	सीमा शुल्क आयुक्त का कार्यालय (सामान्य)/ OFFICE OF THE COMMISSIONER OF CUSTOMS, (GENERAL) **सीसीएसपी विभाग**/CCSP SECTION, **जवाहरलाल नेहरू सीमा शुल्क भवन** / JAWAHARLAL NEHRU CUSTOM HOUSE, **न्हावा-शेवा** /NHAVA-SHEVA **रायगढ़, महाराष्ट्र**/, RAIGAD, MAHARASHTRA – 400707 **ई-मेल:**/E-mail Id: ccsp.jnch@gov.in	सत्यमेव जयते

फा. क्रमांक/ F.No.	:	GEN/4274/2024-CCSP-O/O COMMR-CUS-GEN-NHAVA SHEVA
DIN क्र. / DIN No.	:	20251178NU000000CC4C
आदेश क्र./Order No.	:	272/2025-26/COMMR/CCSP/NS-GEN/CAC/JNCH
आदेश की तारीख/ Date of Order	:	24.11.2025
जारी करने की तारीख/ Date of Issue	:	24.11.2025
आदेश कर्ता / Passed By	:	Smt. B. Sumidaa Devi, Commissioner of Customs (General), JNCH
पार्टी का नाम/ Party name	:	M/s. SBW Logistics Pvt. Ltd.

ORDER-IN-ORIGINAL

मूल आदेश

1. A copy of this order in original is granted free of charge for the use of the person to whom it is issued.

1. इस आदेश की मूल प्रति, जिस व्यक्ति को जारी की जाती है, उसके उपयोग के लिए निःशुल्क दी जाती है।

2. Any Person aggrieved by this order can file an Appeal against this order to CESTAT, West Regional Bench, 34, P D'Mello Road, Masjid (East), Mumbai - 400009 addressed to the Assistant Registrar of the said Tribunal under Section 129 A of the Customs Act, 1962.

2. इस आदेश से व्यथित कोई भी व्यक्ति सीमा शुल्क अधिनियम, 1962 की धारा 129 (एइस तहत के (

सीईएसटीएटी विरुद्ध के आदेश, पश्चिमी प्रादेशिक न्यायपीठ 34 , (बेंच रीजनल वेस्ट), पीडी . 'मेलो रोड, मस्जिद (पूर्व), मुंबई 400009 - को अपील कर सकता है, जो उक्त अधिकरण के सहायक रजिस्ट्रार को संबोधित होगी।

3. Main points in relation to filing an appeal: Form -Form No. CA3 in quadruplicate and four copies of the order appealed against (at least one of which should be certified copy). Time Limit - Within 3 months from the date of communication of this order. Fee: (a) Rs. One Thousand - Where amount of duty & interest demanded & penalty imposed is Rs. 5 Lakh or less. (b) Rs. Five Thousand - Where amount of duty & interest demanded & penalty imposed is more than Rs. 5 Lakh but not exceeding Rs. 50 lakh. (c) Rs. Ten Thousand - Where amount of duty & interest demanded & penalty imposed is morethan Rs. 50 Lakh.

3. अपील दाखिल करने संबंधी मुख्य मुद्दे:

- फार्म – फार्म सीए 3, चार प्रतियों में तथा उस आदेश की चार प्रतियाँ, जिसके खिलाफ अपील की गई है चाहिए)। होनी प्रमाणित प्रति एक कम से कम से में प्रतियों चार इन)
- समय सीमा – इस आदेश की सूचना की तारीख से 3 महीने के भीतर।
- फीस –
  (करुपये हजार एक (– जहाँ माँगे गए शुल्क एवं ब्याज तथा लगाई गई शास्ति की रकम 5 लाख रुपये या उससे कम है।
  (खरुपये हजार पाँच (– जहाँ माँगे गए शुल्क एवं ब्याज तथा लगाई गई शास्ति की रकम 5 लाख रुपये से अधिक परंतु 50 लाख रुपये से कम है।
  (गरुपये हजार दस (– जहाँ माँगे गए शुल्क एवं ब्याज तथा लगाई गई शास्ति की रकम 50 लाख रुपये से अधिक है।

Mode of Payment: A crossed Bank draft, in favour of the Asstt. Registrar, CESTAT, Mumbai payable at Mumbai from a nationalized Bank.

 भुगतान की रीति – क्रॉस बैंक ड्राफ्ट, जो राष्ट्रीयकृत बैंक द्वारा सहायक रजिस्ट्रार, सीईएसटीएटी, मुंबई के पक्ष में जारी किया गया हो तथा मुंबई में देय हो।

 General For the provisions of law & from as referred to above & other related matters, Customs Act, 1962, Customs (Appeal) Rules, 1982, Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982 may be referred.

सामान्य – विधि के उपबंधों के लिए तथा ऊपर यथासंदर्भित एवं अन्य संबंधित मामलों के लिए सीमा शुल्क अधिनियम, 1962, सीमा शुल्क 1982 ,अपील) नियम), सीमा शुल्क, उत्पाद शुल्क एवं सेवा कर अपीलीय अधिकरण 1982 ,प्रक्रिया) नियम) का संदर्भ लिया जाए।

4. Any person desirous of appealing against this order shall, pending the appeal,

deposit 7.5% of duty demanded or penalty levied therein and produce proof of such payment along with the appeal, failing which the appeal is liable to be rejected for non-compliance with the provisions of Section 129E of the Customs Act 1962.

