been supplied. The statement of Shri Sagar Thakkar was recorded on 27.04.2017 wherein he stated as follows:-

> "Q. 12. Did you have pr-knowledge about overvaluation of goods?
>
> Ans : No. As and when cargo was carted in the CFS we have immediately informed to the exporter that we will not clear the cargo further and informed the customs therefore no examination of cargo was done by the customs."

Learned Counsel argued that enquiry report as well as adjudication order does not counter the statement of Shri Sagar Thakkar. Learned Counsel asserted that appellant became aware of the cargo only when it received at CFS and the same was immediately informed. He argued that in these circumstances, Regulation 10(d) of CBLR cannot be invoked. Learned Counsel further argued that in Para 20.2 of the impugned order, the Adjudicating Authority stated that on receipt of cargo, the appellant kept it on hold for further clarification from Shri Manoj Kannar or their exporters instead of informing the facts to the Customs authorities. It is claimed by the appellant that they had informed the customs authorities but had not substantiated it with any documentary proof. On the basis of this, it was held that the appellant had pre-knowledge of the cargo.

5. Learned Counsel pointed out that Regulation 10(m) of CBLR has been invoked. Regulation 10(m) reads as follows:-

> "(m) discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay;"

The impugned order holds that the appellant failed to inform overvaluation of the export cargo and have not endorsed himself under Form C with Customs authorities in compliance to Public Notice No. 1/2014 dated 22.12.2014 before acting as customs broker for clearance of cargo at Mundra port.

Learned Counsel argued that the question of informing to Customs authorities would arise only when the appellant had pre-knowledge. He argued that since the appellant had no pre-knowledge about the goods, the question of informing the customs authorities would not arise consequently, Reguation 10(m) of CBLR cannot be invoked. He relies on the same argument in his defense as for Regulation 10(d) of CBLR, 2018 and submits that Regulation 10(d) can only be invoked if it is established that he appellant had pre-knowledge about the offended goods.

6. Learned Counsel pointed out that Regulation 10(n) of CBLR, 2018 has been invoked. Regulation 10(n) reads as under:-

> "(n) verify correctness of Importer Exporter Code (IEC) number, Goods and Service 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."

Learned counsel pointed out that notice alleges that appellant has not verified the antecedents, identity of exporters and functioning of his clients at declared address by using reliable, independent and authentic documents, data or information particularly when the exporters had not approached the customs broker directly for export work. The impugned order alleges that Shri Sagar Thakkar received documents from Shri Manoj Kannar and was not in direct touch with exporters.

Learned Counsel pointed out that appellant received the following documents from all the five exporters:-

(i) Know Your Customer (KYC)
(ii) Certificate of Importer Exporter Code.
(iii) Registration Certificate of Establishment under the Maharashtra Shops and Establishment Act, 1948.

(iv) Authority letter to act as Customs Broker and declaration under the Customs Act.

(v) Bank verified account details of exporter

(vi) Photo identity card of authorized person of exporter firm/ company.

Learned Counsel pointed out that documents such as registration certificate under the Maharashtra Shops and Establishment Act, 1948 and bank verified account details of exporter provides for postal address of all five exporters. He submits that registration certificate of establishment issued by an inspector appointed under the Maharashtra Shops and Establishment Act, 1948 wherein details of name, nature of business, postal address of such establishment is mentioned. The banks of all the five exporters have verified the account details of exporters which includes the postal address. Therefore, apart from online verification of IEC of exporters from DGFT website, the appellant have also relied on the said registration certificate issued by Maharashtra State Government. He argued that in view of above, there is fulfillment of requirement as per Regulation 10(n) of CBLR. Learned Counsel argued that Regulation 10(n) does not obligate the customs broker to verify the correctness of the address of the client by visiting the registered premises of establishment and verify about its existence. Learned counsel pointed out that appellant relies upon the independent and authentic documents such as registration certificate issued by statutory authority of the Maharashtra State Government under the Maharashtra Shops and Establishment Act, 1948 and letters issued by the respective banks along with stamp and signature of authorised office of said banks. Learned Counsel relied on the decision of the Tribunal in the case of Parvath Shipping Agency vs. CC – 2017 (357) ELT 296 (Tri. Mumbai). Learned Counsel argued that merely the documents not received directly from the exporters does not mean that higher test for verification is necessary. He also relied on the Circular No. 9/2010 dated 08.04.2010 issued by CBEC. Learned Counsel also relied on the decision of Tribunal in the case of APS Freight & Travels Pvt. Limited vs. CC (General), New Delhi – 2016 (344) ELT 602 (Tri. Del.).

