



आयुक्त, सीमाशुल्क (सामान्य) का कार्यालय  
OFFICE OF THE COMMISSIONER OF CUSTOMS (GENERAL),  
नवीन सीमाशुल्क भवन, बेलाई इस्टेट, मुंबई -400001. NEW CUSTOM  
HOUSE, BALLARD ESTATE, MUMBAI - 400001.

संचिका सं./F. No.- GEN/CB/97/2025-CBS

आदेश दिनांक/Date of Order: २२.०१.२०२६

CAO No. 137/2025-26/CAC/CC(G)/SJS/Adj-CBS जारी दिनांक/Date of issue: ०६.०२.२०२६

संख्या:

DIN:- २०२६०२७७००००००००००EA73

द्वारा जारी : श्रद्धा जोशी शर्मा

Issued By : Shraddha Joshi Sharma

आयुक्त, सीमाशुल्क (सामान्य)

Commissioner of Customs (Gen.)

मुंबई -400 001

Mumbai - 400 001

**ORDER-IN-ORIGINAL मूल आदेश**

**ध्यान दीजिए/ N.B. :**

1. यह प्रति उस व्यक्ति को निजी उपयोग हेतु निःशुल्क प्रदान की जाती है, जिसे यह जारी की जा रही है।  
This copy is granted free of Charge for the private use of the person to whom it is issued.

2. इस आदेश के विरुद्ध अपील माँगे गए राशी के 7.5% के भुगतान पर सीमाशुल्क अधिनियम, 1962 की धारा 129A(1B)(i) के संबंधमें सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण में स्वीकार्य है, जहाँ शुल्क या शुल्क एवं जुर्माना विवादित हों, या जुर्माना, जहाँ सिर्फ जुर्माना ही विवादित हो। यह अपील इस आदेश के संप्रेषण की तारीख के तीन महीने के अंदर दायर की जाएगी। यह अपील सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण (कार्यविधि) नियमावली, 1982, के प्रावधानों के अंतर्गत, यथोत्खंडपीठ में स्वीकार्य है।

An appeal against this order lies with the Customs, Central Excise and Service Tax Appellate Tribunal in terms of section 129A(1B)(i) of the Customs Act, 1962, on payment of 7.5% of the amount demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute. It shall be filed within three months from the date of communication of this order. The appeal lies with the appropriate bench of the Customs, Central Excise and Service Tax Appellate as per the applicable provisions of the Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982.

3. यह सूचित किया जाता है की इस आदेश के अमल में आते ही, न्याय निर्णयन अधिकारी का अधिकार क्षेत्र समाप्त होता है और सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण, पश्चिम क्षेत्रीय खंडपीठ, के M/s Knowledge Infrastructure Systems Pvt. Ltd. & Others vs ADG, DRI, Mumbai के संदर्भ में जारी आदेश क्रमांक A/86617-86619/2018 दिनांक के अनुसार न्यायिक आदेश तदोत् 31.05.2018 प्रांत न्याय निर्णयन अधिकारी 'functus officio' बन जाता है

It is informed that the jurisdiction of the Adjudicating Authority stands alienated with the conclusion of the present adjudication order and the Adjudicating Authority attains the status of 'functus officio' as held by Hon'ble CESTAT, Mumbai in its decision in the case of M/s Knowledge Infrastructure Systems Pvt. Ltd. &

Others vs ADG, DRI, Mumbai vide Order No. A/86617-86619/2018 dated 31.05.2018.

4. यदि एक ही प्रकरण में उसी पक्षकार के विरुद्ध कई कारण बताओ नोटिस लगाकर आदेश पारित किया जाता है तो प्रत्येक प्रकरण में अलग अपील दायर की जाए।

In case where an order is passed by bunching several show cause notices on an identical issue against the same party, separate appeal may be filed in each case.

5. यह अपील फॉर्म C.A.-3 में दायर की जानी चाहिए जो कि सीमाशुल्क (अपीलस) नियमावली, 1982 के नियम के तहत निर्धारित है एवं उसी नियमावली के नियम 3 के उपनियम 2 में उल्लेखित व्यक्ति 6 द्वारा हस्ताक्षरित एवं सत्यापित की जाएगी।

The Appeal should be filed in Form C.A.-3 prescribed under Rule 6 of the Customs (Appeals) Rules, 1982 and shall be signed and verified by the person specified in sub-rule 2 of rule 3 rules ibid.

6. (i) यदि प्रतिवादित आदेश, जिसके विरुद्ध अपील की गई है, में शुल्क एवं मांगे गए ब्याजवलागाएण जुर्माने की राशि रु-पाँच लाख या इस से कम होतो रु. 1000 ., (ii) यदि यह राशि रुपाँच लाख से अधिक ) हो किंतु पचास लाख से अधिक न होतो रु. 5000/- एवं (iii) यदि यह राशि रुपचास लाख से अधिक होतो रु. 10000/- के शुल्क का भुगतान क्रॉस्ड बैंक ड्राफ्ट के माध्यम से अधिकरण की खंडपीठ के सहायक पंजीयक के पक्ष में जिस स्थान पर खंडपीठ स्थित है, के किसी भी राष्ट्रीय क्रत बैंक की शाखा में किया जाए एवं डिमांड ड्राफ्ट अपील के साथ संलग्न किया जाए।

A fee of (i) Rs. 1000/- in case where the amount of duty and interest demanded and the penalty imposed in the impugned order appealed against is Rupees Five Lakhs or less, (ii) Rs. 5000/- in case where such amount exceeds Rupees Five Lakhs but not exceeding Rupees Fifty Lakhs and (iii) Rs. 10000/- in case where such amount exceeds Rupees Fifty Lakhs, is required to be paid through a crossed bank draft in favour of the Assistant registrar of the Bench of the Tribunal on a branch of any nationalized bank located at the place where the bench is situated and demand draft shall be attached to the Appeal.