4. इस आदेश के विरुद्ध अपील करने के लिए इच्छुक व्यक्ति, अपील अनिर्णीत रहने तक उसमें माँगे गए शुल्क अथवा उद्गृहीत शास्ति का 7.5% जमा करेगा और ऐसे भुगतान का प्रमाण प्रस्तुत करेगा। ऐसा न किए जाने पर अपील सीमा शुल्क अधिनियम, 1962 की धारा 129E के उपबंधों की अनुपालना न किए जाने के लिए नामंजूर किए जाने की दायी होगी।

Brief Facts of the Case:

M/s. SBW Logistics Pvt. Ltd. (hereinafter referred to as the *Customs Cargo Service Provider* or *CCSP*), located at Gutt No. 55, Khairane Village, Taluka Panvel, Maharashtra was duly notified as a *Customs Area* under Section 8 of the Customs Act, 1962 and were appointed as *Custodian* under Sections 45(1) and 141(2) of the Customs Act, 1962. Furthermore, the said entity was also approved as a *Customs Cargo Service Provider (CCSP)* under the provisions of the Handling of Cargo in Customs Areas Regulations, 2009, vide Notification No. 08/2012 dated 04.06.2012, extended periodically. Most recently, approval was further extended for 5 years w.e.f. 18.06.2021 vide Public Notice No.30/2022 dated 09.06.2022 subject to following conditions:

"*The Custodian* M/s. SBW Logistics Pvt. Ltd., is *approved as Customs Cargo Services Provider for the said CFS and shall abide by all the provisions of the Customs Act, 1962 and the rules of the Handling of Cargo in Customs Areas Regulations,2009 ("HCCAR,2009"), other regulations, notifications, orders issued there under.*"

2. On 26.09.2023, the Commissioner, NS-I, Import Bond Section, JNCH, suspended warehousing operations of M/s SBW Logistics Pvt. Ltd.'s warehouse (codes NSA1U065/66/67) under Section 58B (2) of the Customs Act for storing non-bonded (general, non-dutiable) goods in a bonded area, in contravention of the Public Bonded warehouse license conditions. CCSP Cell, JNCH, vide letter dated 20.10.2023 requested clarification from the Import Bond Section, JNCH regarding the warehouse location, entry/exit points, and details of non-dutiable goods stored. The Import Bond Section vide letter dated 31.10.2023 confirmed that the warehouse was within CFS premises, shared the same entry/exit points, and that the non-bonded stored goods were goods not intended for import/export.

Table A

Annexure - List of Non-Bonded Goods found in WAREHOUSE CODE NO. NSA1U065/66/67					
Sr. No.	Warehouse No.	Description	Qty. found	Declared Value (in Rs.)	Remarks
1	9B	Glass Fibre	188 PLT	1,18,31,952	
2	9B	Old & Damaged Goods	3 PLT	1,000	
3	10A&B	Glass Fibre	178 PLT	1,05,84,515	
4	10A&B	Packaging Material	14918 NOS	13,78,392	
5	10A&B	Tylose	1 PLT	4,10,440	Ex-bonded goods vide XB B/E No. 5375543 dt 27.02.2018; Duty paid, goods. Pending for delivery.
6	11	Glass Fibre	254 PLT	1,59,59,580	
7	11	Assly. Sub Assly. for CTV Model	150 CTN	10,50,619	

Further, as per the directions of the Commissioner of Customs (G), JNCH, Nhava-Sheva, officers of CCSP Cell, JNCH, had visited the CFS Premises of M/s. SBW Logistics Pvt. Ltd. on 01.12.2023 and inquiry was made about the incident.

3. M/s. SBW Logistics Pvt. Ltd. vide their letter dated 19.01.2024 informed that to protect the general cargo (non-bonded cargo) from heavy rain which was already kept in their General warehouse, outside custom notified area, they had shifted the same to Custom Bonded warehouse.

4 . Import Bond Section, JNCH vide letter dated 29.02.24 had informed that no instance of theft or any discrepancy in quantity of bonded cargo (goods) was found in warehouse code as NSA1U065/66/67 of CFS during their inspection

5. Since the CCSP has kept the Non-dutiable goods (general goods) in Bonded area of the CFS M/s. SBW Logistics Pvt. Ltd. without the permission from the Jurisdictional Commissioner of Customs, it appeared that M/s. SBW Logistics Pvt. Ltd. had not adhered to their responsibilities as CCSP and thereby violated Regulations 6(1)(f) & 6(1)(q) of the Handling of Cargo in Customs Areas Regulations, 2009 making themselves liable for penal action under the provisions of Customs Act, 1962 and Regulation 12 of the Handling of Cargo in Customs Area Regulations, 2009.

6. Accordingly, Show Cause Notice dated 24.02.2025 & subsequent Corrigendum dated 26.07.2025 was issued to the CCSP i.e. M/s. SBW Logistics Pvt. Ltd., calling upon it to show cause before to Commissioner of Customs (General) through the Assistant/Deputy Commissioner of Customs, CCSP Cell, Jawaharlal Nehru Customs House, Nhava Sheva, Maharashtra, within 30 days of receipt of this Notice, as to why:

i. Action should not be initiated under regulation 11 of HCCAR, 2009 for suspension or revocation of their appointment as Customs Cargo Service Provider after following the procedure under regulation 12 ibid.

ii. The subject goods having total declared Assessable Value of Rs. 4,12,16,498/- (Rupees Four Crore Twelve Lakh Sixteen Thousand Four Hundred Ninety-Eight Only) brought within the limits of customs area should not be held liable for confiscation under Section 113(d) of the Customs Act, 1962 and penalty under Section 114 of the Customs Act, 1962 should not be imposed on the CCSP.

iii. Penalty as per Regulation 12(8) of the Handling of Cargo in Customs Areas Regulations (HCCAR), 2009 should not be imposed on the CCSP.