7. The next issue raised by the learned Counsel relates to invocation of Regulation 17 of CBLR, 2018 which describes procedure and limitation for revocation of customs broker license, forfeiting security deposit and imposing penalties and also describes the quantum of penalties can be imposed.

8. Learned Counsel pointed out that notice has been issued beyond the period of limitation prescribed under Regulation 17 of CBLR, 2018. Learned Counsel pointed that the shipping bills on behalf of all the exporters was filed by the appellant on 01 and 02 March 2017. The examination of export cargo was conducted by PO, SSIB Customs House Mundra on 10 March 2017. The Customs authority Mundra conducted market enquiries for valuation of seized cargo on 21 March 2017. The statements of Shri Sagar Thakkar and Shri Manoj Kannar was recorded on 27 April 2017 and 28 April 2017 respectively. The show cause notice dated 09 September 2017 was issued to the appellant proposing to impose penalty under Section 114 and 114AA of the Customs Act. The revocation of customs broker license of the appellant has been proposed vide notice dated 21 May 2019. Learned Counsel argued that department was aware about the said export transaction since March 2017 however, proceedings under the Notice for

violation of provisions of the CBLR was issued on 21 May 2019, which is beyond the limitation.

Learned Counsel pointed out that proceedings for invocation of CBLR had to be invoked starting from 90 days from the date of receipt of offence report. Learned Counsel relied on the decision in the case of Harjeet Singh Johar vs. CC – 2018 (361) RLT 731 (Del.) wherein the Hon'ble Delhi High Court observed as follows:-

> **8.** The core issue which arises in the present writ petition is regarding the term and expression "offence report" as used in Regulation 20(1) of 2013 Regulations. As per the petitioner, "offence report" would be the first information received by the authority regarding irregularity and misconduct. This is the starting point for issue of show cause notice. Reliance is placed on two judgments of Single Judges of the Madras High Court in *M/s. A. M. Ahamed & Co.* v. *The Commissioner of Customs (Imports), 2014 (309) E.L.T. 433* (Mad.) and *Patriot Freight Logistics System* v. *The Commissioner of Custom, Chennai*, *2017 (350) E.L.T. 59* (Mad.) The petitioner has also relied upon the assertions made by the respondents in the counter-affidavit filed in W.P. (C) No. 3265/2017.
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> **9.** ………..
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> **10.** Decision in *M/s. A. M. Ahamed* (supra), relates to Regulation 20 of the Customs House Agents Licensing Regulations, 2004 ('2004 Regulations', for short) which were applicable prior to enactment and enforcement of 2013 Regulations. The expression 'offence report' was also used in the 2004 Regulations. Interpreting the said expression, it was observed in *M/s. A. M. Ahamed* (supra) as under :-
>
>> "17. Unfortunately, the Regulations do not define what an offence report is and the Regulations do not even state as to how an offence report is to be sent. The Regulations do not even use the expression "offence report" anywhere else other than Regulation 22(1). Even the grounds on which a licence can be revoked or suspended, mentioned in Regulation 20(1), do not include the definition of the expression offence or offence report. There are only three grounds on which a licence can be suspended or revoked under sub-regulation (1) of Regulation 20. Regulation 20(1) reads as follows :-
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>> **20. Suspension or revocation of licence.** - (1) The Commissioner of Customs may, subject to the provisions of regulation 22, revoke the licence of a Customs House Agent and order for forfeiture of part or whole of security, or only order forfeiture of part or whole of security, on any of the following grounds, namely :-
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>> (a) failure of the Customs House Agent to comply with any of the conditions of the bond executed by him under regulation 10;
>>
>> (b) failure of the Customs House Agent to comply with any of the provisions of these regulations, within the jurisdiction of the said Commissioner of Customs or anywhere else;