7. अपील की एक प्रति में कोर्ट फी अधिनियम, की अनुसूची मद 6 के तहत निर्धारित रु. 50 1870 का कोर्ट फी स्टैम्प लगा होना चाहिए एवं इसके साथ संलग्न इस आदेश की उक्त प्रति में रु 50 .का कोर्ट फी स्टैम्प लगा होना चाहिए।

One copy of the Appeal should bear a Court Fee Stamp of Rs. 50 and said copy of this order attached therein should bear a Court Fee Stamp of Rs. 50 as prescribed under Schedule item 6 of the Court Fee Act, 1870, as amended.

**Brief Facts of the Case:**

M/s. Wishwa Naveen Traders (PAN: ADIPD0504D) having address registered at 4/5, JOANNA HOUSE, SAHAR AIR CARGO LINK ROAD, ANDHERI (EAST), MUMBAI, 400099 (hereinafter referred as the Customs Broker /CB) is holder of Customs Broker License No. 11/711, issued by the Commissioner of Customs, Mumbai under Regulation 8 of CHALR, 1984, [Now regulation 7(2) of CBLR, 2018] and as such they are bound by the regulations and conditions stipulated therein.

2. An Offence Report in the form of Show Cause Notice No. 73/ADC/EXP.ASSMT. /2024-25/ACC(X), dated 21.02.2025, regarding an NCTC Alert against Shipping Bill No. 9714762, dated 08.05.2024, pertaining to M/s M&J Export (IE Code ABCFM4678B), was received in the CB Section, New Custom House, Mumbai, from the Additional Commissioner of Customs (Export), Air Cargo Complex, Sahar, Mumbai. The report, inter alia, provided the following information with respect to the role of the CB firm, M/s Wishwa Naveen Traders (CB No. 11/711):

2.1 An email dated 09.05.2024 was received from NCTC having NCTC ALERT NO. 95/EXP/2024-25 stating that, "On the basis of risk analysis, the NCTC has identified two Shipping Bills both dated 08.05.2024, one each filed by M/s M&J EXPORT (IE Code ABCFM4678B) and M/s SHRI NARAYANMUNI ENTERPRISE (IE Code FRNPS3569H) from INBOM4 i.e., ACC, Mumbai, as risky. It is observed that the commodity being exported is "INSTALLED PROGRAMS IN PEN DRIVE (INCLUDING SET UP OF DIGITAL SIGNATURE SOFTWARE - SUPPORT SERVICES FOR 4 YEARS)" under Drawback, RoDTEP/ROSCTL scheme and IGST, and is destined to USA. Several parameters appear to be common to the said two exporters and hence the common alert has been inserted with respect to the said two consignments. It is noticed that: -

- The goods viz., "INSTALLED PROGRAMS IN PEN DRIVE (INCLUDING SET UP OF DIGITAL SIGNATURE SOFTWARE - SUPPORT SERVICES FOR 4 YEARS)" being exported by both the firms are identical.
- The consigner and buyer in both cases is 'M/s Marirup Inc.

- The value of the goods and the benefits claimed are identical.
- Both the exporters prima facie do not appear to be developers of software, as no data is available to that effect on the internet. There is no data indicating that either of the exporters has procured the goods being exported on payment of GST.
- Both firms appear to be related parties.

A summary of Live/ Total Shipping Bills filed by the exporter is as under:

**Table-I**

Exporter Name- M & J EXPORT (IE Code- ABCFM4678B Shipping Bills-No. 9714762 dated 08.05.2024	
Live Sb Count	01
Live FOB Value	Rs. 93,62,875.2/-
Live Drawback Value	Rs. 93,629/-
Live RoDTEP/ROSCTL Value	Rs.74,903/-
Live IGST amount Rs	Rs.16,94,554.56/-
Previous SB	03
Previous FOB	Rs. 38,43,230.2/-
Previous DBK	Rs. 38,433/-
Previous RoDTEP/ROSCTL Value	Rs. 30,746/-
Previous IGST amount	Rs. 6,97,757.8/-

2.2 Red Flags as per the NCTC alert are as follows:

- Newly registered exporters, which are proprietorship firms.
- Both these exporters are exporting the same item, which is purportedly a software, along with a license to use the same. It is not clear whether the software is Proprietary software or otherwise.
- The nature of the goods and the value of the same may be verified.
- The origin of the goods may also be verified, in case if they are imported, eligibility of export incentives claimed may be verified.

- Both the exporters have been exporting the same item repeatedly to the same buyer in a short span of time. The genuineness of these transactions appears suspect as the goods in these cases is Software. There is no indication that this software is of 'Of the Shelf variety as in such cases, each unit would be assigned a serial number and would be subject to actual user conditions, hence repeated sale of the same item to the same Buyer appears suspicious. M/s Shri M&J Export has shown sale to other entities, apart from repeated sale to M/s Marirup Inc.
- There is no supply chain of the exporter is dubious as 1 exporter has no inward and other has inward of HSN 60.
- There is high probability of mis-declaration in terms of nature of the goods and over-valuation for availing undue export benefits and IGST refunds.
- Apparently, these exporters supply chains may be improper/manipulated. Accordingly, aside from potential customs violations, there appears to be contraventions of various provisions of GST Act in the context of these goods, which have entered for exportation under the claim of remission or refund of any duty or tax (IGST refund or ITC refund for exports under LUT).
- In order to tackle such cases, among other things, the Finance Act 2021 had added the following provision in Section 113 of the Customs Act, after clause (j), namely:
  - SECTION 113. Confiscation of goods attempted to be improperly exported, etc. -
  - The following export goods shall be liable to confiscation: - "(ja) any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being in force;".