7 **.** Also, the Assistant Commissioner of Customs, CCSP Cell JNCH was nominated to hold inquiry in accordance with the HCCAR, 2009. On being appointed, an inquiry proceeding was initiated under the provisions of Regulation 12 of the Handling of Cargo in Customs Area Regulations, 2009 (hereinafter "HCCAR, 2009") and Customs Act 1962.

Record of Personal Hearing and Written Submissions before Inquiry Officer

8. Following the principles of Natural Justice, a Personal Hearing was granted before Inquiry Officer on 07.07.2025 and attended by Dr. A.S. Gill, Advocate, Authorised Representative of CCSP i.e. M/s. SBW Logistics Pvt. Ltd. During PH, he had submitted letter dated 07.07.2025 along with annexures thereto. He reiterated the same during personal hearing. He denied all the allegations made under the instant SCN on M/s SBW Logistics Pvt. Ltd. and prayed that proceedings may dropped talking a lenient view. He further stated that he has nothing to state any more for their defence reply and requested to conclude the personal hearing.

9.1 In their written submissions dated 07.07.2025, they submitted that violation of provisions of HCCAR 2009, if any, happened because of emergency and negligence of the uneducated labour for which they had already apologized. That they have an open area for storage of non-dutiable non-bonded goods adjacent to CFS and bonded warehouses. However, during rainy season, Mumbai faced unusual incessant rains, flooding esp. in the coastal areas of Raigad, In the months of July and August, 2023, there was water logging in the open bond area and Godown got destroyed. In the circumstances, beyond the control of the appellant, labour in a hurry, inadvertently shifted the goods to covered area in warehouse code NSA1U064/65/66/67, just to protect the general good. It was humbly submitted that there were no *mala fide* intentions. It was further submitted that for lapses, they have already been exorbitantly fined and penalized. They had also incurred huge losses because of COVID, rains and loss of clientele (Kind attention was invited to O-in-O dt. 31.07.2014).

9.2 That the General Goods in question are the same as mentioned in the O-in-O dt. 31.07.2024. Department allowed the release of General goods vide Order dated 28.9.2023. It is further submitted that General goods were never meant for exports nor these have been exported. That although it is alleged in the SCN that "*The subjected goods having total declared Assessable Value of Rs. 4,12, 16,498/- … exported vide various Shipping Bills (as mentioned in Table -I) …*" whereas Noticee has not been supplied any copies of Shipping Bill or and particulars thereof, i.e. S/B No., dates etc.

9.3 That where the issue at serial no. *ii),* i.e.,

"*ii) The subjected goods having total declared Assessable Value of Rs. 4,12,16,498/- ... exported vide various Shipping Bills (as mentioned in Table -I) should not be held liable to confiscated under Section 113(d) of the Customs Act, 1962. Penalty under Section 114 of* *the Customs Act, 1962 should not be imposed on the CCSP.*

is concerned, it is humbly stated that matter has already been adjudicated by Commissioner Customs, NS-I, JNCH vide Order in Original Order No. 110/2024-25/COMMR/Bond (I)/ NS-I/ CAC/JNCH dated 31.07.2024.

Whereas the Ld. Adjudicating Authority has discussed in detail the issue of General Goods vide para 16, pg.22 entitled "*Storage of General Goods ...* " and then vide para entitled ORDER number 20(iii), pg. 25 held:

I hold the unaccounted goods mentioned in Table: F above, having a declared total assessable value of Rs. 4,12,16,498/- (Rupees Four Crore Twelve Lakh Sixteen Thousand Four Ninety-Eight only) liable for confiscation under Section 113(h) of the Customs Act, 1962 for violation of Para (xi) of the Licensing Conditions mentioned in Annexure- 'A' *of the license issued vide F.No. S/6-Gen-4708/2013-14/Bond/JNCH dated 15.11.2016 under section 57 of the Customs Act, 1962. Even though the subject goods are not available physically at this stage for confiscation, I impose* a *redemption fine of Rs. 41,21,000/- (Rs. Forty-One Lakh Twenty-One Thousand only) in respect of these goods in lieu* of *confiscation under Section 125 of the Customs Act, 1962. I impose* a *penalty of Rs. 40,00,000/- (Rs. Forty Lakh only) on the Licensee M/s. SBW Logistics Pvt. Ltd. (NSA 1U065/66/67) under Section 114(iii) of the Customs Act, 1962.*

Further, *inter alia,* the aforesaid Redemption fine and penalties imposed on the General Goods have already been paid.

Whereas, as observed by the Ld. Adjudicating Authority as is also evident from the impugned SCN, goods in question were found in Bonded warehouse.

9.4 That General goods found in warehouse were not for export nor these have been exported, so much so that no copies of alleged S/Bs have been provided to the Noticee. Further goods in question were released by customs. Moreover, there was no loss of revenue to the Department because of negligence of the Noticee. Moreover, there is neither any allegation nor any finding that there was any revenue loss. In the facts and circumstances action of confiscation once again shall be double jeopardy and against the law of the land that same goods could not be confiscated twice. Moreover, RF and Penalties too cannot be imposed once again. Whereas, goods in question were never seized, goods were not released on provisional bond and moreover, goods are available for confiscation. It is humbly prayed that if any violation of HCCAR, 2009 has taken place it was because of exigencies beyond the control of the Noticee, as submitted in pre-pages. We pray for leniency, in view of facts and circumstances, please.

