

**IN THE CUSTOMS, EXCISE & SERVICE TAX APPELLATE TRIBUNAL,
KOLKATA**

REGIONAL BENCH – COURT NO.2

Customs Miscellaneous Application No. 75218 of 2024

In

Customs Appeal No. 75757 of 2023

(Arising out of Order-in-Original No.01/COMMR/CUS(PREV)/BBSR/2022 dated 17.11.2022 passed by Commissioner of Customs (prev.), Bhubaneswar.)

Sri Durga Impex And Logistics

(Plot No. 225, Prachi Enclave, Niladri Vihar, Chandrasekharpur, Bhubaneswar-751016)

Appellant

VERSUS

Commr. of Customs (Preventive), Bhubaneswar-I

(C. R. Building (GST Bhawan), Rajaswa Vihar, Bhubaneswar-751007)

Respondent

APPEARANCE :

Dr. S. K. Mohapatra, & Mr. Sudipta Ghosh, both Advocate for the Appellant
Mr. S. S. Chattopadhyay, Authorized Representative for the Respondent

CORAM:

HON'BLE MR. R. MURALIDHAR, MEMBER (JUDICIAL)

HON'BLE MR. RAJEEV TANDON, MEMBER (TECHNICAL)

MISCELLANEOUS ORDER NO. 75282/2024

Date of Hearing : 24 June 2024

Date of Decision: 24 June 2024

PER RAJEEV TANDON:

Vide Final Order No. 77409 of 2023 dated 26/09/2023, this Bench had set aside the impugned order and held as under:-

"8. The appeal is allowed and the Department is directed to allow the normal functioning of the appellant as Customs Broker with immediate effect."

2. The Appellant has filed the present Miscellaneous petition on the ground that till date the directions of the Tribunal have not been carried out by the jurisdictional authorities.

3. On a specific query from the Bench to the learned AR as to whether the license has been restored and the Customs Broker allowed to function, the Learned AR has got the facts verified from the jurisdictional authorities and submits that since the Department is contemplating to file an appeal

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against the said Final Order, till date neither the suspension of the CHA license has been revoked nor the other direction contained therein have been carried out.

4. From the records, we find that the Order setting aside the suspension of the CB Licence was passed on 26th September 2023 by this Tribunal. Till date the Department has neither filed any appeal nor obtained any stay against the Order passed by the Bench. Therefore, when the Department has failed to file any appeal in the matter despite a lapse of almost nine months least of all obtain a Stay against the Tribunal's order from the higher forum, we do not see any reason as to why the Department has chosen not to comply with the directions given in the Final Order, referred to above. There is also nothing to show on record to state that post suspension of the said customs broker licence, any departmental enquiry has been concluded and final order passed in the matter. We are thus of the view that deliberate defiance and open flouting of the Tribunal's order and the callous attitude of the departmental officers is nothing short of disdain & disrespect of the orders of a superior authority and prima facie amounts to contempt of this Tribunal.

5. Thus as one final resort before contemplating appropriate action for the said deliberate non-implementation and open defiance of the orders of the Tribunal, we direct the concerned officials to follow, adhere to and implement the directions contained in the Final Order (referred supra) latest by 29/06/2024, failing which the concerned Commissioner to remain present in Court on the next date of hearing in person, to explain the department's stance for the said course of action.

6. Registry is directed to list this matter on 4th July 2024.

(Dictated and pronounced in the open court.)

Sd/-
(R. Muralidhar)
Member (Judicial)

Sd/-
(Rajeev Tandon)
Member (Technical)