2.3 It was further stated that the live risky consignments may be examined 100% in conjunction with related documents and further necessary action may be taken, including the investigation into the genuineness of the exporter vis-à-vis financial documents such as GST returns, e-way bills, Income tax returns, bank account data and the supply chain of the exporter for possible fake invoicing and undue IGST/input credit refund. Past and

future such exports may also be investigated accordingly. The outcome of the action taken may be shared with the NCTC for information and further necessary action.

2.4 Accordingly, the SIIB(Export), ACC, Mumbai, on receipt of the communication from NCTC, had initiated an investigation and the following actions had been taken:

- a) IEC details were verified from DFGT portal and found 'Valid' as on date.
- b) GSTIN were verified from GST portal and found ACTIVE' as on date.

2.5 Alerts had been invoked (alerts no: 41412 and 41413 respectively) against both the IEC M/s M & J EXPORT (IEC: ABCFM4678B) and M/s SHRI NARAYANMUNI ENTERPRISE (IEC: FRNPS3569H) of the exporter on 10.05.2024 which read as: - "100% Examination under Jurisdictional SIIB Supervision- No LEO to be granted without NOC from Jurisdictional SIIB."

2.6 The Shipping Bills No. 9714762 dated 08.05.2024 and the goods covered thereunder were filed by C.B firm M/s. Wishwa Naveen Traders CB No.11/711 on behalf of M/s M&J Export (IEC: ABCFM4678B) and the goods were carted on 08.05.2024, whereas the Let Export Order had been granted on 08.05.2024. Therefore, a letter dated 09.05.2024 addressed to the Manager; MIAL Export Shed was issued for taking the consignment on hold with respect to the above-mentioned shipping bill. The Examination of the goods had been done under a Panchanama dated 10.05.2024.

### **3. Search of Premises:**

3.1 Further as per the letters dated 13.05.2024 (RUD-2) and 14.05.2024 (RUD-2) addressed to The Additional Commissioner (Preventive), CGST and Central Excise, GST Bhavan, Chowk Bazaar, Surat – 395003 regarding issuance of search authorization and conducting the search of the two premises in connection with investigation in r/o M/s Shri Narayanmuni Enterprise, and M/s M & J Export was sent to the jurisdictional authority.

3.2 During the preliminary investigation, it was noticed that supply chain might be dubious and goods might have been overvalued. Therefore, the premises of the exporter were searched under Panchanama by the jurisdictional CGST with the assistance of the

officers from SIIB(X), ACC, Mumbai vide authorization for search dated 13.05.2024 issued under section-67(2) of CGST Act, 2017, by the Additional Commissioner (Anti-Evasion), CGST & CE, Surat for the search of the premises of M/s M&J Export situated at 3<sup>rd</sup> floor, 301, Lakshmi Enclave-1, Gajera School Road, Opposite Gahera School, Katargam, Surat, Gujarat-395004 under Panchanama.

3.3 Shree Manoj Jayeshbhai Shingala partner of M/s M&J Export had voluntarily submitted his mobile phone (Model No. OnePlus Nord CE 3 Lite 5G). (RUD-4). The mobile was seized on 18.05.2024 (RUD-5) for further investigation as the data stored in his mobile phone might have been used for the exports done from ACC Mumbai.

#### **4. STATEMENTS RECORDED UNDER SECTION 108 OF THE CUSTOMS ACT 1962**

4.1 During the course of investigations, Statement of Shri Navnit Vinubhai Ramani; Owner of the premise at which office of M/s M & J Export was addressed i.e. 3rd floor, 301, Lakshmi Enclave-1, Gajera School Road, Opposite Gahera School, Katargam, Surat, Gujarat-395004, before Shri Ashish Kumar, Superintendent of Customs, SIIB (Export), ACC on 16.05.2024 at 4:00 PM. (RUD-6), wherein he inter-alia stated that:

- The owner of the premises i.e. 301, Laxmi Enclave-I, Gajera School, Surat, Gujarat, he had stated that he, and his friend Mr. Ankkur Vinubhai Paghadal were the owners of the aforesaid premises.
- Knowledge about the export firm i.e. M/s. M&J Export, he had stated a 'No', he stated that he only knew about a firm named M.J. Shingala & Co. but he didn't have any information about the firm M/s M&J Export. And also didn't know what kind of work they were doing in the name of M&J Export. The owner of the M&J Shingala & Co. firm name was Shri Manoj Jayeshbhai Shingala. He worked/used to work in a tax consulting firm and GST filing firm. He was living on rent from 1st Feb 2024.
- M/s. M&J Shingala & Co. was registered on this address in/as per his knowledge. The owner of this consultancy firm took this premise on rent from 1st Feb. 2024.

He had submitted the rent agreement in support. And they had no information about M&J Export firm running there/at that address.