> (c) any misconduct on his part, whether within the jurisdiction of the said Commissioner of Customs or anywhere else which in the opinion of the Commissioner renders him unfit to transact any business in the Customs Station.
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> 18. The above regulation has only 3 ingredients namely (i) failure to comply with the bond conditions; (ii) failure to comply with the regulations; and (iii) a misconduct, for any of which, the license can be revoked. Since the above regulation does not use the expression “offence report”, we have to presume that a report indicating the availability of any one of the above 3 ingredients should be construed as an offence report. Consequently, the date of knowledge gained by the Commissioner, by means of any communication, be it show cause notice or order-in-original, has to be construed as the date of receipt of the offence report. Otherwise, a report about anyone of the above 3 ingredients can be sent at any time, even after five years or ten years.
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> 19. The Regulations not only fail to prescribe what an offence report is and how it is to be sent, but they do not also prescribe the person competent to send it. In such circumstances, the interpretation sought to be given by the petitioner is more acceptable.
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> 20. The time limit prescribed in Regulation 22(1) has to be understood in the context of the strict time schedule prescribed in various portions of the Regulations. Regulation 20(2), for instance, entitles the Commissioner, to suspend the licence of an agent, in appropriate cases where immediate action is necessary. Regulation 22(3) prescribes a time limit of 15 days. Regulation 22(1) prescribes a time limit within which action is to be initiated. It also prescribes the time limit under Regulation 22(5). Therefore, considering the fact that the whole proceedings are to be commenced within a time limit and also concluded within a time frame, I am of the view that the show cause notice issued to the petitioner on 8-5-2010 with a copy marked to the first respondent should be taken as the date of receipt of the offence report. Consequently, the period of 90 days should commence only from that date. If so calculated, the impugned proceedings have obviously been initiated beyond the period of 90 days.”

11 to 13 **………..**

14. Learned counsel for the petitioner has pointed out that the 2013 Regulations are under amendment. In the draft Regulations, the term “offence report” has been defined as :-

> “*Explanation :* Offence report for the purposes of this regulation means a summary of investigation and *prima facie* framing of charges into the allegation of acts of commission or omission of the Customs Broker or a F card holder or a G card holder as the case may be under these regulations which would render him unfit to transact business under these regulations”.

The aforesaid definition in the draft regulation supports the view taken by the Madras High Court.

15. In view of the aforesaid position, we record that the suspension order dated 31-3-2017 was based upon the offence report, and therefore the show cause notice under Regulation 20, dated 14-7-2017, would be clearly barred by the limitation as it was issued more than 90 days after the offence report was submitted.

Learned Counsel argued that in view of the above, the offence report is basically preliminary and the prima-facie allegation against the appellant and the department was in knowledge about export transaction since March 2017 and the Adjudicating Authority cannot revoke customs broker license, forfeit security and impose penalty by initiating proceedings after limitation period of 90 days as prescribed under the provisions of CBLR 2018. He also argued that since there was no violation by the appellant, no penalty under Regulation 18 of the CBLR can be imposed.

9. Learned Authorised Representative relies on the impugned order. He pointed out that appellant was never in touch with the real exporters either personally or through phone. Learned Authorised Representative relies on the decision of the Tribunal in the case of SK Logistics vs. CC (General), New Delhi – 2016 (331) ELT 486 (Tri. Del.). Learned Authorised Representative further pointed out that authorisation was not produced before the Additional Commissioner but was produced during adjudication under the Customs Act and when the proceedings under CBLR, 2018 started. Learned Authorised Representative further pointed out that Principal Commissioner, Kandla was not aware what was happening at Customs Mundra. The appellant has not submitted Form 'C' which was necessary.

10. We have gone through the rival submissions. As regards the issue relates to failure to obtain authorisation from the exporters, the impugned order relies on the fact that there is no post/ courier received or evidence of receipt of such authorisation. The impugned order also relies on the fact that date of all authorizations is nearly the same. The impugned order also

relied on the fact that exporters were not found and Shri Manoj Kannar is also not traceable. Relying on the aforesaid argument, the impugned order held that appellant had not obtained the authorizations.

We find that above assertion cannot be sustained. The appellant had produced authorisation during enquiry and Shri Sagar Thakkar, authorised person of the appellant in his reply during the statement stated that they had obtained authorisation. While the facts mentioned in the impugned order may be sufficient to raise suspicion about receipt or genuineness of the authorisation but it is not sufficient to hold that no authorization was received. In view of above, we are unable to hold the charge made under Regulation 10(a) of the CBLR.