9.5 In addition, M/s. SBW Logistics Pvt. Ltd. vide email dated 07.08.2025 referred to the Corrigendum dt. 26.07.2025 DIN: 20250778NU000071717 to SCN dt. 24.02.2025 vide F.No GEN/4274/2024-CCSP CELL-O/O COMMR.-CUS-GEN. wherein it wass submitted that:

- SCN vide F.No. S/5 - GEN-12/2022-23 CCSP CELL dated 24.02.2025 was issued, directing the Noticee, to submit "a written statement of defence to the Assistant Commissioner or Deputy Commissioner of Customs, CCSP Cell as nominated in the notice".
- the matter was fixed for hearing before the Asstt. Commissioner of Customs, CCSP Cell, JNCH, Nhava Sheva on 07.07.2025.
- the CCSP appeared before the Asstt. Commissioner, Customs, CCSP Cell, in his office at JNCH, Nhava Sheva on 07.07.2025 at 4.00 pm. The matter was heard by the nominated Asstt. Commissioner in person and during the hearing made written Submissions.
- Astonishingly, on 26.07.2025, Corrigendum to SCN dt 24.02.2025 wass issued by the Customs Department.
- Corrigendum is silent about the facts, albeit, on record that matter has already been heard by the nominated Asstt. Commissioner, CCSP Cell, on 07.07.2025 and that the Written Statement along with Annexures has already been taken on record.
- that material changes have been made in the SCN dated 24.202.2025 vide so called Corrigendum, after submission of reply and after Personal hearing, duly signed by the undersigned vide the Corrigendum dt. 26.07.2025. In the facts and circumstances of the case, it is humbly prayed that the Corrigendum dt 26.07.2025 is bad in law and void ab initio.

9 . 6 In addition, email dated 24.09.2025 2025 received from Shri A.S. Gill, Advocate wherein requested that on behalf and under the instructions of the Noticee, the following submissions may be taken on record:

- Reply to SCN dated 24.02.2025 was submitted by hand moreover Personal Hearing was held by the nominated Asstt. Commissioner on 07.07.2025 at Customs house.
- that detailed reply to the said Show Cause Notice dated 24.02.2025 was submitted by hand on 07.07.2025 to worthy Asstt. Commissioner, i.e. the Adjudicating Authority in his room in Customs House during Personal Hearing. Copy of the same attached with mail for ready reference.

- The company appeared before the Ld. Adjudicating Authority on date and time conveyed in e-mail sent by CCSP Cell, i.e. 07.07.2025 and made oral submissions.

- On receipt of copy of alleged Corrigendum dt. 26.07.2025, i.e. subsequent to filing of reply and Personal Hearing held on 07.07.2025, from CCSP Cell, requested for supply copy of Personal Hearing record, however the same is awaited till date.
- Alleged Corrigendum dt. 26.07.2025 is bad in law, in this regard attention was invited to the e-mail addressed to the Commissioner dated 07.08.2025.

Findings of Inquiry Officer

10.1 The Inquiry Officer found that Commissioner NS-I, Import Bond Section, JNCH, Nhava Sheva, vide their letter dated 26.09.2023, suspended warehousing operations of license having warehouse code as NSA1U065/66/67 of CFS, M/s SBW Logistics Pvt. Ltd. as per provision of sub-section (2) of the Section 58B (2) of Customs Act, 1962 for contravention of the provision of the Customs Act, 1962 and infringement of license conditions of the Public Bonded warehouse. M/s SBW Logistics Pvt. Ltd. infringes the license condition by keeping Non-Bonded General cargo (Non-dutiable goods) in bonded area. The copy of this letter is marked to CCSP Cell.

10.2 The Inquiry Officer found that Import Bond Section, JNCH vide letter dated 31.10.2023, informed that the said warehouse is located inside CFS premises. The entry and exit of the warehouse is the same as that of CFS. The goods found in the warehouse were non-bonded goods which were not meant for export or import as per warehouse keeper. Details of non-dutiable goods stored in warehouse as per below mentioned Table- A.

Table A

Annexure - List of Non-Bonded Goods found in WAREHOUSE CODE NO. NSA1U065/66/67					
Sr. No.	Warehouse No.	Description	Qty. found	Declared Value (in Rs.)	Remarks
1	9B	Glass Fibre	188 PLT	11831952	
2	9B	Old &	3 PLT	1000	

		Damaged Goods			
3	10A&B	Glass Fibre	178 PLT	10584515	
4	10A&B	Packaging Material	14918 NOS	1378392	
5	10A&B	Tylose	1 PLT	4,10,440	Ex-bonded goods vide XB B/E No. 5375543 dt 27.02.2018; Duty paid, goods. Pending for delivery.
6	11	Glass Fibre	254 PLT	1,59,59,580	
7	11	Assly. Sub Assly. of CCTV Model	150 CTN	10,50,619	

10.3 The Inquiry Officer found that M/s. SBW Logistics Pvt. Ltd. vide their letter dated 19.01.2024 informed that to protect the general cargo (non-bonded cargo) from heavy rain, they have shifted the same to Custom Bonded warehouse. CCSP could not take any permission from Customs authority and accordingly, realized their mistake and requested to take lenient action for the same.

10.4 The Inquiry Officer found that in the instant case, it is apparent that the CCSP has not adhered to their responsibilities as CCSP as prescribed under the provisions of HCCAR 2009, which have to be necessarily complied with by CFSs/CCSP. He found that as alleged under the instant SCN, the CCSP has kept the Non dutiable goods (general goods) in Bonded area of the CFS without the prior permission from the Jurisdictional Commissioner of Customs and by way of this CCSP M/s. SBW Logistics Pvt. Ltd. has violated Regulation 6(1)(f) and 6(1)(q) of the Handling of Cargo in Customs Areas Regulations, 2009 and therefore made themselves liable for penal action under the provisions of Customs Act, 1962 as well as the Regulation 12 of the Handling of Cargo in Customs Area Regulations, 2009.