- He used to charge Rs. 15000/- Per month from Shri Manoj Jayeshbhai Shingala as rent of that premise. Most of the payments by Shri Manoj Jayeshbhai Shingala were done in cash. However, a few times Shri Manoj Jayeshbhai Shingala had paid some amount to him through Google Pay, out of which he had record of recent transactions on his phone with UPI on VPA credpay@icici bearing UPI Reference No. 412563955082 on 03.05.2024.
- Shri Manoj Jayeshbhai Shingala used to visit that office but how often did he use to visit was not known to him. A day before he was getting his statement recorded Shri Manoj Jayeshbhai Shingala was in that office since morning of that day. But, on the date of recording of his statement he was not available because of some work.
- He stated that he had the contact details of Shri Manoj Jayeshbhai Shingala i.e. 9913829833. He had submitted the KYC details as available with him while submitting at the time of agreement of rent.

4.2 During the course of investigations, statement of Shri Manoj Jayeshbhai Shingala, Partner of Exporter Firm M/s. M & J Export (IEC No-ABCFM4678B), was recorded before Shri Ashish Kumar Superintendent of Customs, SIIB (Export), ACC on 17.05.2024 at 09.00 PM., wherein, he inter-alia stated that:

- He was an active partner in M/s. M & J Export, established in February 2024, alongside Shri Jignesh Kalubhai Nariya. The firm, specializing in exporting IT software, particularly DSC-installed software, operated under the Drawback and RoDTEP schemes, with M/s Marirup INC, USA as their sole consignee.
- The company exported Ultimate POS ERP software, totaling three consignments. They purchased DSC tokens from M/s Star Solutions, Jaipur, at Rs. 250 per piece, used for software installation and exported via Air Cargo Complex, Mumbai. Purchase bills were stored on a mobile phone held by his maternal uncle, who was uncooperative in providing it for investigation.
- Payments were received post-software installation without formal agreements. Orders were secured through telephonic negotiations and video conferencing, with

a fake purchase order produced for customs. Customs Broker M/s Wishwa Naveen Traders filed shipping bills without formal authorization from the company.

- The firm generated fake GST bills to claim Input Tax Credit (ITC) and IGST refunds. They used dummy suppliers like M/s Lee & La to create fake bills, without actual transactions. ITC was misused to offset tax liabilities, with Rs. 60,000 paid to the GST department for discrepancies.
- The firm faced scrutiny for hiding evidence, fake invoices, and unauthorized GST bill generation. Shri Manoj admitted to generating fake purchase orders and misleading customs. He had previously resolved a similar ITC issue with GST, Surat, in 2019-20 for another firm, M/s Shri Narayanmuni Enterprise.
- The firm exported software developed by a friend, Shri Girish Vekariya, without a formal agreement or profit-sharing. They overvalued goods to remain competitive, selling software at Rs. 6-7 lakhs per user for a four-year validity, despite the Indian market price being Rs. 7-8 lakhs.
- The registered address of M/s Shri Narayanmuni Enterprise was incorrect, with no office on the 1st floor. The firm used dummy suppliers and courier services for DSC tokens and export consignments. No foreign remittance was received for exports made through M/s M & J Export, though BRC was realized for M/s Shri Narayanmuni Enterprise.
- The firm engaged in fraudulent practices, including fake invoices, unauthorized GST claims, and overvaluation of goods. Shri Manoj admitted to misleading authorities and manipulating ITC, with ongoing investigations into their export activities.

4.3 During the course of investigation, Statement of Shri Jignesh Bhai Nariya, aged 32-years, Partner of Exporter Firm M/s. M & J Export (IEC No- ABCFM4678B), having office address at 301, Laxmi Enclave-I, Near Gajera School Road, Surat, Gujarat recorded under Section 108 of the Customs Act 1962, in the Office of CGST Office, Surat, Gujarat before Shri Ashish Kumar, Superintendent of Customs, SIIB (Export), ACC on 17.05.2024 at 06.30 PM. (RUD-8), wherein he inter-alia stated that:

- He is a sleeping partner in M/s. M & J Export, established in 2016, with an initial 50% partnership. Due to financial constraints, the firm did not export any consignments. In 2024, he amended his partnership to 5% and became a sleeping partner, with no involvement in liabilities, profits, or assets.

- He clarified that the firm was established in 2016, not 2024, as stated by his partner, Shri Manoj Jayeshbhai Shingala. The 2024 date reflects an amendment to the partnership agreement, where he reduced his stake to 5% at Shri Manoj's request, based on their friendship.
- Shri Manoj convinced him to sign the partnership documents for friendship's sake, despite his reluctance. He helped Shri Manoj with paperwork but did not receive any profits or involvement in the firm's operations. Shri Manoj also assisted him in securing a job as an accountant at M/s. Riva Enterprises.
- Shri Manoj contacted him to open a partnership bank account at State Bank of India, Katargram Branch, Surat. He signed the documents but had no further involvement. He was unaware of the GST registration or the start of exports by M/s. M & J Export.
- He worked as an accountant at M/s. Riva Enterprises, earning Rs. 22,000 per month. His salary is paid online. He has no practical knowledge of exports and has been employed at Riva Enterprises for the past 5-6 years.
- He and Shri Manoj were batchmates at ICAI and became friends. They established M/s. M & J Export during their studies, but due to his financial difficulties, the firm remained inactive.
- He has no knowledge of the firm's export activities, consignments, or overseas buyers. He was unaware of the schemes under which exports were conducted.
- A joint bank account was opened for M/s. M & J Export, but he never conducted any transactions or accessed the account after signing the KYC documents.
- Shri Manoj mentioned operating 3-4 firms under family members' names but involved him in M/s. M & J Export to keep his family unaware.
- He knows Shri Nikunj but has no knowledge of Shri Mayur or Shri Mahesh. He has heard of M/s. Shri Narayanmuni Enterprise but has no involvement with it.