10.1 As regards the allegation made under Regulation 10(d) of CBLR, 2018, we find that Adjudicating Authority has not countered the arguments given by the appellant. There is no evidence cited by the Adjudicating Authority to establish that the appellant had any pre-knowledge of the nature of cargo. The statement on which the Adjudicating Authority has relied on, has not been provided to the appellant. In view of the fact that statement has not been provided, the impugned order cannot be upheld as the charge has been confirmed on the basis of said statement.

In view of above, the allegation made under Regulation 10(d) of CBLR, 2018 are set-aside and the issue is remanded to the Adjudicating Authority for fresh decision, after providing the copy of the said statement to the appellant.

10.2 We find that the charge of pre-knowledge has been confirmed only on the strength of statement of the appellant recorded, referred to in Para 7.2 of the notice. There is no material evidence placed on record to substantiate the charge. Therefore, the impugned order is set-aside and the issue is remanded for fresh adjudication.

10.3 We have gone through the submissions made regarding violation of Regulation 10(n) of the CBLR. It is not in dispute that appellant has obtained following documents:-

(i) Know Your Customer (KYC)
(ii) Certificate of Importer Exporter Code.
(iii) Registration Certificate of Establishment under the Maharashtra Shops and Establishment Act, 1948.
(iv) Authority letter to act as Customs Broker and declaration under the Customs Act.
(v) Bank verified account details of exporter
(vi) Photo identity card of authorized person of exporter firm/ company.

At least two of these documents issued by statutory authority and other by the bank contain address of all the exporters. CBEC Circular 9/2010 also specifies that KYC is to be done on the basis of documents and not by physical visit of the client's premises. The impugned order holds that customs broker never tried to contact the exporters. We do not find merit in the argument that there is no such requirement under Regulation 10(n) of CBLR 2018 which requires customs broker to directly contact and in touch with the exporters. Accordingly, we are unable to uphold the invocation of Regulation 10(n) and the same are dropped.

10.4 The next issue relates to limitation prescribed under Regulation 17 of CBLR, 2018, which reads as under :-

"17. Procedure for revoking license or imposing penalty.—

> (1) The Principal Commissioner or Commissioner of Customs shall issue a notice in writing to the Customs Broker within a period of ninety days from the date of receipt of an offence report, stating the grounds on which it is proposed to revoke the license or impose penalty requiring the said Customs Broker to submit within thirty days to the Deputy Commissioner of Customs or Assistant Commissioner of Customs nominated by him, a written statement of defense and also to specify in the said statement whether the Customs Broker desires to be heard in person by the said Deputy Commissioner of Customs or Assistant Commissioner of Customs.
>
> ....
>
> Explanation.—Offence report for the purposes of this regulation means a summary of investigation and prima facie framing of charges into the allegation of acts of commission or omission of the Customs Broker or a F card holder or a G card holder, as the case may be, under these regulations thereunder which would render him unfit to transact business under these regulations."

It is seen that in the instant case, the offence was committed at Mundra Port and the officer Incharge for starting procedure under CBLR was Principal Commissioner of Customs, Kandla. In the instant case, the impugned order clearly states that offence report along with order-in-original No. MCH/ADC/PK/114/2018-19 dated 26.02.2019 was received on 26.03.2019 from the Additional Commissioner (CBS), Customs House Mundra vide letter F. No. S/07-46/Misc-CB/CHM/2018-19 dated 15.03.2019, outlining the role of the Customs Broker in the case of export of cheap quality goods. The proceedings in the instant case were initiated on 21.05.2019. The entire defense of the appellant is that the offense was committed in 2017 and the show cause notice was issued much prior to the date of initiation of proceedings under CBLR. A perusal of Regulation 17 clearly shows that the period of limitation starts when the Principal Commissioner of Customs or Commissioner of Customs receives the offense report. In the instant case, the Principal Commissioner of Customs, Kandla initiated the proceedings and report received by him on 26.03.2019. This fact has not been challenged by the appellant. In view of above, we find there is no delay in initiation of proceedings. The case law relied upon by the appellant are on the different facts and therefore, not applicable to the instant case. Therefore, we do not find any merit in this argument of the appellant.

11. In view of above, the impugned order is set-aside and the matter is remanded to re-determine in the above terms.

(Pronounced in the open court on 04.06.2020*)*

(Ramesh Nair)
Member (Judicial)

(Raju)
Member (Technical)

KL