> *i). Regulation 6(1)(f): Not permit goods to be removed from the customs area, or otherwise dealt with, except under and in accordance with the permission in writing of the proper officer.*

ii). Regulation 6(1)(q): abide by all the provisions of the Act and the rules, regulations, notifications and orders issued there under.

10.5 The Inquiry Officer found that the contention attributing the lapse to negligence of uneducated labour is not acceptable. Bonded warehouses are restricted customs-controlled premises. The unauthorized presence of general goods therein reflects systemic negligence or disregard of customs procedures for which the CCSP is squarely responsible.

10.6 The Inquiry Officer found that the plea of heavy rains and flooding in July–August 2023 cannot be accepted as a justification for kept / stored the Non-dutiable goods within the Customs Notified. Such contingencies are not uncommon in Mumbai. Regulation 6(1)(e) & 6(1)(f) require the CCSP to provide adequate infrastructure and safety measures, which the Noticee failed to maintain.

10.7 The Inquiry Officer found that unauthorized storage of general goods in bonded premises poses a grave risk to customs control. Even if no immediate duty loss is established, such practice opens avenues for concealment, substitution, and smuggling. Hence, the goods are rendered liable to confiscation under the provisions of Section 113(d) of the Customs Act, 1962.

10.8 The Inquiry Officer found that the plea of double jeopardy is untenable. Customs adjudication is quasi-judicial, and each SCN pertains to distinct violations. Hence, action under HCCAR, 2009 read with Customs Act, 1962 is legally valid.

10.9 The Inquiry Officer found that the Corrigendum dated 26.07.2025 merely corrected clerical mistakes in the SCN within the provisions of the Customs Act, 1962 and did not alter the substantive allegations. The Noticee had also given an opportunity to respond; hence, no violation of natural justice arises.

10.10 The Inquiry Officer found that the argument of “no revenue loss” is irrelevant. Therefore, under the provisions of Section 113 and 114 of the Customs Act, 1962, the goods found illegally stored within bonded premises are liability for confiscation and penalty arises from violation of customs control itself, irrespective of duty implication.

10.11 The Inquiry Officer found that by their aforesaid acts of omission and commission, M/s SBW Logistics Pvt. Ltd, CFS has violated the regulation 6

(Responsibilities of Customs Cargo Service provider) of the HCCAR'2009 as alleged under the instant SCN and have made themselves liable for punitive action under the provisions of HCCAR,2009 and Customs Act, 1962.

10.12 In view of above, the Inquiry Officer concluded that the charges levelled under the instant Show Cause Notice and subsequent Corrigendum are substantiated. M/s SBW Logistics Pvt. Ltd., as the Customs Cargo Service Provider (CCSP), has failed to discharge the statutory obligations and responsibilities incumbent upon them under the Handling of Cargo in Customs Areas Regulations, 2009, as well as the provisions of the Customs Act, 1962. Inquiry Officer further found that the Noticee has not maintained the requisite safety and security standards, thereby compromising the integrity and safety of the CFS premises. Accordingly, the Noticee is held liable for action under the aforementioned Regulations (HCCAR-2009).

Record of Personal Hearing and Written Submissions before Adjudicating Authority

11.1 Adhering to the principles of natural justice, a Personal Hearing was granted to the CCSP on 07.11.2025. Mr. Ramesh Shinde, General Manager, M/s SBW Logistics Pvt. Ltd. and MR. T.J. Reddy, Director, M/s SBW Logistics Pvt. Ltd. attended the PH and submitted letter dated 07.11.2025.

11.2 They submitted that they had already been penalized by Bond Section for storing general cargo within Bonded Warehouses & that they may not be penalised twice for the same offence.

11.3 They have already paid the duty & penalty confirmed vide OIO dated 31.07.2024 amounting to Rs. 5.98 Crores. Therefore, they requested to take a lenient view & drop the proceedings initiated vide SCN issued vide F. No. GEN/4274/2024-CCSP-O/o Commr-Cus-Gen-Nhava Sheva Dated 24.02.2025 & Corrigendum Dated 26.07.2025 as they had sustained heavy losses due to closure of their business for nearly 1 and half years and that they had to take loan for payment of penalties imposed earlier.

11.4 Vide the said letter dated 07.11.2025, they brought the following points to attention for consideration:

1. O-I-O dated 31.07.2024, DIN 20240878NW0000615122

Redemption Fine (RF) and penalty paid vide Challan Nos. 418 and 419, for Rs. 1,44,29,900/- and Rs. 4,54,25,700/- respectively.
2. Related Bonded Licence Suspension Order dated 26.09.2023, DIN 20230978NW000000D69D, specially for Warehouse Code No. NSA1U065/66/67

11.5 In relation to the storage of this general cargo, the Bond Section had previously issued an Order-in-Original dated 31.07.2024 bearing DIN No. 20240878NW0000615122. Under this order, M/s. SBW Logistics Pvt. Ltd. was duly penalized for the said cargo, and the Redemption Fine (RF) and penalty, amounting to Rs. 1,44,29,900/- and Rs. 4,54,25,700/- respectively, were promptly paid vide Challan Nos. 418 and 419 on 07.08.2024. Furthermore, as a consequence of this incident, their bonded licenses for the relevant warehouses were also revoked on 07.08.2024.

11.6 That the temporary shifting of some general cargo into the bonded warehouse. was a necessary and unavoidable measure, necessitated by the unusually heavy rainfall experienced recently in our region. This action was taken solely to protect the cargo from potential damage due to severe flooding in the open storage areas, and there was no other ulterior or malafide intention behind it. They attached photographs depicting the heavy rainfall and its impact on our premises during that period.