4.4 During the course of investigations, statement of Shri Manoj Jayeshbhai Shingala, Partner of Exporter Firm M/s. M & J Export. (IEC No- ABCFM4678B), was recorded

before Shri Ashish Kumar, Superintendent of Customs, SIIB (Export), ACC on 18.05.2024 at 06.00 PM, wherein, he inter-alia stated that: -

- He admitted to hiding his phone in a Swaminarayan temple near his home out of fear after receiving a call from GST, Surat. He fabricated the story about his maternal uncle having the phone. The phone was switched off due to low battery while hidden. He panicked and signed out of his Google account but later signed back in, realizing it would cause more trouble. He only made routine calls to family and friends and received calls from GST and Customs officers regarding summons and his firms.
- He clarified that M/s. M & J Export was registered in 2016, but export business began in 2024. He initially confused registration with export activities. The partnership deed was amended in 2024 to make Shri Jignesh Nariya a sleeping partner with a 5% stake, as he was unwilling to engage in exports. He clarified that he worked as a Tax Practitioner, not as a certified CA (Inter CA).
- He operated the bank account of M/s. Shri Narayanmuni Enterprise online, handling salary transfers, outsourced payments, and advertising expenses.
- He admitted to lying in his previous statement out of fear, unaware that giving false statements is a punishable offense. This was his first such experience.
- Multiple attempts were made to contact the exporter and his brother-in-law on various phone numbers on 21.05.2024 and 22.05.2024, but no contact was established to enable sample collection in the exporter's presence.

4.5. During the course of investigations, statement of Shri Nitin Naveen Dhawan, F-card holder with power of attorney (Kardex No. D-1404) of C.B firm M/s, Wishwa Naveen Traders CB No.11/711 (ADIPD0504DCH001, was recorded on 27.05.2024 at 02:30M. (RUD-8), wherein, he inter-alia stated that: -

- He was working as an employee (F-card holder with power of attorney) in the CB firm M/s. Wishwa Naveen Traders.
- He accepted that the S/Bs No. 9714762 dated 08.05.2024, and 9715023 dated 08.05.2024 were filed by M/s. Wishwa Naveen Traders on behalf of the exporter's M/s M&J EXPORT and M/s SHRI NARAYANMUNI ENTERPRISE respectively.
- They had an agreement with M/s PACE EXPRESS PVT LTD. (freight forwarder). Whenever they used to get the order for freight forwarding then they used to contact the customs broker for the customs clearance work, and further Customs Broker used to verify the addresses and other details of the exporters by a customs broker staff at their end for further proceedings.

- He submitted the authorization letter of exporter i.e. M/s M & J EXPORT and M/s SHRI NARAYANMUNI ENTERPRISE for clearance of cargo.
- He also stated that they had verified the KYC documents of the party/exporters.
- He also stated that their office staff Shri Manoj Prajapati verified the KYC details. Shri Manoj Jayeshbhai Shingal and Shri Jignesh Kalubhai Nariya were the partners of the M/s M&J EXPORT and Shri Nikunj Jayeshbhai Shingala was the proprietor of M/s SHRI NARAYANMUNI ENTERPRISE.
- He further stated that their office staff Shri Manoj Prajapati visited Surat along with Shri Chirag Pravinbhai Dodiya who is the agent of M/s Pace Express Pvt. Ltd. And together they verified the addresses/premises of the exporters.
- On being asked about which address had been verified by them of the exporters by their staff he stated that they had verified the addresses as they are mentioned in IEC details of the exporters
- On being asked about the address of M/s. Shrinarayanmuni Enterprise, which had not been found at the said floor, as it was found on the second floor of that building, he stated that at the time of verification, the addresses of both the exporters which were shown by Shri Manoj Jayeshbhai Shingala were found to be correct and in existence as per the IEC. But they didn't have any knowledge about the current address.
- Further they also stated that they had assisted the exporters in only their customs clearance process.
- Total 04 - SBs were filed by them including the live SB i.e. 9714762 dtd. 08.05.2024 of M/s M&J Export and Total 09-SBs were filed by them including the live SB i.e. 9715023 dt 08.05.2024 of M/s Shri Narayanmuni Enterprise. On being asked about what documents had the exporter submitted to them for export of goods covered under 9714762 dated 08.05.2024 and 9715023 DATED 08.05.2024, and whether they verified all the documents, he stated that exporter submitted Commercial Invoice, Packing list, Tax Invoice, Non-SCOMET declaration.
- Further he also stated that they were aware that the goods that were being exported was "INSTALLED PROGRAMS IN PENDRIVES" As per the declaration in Invoice and Packing list through shipping Bills 9714762 dated 08.05.2024 and 9715023 DATED 08.05.2024.
- On being asked about whether they had verified the purchase order and e-way bill, he stated that they did not receive these documents, as the exporter had directly produced the copy of the purchase order to the customs during the Examination of the goods i.e. on 10.05.2024.
- On being asked about as per the exporter's statement he had submitted fake invoices, bills for clearance of the said goods; did they have any information in this regard,

he stated that they did not have any information/knowledge about the fake documents.

- Further he also stated that they had received the documents from M/s Pace Express Pvt. Ltd. via email and the goods were delivered to them by M/s Pace Express Pvt. Ltd. through their own transport.
- On being asked about whether they had verified the supplier of the goods. He stated that being a Customs Broker, they do not verify the supplier of the goods as the exporter had submitted the tax invoice of the goods.
- Further he also stated that they had verified all the documents submitted to them. They had charged the amount of Rs. 1000/- (For Agency charges). M/s Pace Express Pvt. Ltd did the freight booking of exported shipments.

4.6 Further, summons dated 06.06.2024 was issued to the exporter Shri Manoj Jayeshbhai Shingala for making inquiry in connection with export made by M/s M &J Export and M/s Shri Narayanmuni Enterprise and subsequently statement of Shri Manoj Jayeshbhai Shingala was recorded under Section 108 of the Customs Act 1962, in the Office of Special Investigation and Intelligence Branch, Export, Air Cargo Complex, Sahar, Andheri (E), Mumbai - 400099, before Shri Vinod Kumar Meena, Superintendent of Customs, SIIB(Export), ACC on 06.06.2024 at 12:00 PM. (RUD.9), wherein he inter-alia stated that:

- He confirmed the accuracy of his previous statements dated 17.05.2024 and 18.05.2024. He admitted to misleading customs officers by falsely claiming that M/s Wishwa Naveen Traders was not authorized to handle shipments for M/s M&J Export and M/s Shri Narayanmuni Enterprise, when in fact, they were authorized. He acknowledged signing authorization letters on behalf of both firms to deceive the authorities.
- He revealed that an employee of the customs broker and a courier agent had verified their office premises. Additionally, he confessed to creating a fake purchase order for M/s Marirup Inc., determining the goods' value without any legal contract, and signing the fraudulent document. He admitted to receiving software from a friend, Shri Girish Vekariya, without any formal agreement or proof of purchase, and promised to have Vekariya clarify the matter via email.
- The individual admitted to claiming IGST refunds without paying IGST to secure undue export benefits. He also generated fake online bills for M/s Monica Fashion, M/s OMVAGMINE, and M/s Athletic Attire without their knowledge to claim illegitimate benefits. When asked for a breakdown of expenses and supporting

documents for exported goods, he stated that he arbitrarily set the price of DSC tokens at Rs. 250 per piece and lacked any supporting documentation.

- He further disclosed that there were no documents available for previous shipments where IGST, Drawback, and RODTEP/ROSCTL were claimed. He mentioned a past investigation involving fake invoices, for which penalties were paid, but all related documents were seized by the GST department. Finally, he provided a list of 76 firms/clients for whom he filed GSTR and ITR and promised to submit details for M/s Monica Fashion, M/s OMVAGMINE, and M/s Athletic Attire by the next day (06.06.2024)

4.7 Further, summons dated 26.06.2024 was issued to the exporter Shri Manoj Jayeshbhai Shingala for making inquiry in connection with export made by M/s M & J Export and M/s Shri Narayanmuni Enterprise and subsequently statement of Shri Manoj Jayeshbhai Shingala was recorded under Section 108 of the Customs Act 1962, in the Office of Special Investigation and Intelligence Branch, Export, Air Cargo Complex, Sahar, Andheri (E), Mumbai - 400099, before Shri Vinod Kumar Meena, Superintendent of Customs, SIIB(Export), ACC on 26.06.2024 at 03:00 PM..

- He confirmed the accuracy of his previous statements dated 17.05.2024, 18.05.2024, and 06.06.2024. He admitted to signing authorization letters and documents for M/s Shri Narayanmuni Enterprise on behalf of his brother, Shri Nikunj Jayeshbhai Shingala, due to his brother's medical condition, and submitted a bank statement as evidence.
- When questioned about the valuation of goods exported to M/s Marirup Inc., he stated that he determined the value based on the services to be provided, without any legal contract or agreement. He disclosed purchasing DSC Tokens (with software) at Rs. 250 per piece from M/s Star Solutions through Shri Prakash, an acquaintance from [www.computaxonline.com](http://www.computaxonline.com). He claimed no alterations were made to the tokens before export and promised to submit relevant documents within 2-3 days. He also admitted to having no legal contracts or agreements with previous consignees.
- Regarding past exports by M/s M&J Export and M/s Shri Narayanmuni Enterprise, he stated he had no purchase orders or documents. For services provided to consignees, he mentioned offering online support via AnyDesk software but lacked any formal agreements. He clarified that invoices found on his mobile during digital forensics were related to labor services for design and embroidery work, with no further connections to the entities.

- He reiterated that he received bills only from M/s Lee and La and generated fake online bills for M/s Monica Fashion, M/s OMVAGMINE, and M/s Athletic Attire without their knowledge to claim undue ITC benefits. While he had hard copies of M/s Lee and La's bills, he lacked hard copies for the other entities. He failed to submit the promised details for M/s Monica Fashion, M/s OMVAGMINE, and M/s Athletic Attire, citing unavailability.
- He confessed to overvaluing goods to claim undue export benefits like IGST, Drawback, and RODTEP, admitting he was aware of the incentives tied to export values. He acknowledged contradictions in his previous statements, attributing them to fear of legal consequences. He admitted to generating fake invoices worth approximately Rs. 2 crores and receiving Rs. 35-40 lakhs in undue ITC benefits, excluding live consignments for M/s M&J Export and M/s Shri Narayanmuni Enterprise. He claimed sole responsibility for the fraudulent activities and pledged not to repeat such actions in the future.

4.8 Further, as the SIIB(Export), ACC, Mumbai had to take a time bound action on the seizure of goods, the samples were drawn in the presence of the panchas and the said customs broker (whose name is reflecting in the SB, authorization letter submitted by Customs Broker) under a Panchanama dated 22.05.2024 (RUD-11). Subsequently, the goods were seized vide seizure memo dated 22.05.2024 (RUD-12), Further, a letter dated 25.05.2024 (RUD-13) to the DRI was sent for forensic test, software testing and valuation of 01-Pen drive.