11.7 In light of the aforementioned facts, and given that the issue of general cargo storage, which is the subject matter of the current inquiry, has already been comprehensively addressed through the Order-in-Original dated 31.07.2024, with the Redemption Fine and penalty having been paid on 07.08.2024, and their bonded licenses subsequently revoked, they requested that they not be penalized again for the same incident. Any further penalty would constitute double jeopardy, which they believe is not in accordance with the established principles of natural justice and fairness. They requested to take a lenient view in the matter, considering the extraordinary circumstances that led to this situation and the significant actions and penalties already imposed and complied with. They assured that no such incident will be repeated in the future.

Discussion & Findings

12.1 I have carefully gone through the facts of the case as set out in the Show Cause Notice dated 24.02.2025 & Corrigendum to SCN dated 26.07.2025, the inquiry officer’s report dated 07.10.2025, written and oral submissions made by

M/s SBW Logistics Pvt. Ltd. (hereinafter "the Noticee" or "CCSP") at the time of Personal Hearing. I find that the requisite procedure as set out in Regulation 12 of the HCCAR, 2009 has been followed before the Personal Hearing. Accordingly, I proceed to decide the case on merits.

12.2 I find that M/s. SBW Logistics Pvt. Ltd was approved as 'Customs Cargo Service Provider (CCSP)' under the provisions of Handling of Cargo in Customs Areas Regulations 2009 vide Notification No.08/2012 dated 04.06.2012 extended periodically. Most recently, the same was extended for 5 years w.e.f. 18.06.2021 vide Public Notice No.30/2022 dated 09.06.2022.

> *"The Custodian M/s SBW Logistics Pvt. Ltd., is approved as Customs Cargo Services Provider for the said CFS and shall abide by all the provisions of The Customs Act, 1962 and the rules of the Handling of Cargo in Customs Areas Regulations,2009 ("HCCAR,2009"), other regulations, notifications, orders issued there under."*

12.3 I find that M/s. SBW Logistics Pvt. Ltd. was issued Show Cause Notice alleging violation of Regulations 6 (1)(f) & 6 (1)(q) of the Handling of Cargo in Customs Areas Regulations (HCCAR), 2009 and the Customs Act, 1962. The Corrigendum dated 26.07.2025 to SCN dated 24.02.2025 merely corrected clerical mistakes and did not alter substantive allegations, which were violation of HCCAR, 2009 and the Customs Act, 1962 for unauthorised dealing of goods within the customs area. Adequate opportunity for hearing and written defence was provided; thus, principles of natural justice have been fully complied with.

12.4 On perusal of the Show Cause Notice and other case records, I find that the following main issues are involved in the case which are required to be decided:

- Whether the act of dealing with general/domestic/non-dutiable cargo within the premises of the CCSP without permission of the proper officer of constitutes a violation of the Handling of Cargo in Customs Areas Regulations, 2009 thereby making the CCSP liable to action under Regulation 11 and penalty under Regulation 12(8) of HCCAR, 2009 and rendering such goods confiscable and CCSP liable to penalty under the Customs Act, 1962.

12.5 After having identified and framed the main issues to be decided, I, now proceed to examine each of the issues individually based on the facts and circumstances mentioned in the SCN; provisions of HCCAR, 2009 read with

Customs Act, 1962; as well as oral and written submissions of the CCSP and documents/evidence available on record.

12.6 As the case pertains to non-observance of regulations/conditions as mandated under the Handling of Cargo in Customs Area Regulations (HCCAR), 2009 read with Customs Act, 1962, it is pertinent to look into the relevant provisions of HCCAR, 2009 and Customs Act, 1962 to decide the issue on merits.

A. Regulation 6(1)(f) of the Handling of Cargo in Customs Area Regulations, 2009;

"(1) The Customs Cargo Service provider shall –

(f) not permit goods to be removed from the customs area, or otherwise dealt with, except under and in accordance with the permission in writing of the Superintendent of Customs or Appraiser;"

B. Regulation 6(1)(q) of the Handling of Cargo in Customs Area Regulations, 2009;

"(1) The Customs Cargo Service provider shall –

(q) abide by all the provisions of the Act and the rules, regulations, notifications and orders issued there under."

C. Section 113 of the Customs Act, 1962

Confiscation of goods attempted to be improperly exported, etc.

"(d) any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this or any other law for the time being in force;"

D. Section 114 of the Customs Act, 1962 provides:

"*Penalty for attempt to export goods improperly etc.*
Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable, -

(iii) *in the case of any other goods, to a penalty not exceeding the value of the goods, as* *declared by the exporter or the value as determined under this Act, whichever is the greater."*

E. Regulation 11 of the Handling of Cargo in Customs Area Regulations, 2009;

"*Suspension or revocation of approval for appointment of a Customs Cargo Service provider:*

(1) The Commissioner of Customs may, subject to the provisions of these regulations, suspend or revoke the approval granted to the Customs Cargo Service provider subject to the observance of procedure prescribed under regulation 12 and also order for forfeiture of security, if any, for failure to comply with any of the provisions of the Act and the rules, regulations, notifications and orders made thereunder;"

(2) notwithstanding anything contained in sub-regulation (1), the Commissioner of Customs may, in appropriate cases where immediate action is necessary, suspend the approval granted to a Customs Cargo Service provider where an enquiry against such Customs Cargo Service provider is pending or contemplated."

F. Regulation 12(8) of the Handling of Cargo in Customs Area Regulations, 2009;

"If any Customs Cargo Service provider contravenes any of the provisions of these regulations, or abets such contravention or who fails to comply with any provision of the regulation with which it was his duty to comply, then, he shall be liable to a penalty which may extend to fifty thousand rupees."