4.9 During the course of investigations, the retrieval of data from 01-Pen drive (PROXKey, FIPS140-2 L3, Watchdata, WD07288243) was started of the above said device under Panchanama dated 31.05.2024. As per the DRI say the device was not a pen drive/storage device but a dongle containing the Digital Signature Software (DSC Token), hence imaging of data was not possible for the dongle and the report would not be generated.

## **5. Valuation:**

5.1 The value of the goods exported vide Shipping Bill No. 9714762 dated 08.05.2024 (in Table-I) including the value of the goods exported vide the past 03-shipping bills (in table-

II) retrieved from the EDI ICES 1.5 system appears to be over-valued. The details of the past exports are (in table-II) as under: -

**Table-II**

Sr. No.	Sb No./Sb Dt.	FOB (IN Rs.)	DBK (In Rs.)	RoDTEP (In Rs.)	ROSCTL (in Rs.)	IGST (In Rs.)
1	9089833/12.04.2024	10,96,276.2	10,963	8,770	0	1,99,359.36
2	9436804/26.04.2024	13,73,481.6	13,735	10,988	0	2,49,199.2
3	9436805/26.04.2024	13,73,481.6	13,735	10,988	0	2,49,199.2
Total		38,43,230.2	38,433	30,746	0	6,97,757.8

5.2 The actual value of the goods was not in consonance with exporter's declaration. Hence, the declared value appears to be rejected as per Rule 8 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007. Accordingly, as per Rule 3(3) ibid, since the value of the impugned goods could not be determined under the provisions of Sub Rule (1), the value was to be re-determined by proceeding sequentially through Rule 4 to Rule 6 of the Customs Valuation (Determination of Value of Export Goods) Rules, 2007('CVR, 2007' for brevity).

Hence, the FOB of live Shipping Bills No. 9714762 dated 08.05.2024 (in table -I) and past 03 shipping bills (in table -II) may not be considered as declared. FOB of live Shipping Bills No. 9714762 dated 08.05.2024 with quantity 17 of goods of each having value Rs. 250/-may be re-determined (detailed in table-III) as  $17*250=Rs.4250/$ .

**Table-III**

Live Shipping Bill Count	01
Quantity of goods	17
Value of 01 goods as per statements dated 17.05.2024 (RUD-7), 06.06.2024 (RUS-17) and 26.06.2024 (RUD-18), of the exporter Shri Manoj Jayeshbhai Shingala	Rs.250/-
Total Re-determined FOB of Shipping Bills No. 9714762 dated 08.05.2024	Rs. 4250/

Details of the Shipping Bills No. 9714762 dated 08.05.2024 are as under retrieved from 1.5 ICES system:

Live FOB Value (in Rs.)	93,62,875.2/-
Live Drawback Value (in Rs.)	93,629/-
Live RoDTEP /ROSCTL Value (in Rs.)	74,903/-
Live IGST amount (in Rs.)	16,94,554.56/-

**Table-IV**

Sr. No	SB No	SB Date	QTY	DECLARATED RATE (USD)	DECLARED TOTAL VALUE (USD)	FOB (IN RS)	DESCRIPTION OF GOODS	REDETERMINED RATE (INR)	REDETERMINED TOTAL VALUE
1	9714762	08.05.24	17	6672	113424	9362875.2	INSTALLEED PROGRAMS IN PEN DRIVE (INCLUDING SET UP OF DIGITAL SOFTWARE, SUPPORT SERVICES FOR 4	250	4250
2	9089833	12.04.24	4	3336	13344	1096267.2	INSTALLEED PROGRAMS IN PEN DRIVE (INCLUDING SET UP OF DIGITAL SOFTWARE, SUPPORT SERVICES FOR 2	250	1000
3	9436804	26.04.24	5	3336	16680	1373481.6	INSTALLEED PROGRAMS IN PEN DRIVE (INCLUDING SET UP OF DIGITAL SOFTWARE, SUPPORT SERVICES FOR 2	250	1250
4	9436805	26.04.24	5	3336	16680	1673481.6	INSTALLEED PROGRAMS IN PEN DRIVE (INCLUDING SET UP OF DIGITAL SOFTWARE, SUPPORT SERVICES FOR 2	250	1250
TOTAL						13206105.6			7750

**6. Role of Customs Broker: -**

6.1 The CB is an agent of the exporter. He works on behalf of the Exporter. He also takes authorization to work on behalf of the exporters. The CB is fully aware that omission and commission by the exporter affects the working of the image of CB. It is a business practice that CB knows on whose behalf they are working, as CB can face investigation for omission and commission at any time. As per CB Regulation, a CB is required to know the client. Even in the absence of such a requirement, it is a business practice that the CB

knows on whose behalf they are working as the relation between CB and exporter is a long-time relation. Unlike retail businesses where a customer comes to a retail shop and transaction concludes in a moment, the relationship between the CB and the exporter is a long-term relationship so it is not possible that CB does not know the exporter. The CB had been dealing with such individuals to collect documents and collect goods. The CB must have raised his fees from the same source. It is also not possible for CB to deal with non-existing persons.

6.2 As per the Show Cause Notice No. 73/ADC/EXP.ASSMT. /2024-25/ACC(X), dated 21.02.2025, the Custom Broker did not exercise due diligence to ascertain the correctness of any information he imparted to the client and the CB did not advise the client accordingly to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof. Further, penalty against the Custom Broker under Section 114AA and/or 114(iii) and/or 114 AC of the Customs Act, 1962 read with CBLR 2018 was proposed in the subject Show Cause Notice.