12.7 It is an undisputed fact that general/domestic/non-dutiable goods were found stored within the customs-bonded warehouse bearing codes NSA1U065/66/67, located inside the CFS premises of the Noticee. The same has been agreed to by the noticee CCSP. The bonded warehouse shares common entry and exit points with the CFS and the goods moved into the bonded warehouse after being brought into the premises of the noticee. I find that the unauthorized movement of these goods from outside the CCSP premises into the Customs Area and then into bonded warehouse without prior permission from the proper officer constitutes a violation under HCCAR, 2009 and breach of the CCSP's statutory duties under Regulation 6(1)(f) which states that the Customs Cargo Service provider shall not permit goods to be dealt with, except under and in accordance with the permission in writing of the proper officer of customs.

12.8 The CCSP states that penalizing them twice for the same offence constitues double jeopardy. I find that the penalty imposed on the Noticee vide Order-in-Original dated 31.07.2024 was for violation of para (xi) of the Licensing conditions of the Licence issued under section 57 of the Customs Act, 1962 and whereas, the present proceedings arise under the Handling of Cargo in Customs Areas Regulations, 2009 (HCCAR, 2009), which regulate the operations of Customs Cargo Service Providers (CCSPs) functioning under Sections 45 and Section 141 of the Customs Act, 1962. I find that the act of bringing goods into customs area without permission of the proper officer has not been considered in the aforesaid order in original and constitutes a separate offence under HCCAR, 2009 which is the subject matter of the current SCN under adjudication. Since the present proceedings arise from a different statutory framework and address a separate regulatory failure, the plea of double jeopardy does not apply.

Penalty under Regulation 12(8) of HCCAR, 2009

12.9 The Handling of Cargo in Customs Areas Regulations, 2009 (HCCAR, 2009) prescribe the responsibilities of a Customs Cargo Service Provider. Regulation 6(1)(f) requires that no goods shall be removed from or otherwise dealt with in the customs area except with written permission of the proper officer, and Regulation 6(1)(q) requires that the CCSP abide by all provisions of the Customs Act and regulations made thereunder.

12.10 I find that the Noticee has contravened both the Regulations 6(1)(f) and 6(1)(q) of HCCAR, 2009 by handling goods within the customs area without permission from the proper officer. Accordingly, I find that M/s SBW Logistics Pvt. Ltd. is liable to penalty under Regulation 12(8) of the Handling of Cargo in Customs Areas Regulations, 2009, for contravention of Regulations 6(1)(f) and 6(1)(q).

Suspension/Termination under Regulation 11 of HCCAR, 2009

12.11 Regulation 11 empowers the Commissioner to suspend or revoke CCSP approval for failure to comply with statutory provisions.

12.12 From the Inquiry Officer's findings and the CCSP's own submissions, it is confirmed that the Noticee failed to maintain proper regulatory supervision within the customs-notified area and allowed unauthorized goods to be dealt within bonded premises. Further, the plea of the noticee CCSP that heavy rains and flooding in July–August 2023 caused this extraordinary situation cannot justify breach of customs procedures. Such conditions are not extraordinary in Mumbai, and the CCSP is obligated to maintain adequate infrastructure, drainage, and contingency measures. Furthermore, the contention that this occurred due to negligence of uneducated labourers cannot be accepted. Such acts are in clear violation of Regulations 6(1)(f) and 6(1)(q) of the HCCAR, 2009 and meet the threshold for action under Regulation 11 since substitution of cargo cannot be ruled out as held by the Commissioner in his order dated 31.7.2024 wherein it is stated in para 16.2 " the Licencee has brought in certain general goods and also other goods which were supposed to be warehoused...with the possible intent of replacing some of the high-value re-export goods with an ultimate aim to divert such high value goods in the domestic market"

12.13 As per Regulation 11 of the Handling of Cargo in Customs Area Regulations, 2009;

"*Suspension or revocation of approval for appointment of a Customs Cargo Service provider:*

(1) The Commissioner of Customs may, subject to the provisions of these regulations, suspend or revoke the approval granted to the Customs Cargo Service provider subject to the observance of procedure prescribed under regulation 12 and also order for forfeiture of security, if any, for failure to comply with any of the provisions of the Act and the rules, regulations, notifications and orders made thereunder;"

(2) notwithstanding anything contained in sub-regulation (1), the Commissioner of Customs may, in appropriate cases where immediate action is necessary, suspend the approval granted to a Customs Cargo Service provider where an enquiry against such Customs Cargo Service provider is pending or contemplated."

12.14 I find that by their aforesaid acts of omission and commission, M/s SBW Logistics Pvt. Ltd, CFS has violated the regulation 6 (Responsibilities of Customs Cargo Service provider) of the HCCAR, 2009 as alleged under the instant SCN and have made themselves liable for penal action under the provisions of HCCAR,2009 and action under Regulation 11 of HCCAR, 2009.

Liability of confiscation of under Section 113(d) of the Customs Act, 1962:

12.15 As per Section 113 of the Customs Act, 1962 states that:

Confiscation of goods attempted to be improperly exported, etc.

"(d) any goods attempted to be exported or brought within the limits of any customs area for the purpose of being exported, contrary to any prohibition imposed by or under this or any other law for the time being in force;"

12.16 I find that the goods were brought unauthorizedly into the customs area, with the excuse that it was raining heavily and this was the work of uneducated labourers. I find that these are goods that have been brought within the limits of a customs area without permission of the proper officer, thereby prohibiting the CCSP from bringing them into the customs area. I find that such unauthorized storage of general cargo within a customs-bonded warehouse entered through Customs area, endangers the sanctity of customs control and creates potential avenues for concealment, substitution, or smuggling. Hence, the act of bringing general goods into the limits of a customs area contrary to law/regulations constitutes a distinct and complete offence under Section 113(d) of the Customs Act, 1962.

12.17 In view of the above facts/ evidences, the general goods brought within the limits of the customs area & found stored in the bonded warehouse of M/s SBW Logistics Pvt. Ltd., without authorization, are liable for confiscation under Section 113(d) of the Customs Act, 1962.

12.18 As regards to imposition of redemption Fine, I rely upon the order of Hon'ble Madras High Court in case of *M/s Visteon Automotive Systems India Limited* reported in *2018 (9) G.S.T.L. 142 (Mad.),* wherein the Hon'ble Madras High Court held in para 23 of the judgment as below:

> *"**23.** The penalty directed against the importer under Section 112 and the fine payable under Section 125 operate in two different fields. The fine under Section 125 is in lieu of confiscation of the goods. The payment of fine followed up by payment of duty and other charges leviable, as per sub-section (2) of Section 125, fetches relief for the goods from getting confiscated. By subjecting the goods to payment of duty and other charges, the improper and irregular importation is sought to be regularised, whereas, by subjecting the goods to payment of fine under sub-section (1) of Section 125, the goods are saved from getting confiscated. Hence, the availability of the goods is not necessary for imposing the redemption fine. The opening words of Section 125, "Whenever confiscation of any goods is authorised by this Act ....", brings out the point clearly. The power to impose redemption fine*

springs from the authorisation of confiscation of goods provided for under Section 111 of the Act. When once power of authorisation for confiscation of goods gets traced to the said Section 111 of the Act, we are of the opinion that the physical availability of goods is not so much relevant. The redemption fine is in fact to avoid such consequences flowing from Section 111 only. Hence, the payment of redemption fine saves the goods from getting confiscated. Hence, their physical availability does not have any significance for imposition of redemption fine under Section 125 of the Act. We accordingly answer question no. (iii)."

Penalty under Section 114(iii) of the Customs Act, 1962

12.19. *Section 114 of the Customs Act, 1962 provides:*

"*Penalty for attempt to export goods improperly, etc*
Any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 113, or abets the doing or omission of such an act, shall be liable, -

(iii) *in the case of any other goods, to a penalty not exceeding the value of the goods, as declared by the exporter or the value as determined under this Act, whichever is the greater."*

12.20 In view of above, Section 114(iii) of the Customs Act provides that any person who, in relation to any goods, does or omits to do any act which renders such goods liable to confiscation under Section 113, or abets the doing or omission of such an act, shall be liable to penalty. The CCSP, being the authorized custodian of the customs area, is directly responsible for this omission of not obtaining permission to deal with the general goods in the customs area. Since a distinct offence under Section 113(d) has been established in this case, I find that the CCSP becomes liable to penalty under Section 114(iii) for its omission which rendered the goods liable for confiscation under Section 113(d) of the Customs Act, 1962.

13. In view of the foregoing discussion and findings, I hereby pass the following order:

ORDER

(i) I order that the approval granted to M/s SBW Logistics Pvt. Ltd. as Customs Cargo Service Provider (CCSP) vide Public Notice No. 30/2022 dated 09.06.2022, be suspended with effect from 25.11.2025 to 30.11.2025 under Regulation 11 of the Handling of Cargo in Customs Areas Regulations 2009 subject to the conditions that during this period:

a) Existing consignments in the CFS meant for export be allowed for export.

b) Import Cargo-live consignments pending for clearance in the CFS be allowed to be cleared.

c) Auction proceedings be allowed for import Cargo for which action under Section 48 has been initiated and Auction Notice has been issued.

(ii) I hold the general goods valued at Rs 4,12,16,498/- (Rupees Four Crore Twelve Lakhs Sixteen Thousand Four Hundred and Ninety-Eight Only) as detailed in Table-A of the Show Cause Notice liable for confiscation u/s 113(d) of the Customs Act, 1962, even though the subject goods are not physically available at this stage for confiscation. I impose redemption fine of Rs 41,00,000/- (Rupees forty one lakh only) in lieu of confiscation on M/s SBW Logistics Pvt. Ltd. under the provisions of the Section 125 of the Customs Act, 1962.

(iii) I impose Penalty of Rs. 20,00,000/- (Rupees twenty lakh only) on M/s. SBW Logistics Pvt. Ltd. under Section 114 (iii) of the Customs Act, 1962.

(iv) I impose Penalty of Rs. 50,000/- (Rupees fifty thousand only) on M/s. SBW Logistics Pvt. Ltd. under Regulation 12 (8) of Handling of Cargo in Customs Areas Regulations, 2009.

14. This order is issued without prejudice to any other action that may be initiated against the noticee or any other person under the provisions of the Customs Act, 1962 or any other law for the time being in force in the Republic of India.

Digitally signed by
Bhetanabhotla Sumidaa Devi
Date: 24-11-2025 12:32:04

(B. Sumidaa Devi)
Commissioner of Customs,
NS- General,JNCH

To,
M/s SBW Logistics Pvt. Ltd.
Gut No. 55, Khairne Village , Taluka Panvel,
Maharashtra-410208

Copy to:

1. The Chief Commissioner of Customs, Mumbai Customs, Zone-II, JNCH.
2. The DC/AC, M/s. SBW Logistics Pvt Ltd.
3. The DC/AC, CRAC, Mumbai-II, JNCH.
4. The DC/AC, CRRC, JNCH.
5. Superintendent (P), CHS Section, JNCH – For display on JNCH Notice Board.
6. Office Copy