6.3 Further, it was alleged that the CB had not fulfilled the obligations under Regulation 10(d), 10(e), 10(m) and 10 (n) of CBLR, 2018. However, the investigation revealed that M/s Shri M&J Export, a merchant exporter, procured goods from M/s. Star Solutions, Jaipur, without legitimate invoices. Shri Manoj Jayeshbhai Shingala, the exporter's partner, admitted to preparing fake invoices to claim export benefits. The CB acknowledged in his statement dated 27.05.2024 that they failed to verify the supplier's name. The goods were sourced from the Domestic Tariff Area (DTA) without invoices, and the CB did not advise the exporter about Circular No. 16/2009-Customs dated 25.05.2009, which requires merchant exporters to declare the name and address of suppliers when claiming drawback benefits. This failure suggested that the CB abetted the exporter in availing undue benefits like RODTEP, Drawback, and ITC. Additionally, the CB did not perform its duties with utmost efficiency as required under Regulation 10(m) of the CBLR, 2018. However, the CB did verify the exporter's address through its employee and a courier agent, and the Investigating Agency confirmed the validity of the exporter's IEC and GSTIN details.

6.4 In summary, the CB's negligence in advising the exporter about the mandatory declaration and its failure to verify supplier details constituted a breach of its regulatory obligations, contributing to the exporter's fraudulent activities. When questioned about the exporter's submission of fake invoices and bills, Shri Nitin stated that M/s. Wishwa Naveen Traders had no knowledge or information about the fraudulent documents. He emphasized that, as a Customs Broker, they did not verify the supplier of goods, as the exporter is responsible for submitting the tax invoices.

6.5 In view of the above observation and as per afore-mentioned Show Cause Notice, it appeared that the CB had not fulfilled the obligations of Regulations Regulation of 10(d), 10(f) & 10(m) of CBLR, 2018.

7. From the investigations in the above-mentioned case, the following omission leading to violation of obligations stipulated in Regulation 10 of CBLR, 2018 were apparent:

**i) Sub-regulation 10 (d) of the CBLR, 2018:**

*"A Customs Broker shall advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of noncompliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;"*

From the facts of the offence report and the statement of Shri Manoj Jayeshbhai Shingala, Partner of the exporter firm M/s. M & J Exports & brother of Shri Nikunj Shingala, Proprietor of Exporter Firm M/s Shri Narayanmuni Enterprise, it was evident that the exporter, M/s Shri Narayanmuni Enterprise, operated as a Merchant Exporter and had purchased the impugned goods from M/s. Star Solutions, Jaipur, without any legitimate invoices. Shri Manoj Jayeshbhai Shingala himself prepared fake and bogus invoices to avail export benefits.

Furthermore, Shri Nitin Naveen Dhawan, an F-Card holder of the CB firm, admitted in his statement recorded on 27.05.2024 that they failed to verify the supplier's name. The investigation revealed that the goods were procured from the Domestic Tariff Area (DTA) without any invoices. Consequently, the CB failed to advise the exporter regarding Circular

No. 16/2009-Customs dated 25.05.2009, which mandates that merchant exporters purchasing goods from the open market must furnish a declaration at the time of export. This declaration should include the name and complete address of the traders from whom the goods were purchased to claim drawback benefits. The CB's failure to provide this crucial advice to its client suggested that the CB abetted the exporter in availing undue export benefits, such as RODTEP, Drawback, and ITC. Additionally, in case of non-compliance with the declaration as mandated in the aforementioned circular, the CB should have brought the same to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs. In conclusion, the CB's actions demonstrated a clear violation of Regulation 10(d) of the CBLR, 2018.

**ii) Sub-regulation 10(f) of the CBLR, 2018:**

*“A Customs Broker shall not withhold information contained in any order, instruction or public notice relating to clearance of cargo or baggage issued by the Customs authorities, as the case may be, from a client who is entitled to such information;”*

It was observed from the offence report that the exported items were procured from M/s. Star Solutions, Jaipur, and the exporter did not submit the required declaration as per Circular No. 16/2009-Customs dated 25.05.2009. It was the responsibility of the CB to advise the exporter to furnish the aforementioned declaration, However, the CB withheld the information contained in Circular No. 16/2009-Customs dated 25.05.2009 from the exporter, who was entitled to such information. Thus, it appeared that the CB failed to perform its due obligation under Sub-regulation 10(f) of the CBLR, 2018.

**(iii) Sub-regulation 10(m) of the CBLR, 2018 which reads as:**

*“A Customs Broker shall discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay;”*

From the perusal of the offence report, it was apparent that the Customs Broker did not verify the supplier's name. Additionally, as the exporter, M/s Shri Narayanmuni Enterprise, is a “merchant exporter,” the CB not only failed to advise the exporter but also withheld the information contained in Circular No.16/2009-Customs dated 25.05.2009

from the exporter, who was entitled to such information. Thus, it appeared that the CB did not perform its duty with the utmost efficiency as mandated under Regulation 10(m) of the CBLR, 2018. From the above stated facts and outcome of the investigation, it appeared that the CB M/s Wishwa Naveen Traders (CB License No. 11/711) had failed in fulfilling the obligations as mandated under CBLR, 2018 and has violated the regulation 10(d), 10(f) & 10(m) of CBLR. 2018.

#### **8. SHOW CAUSE NOTICE:**

In view of the offence report received in the form of a Show Cause Notice No. 73/ADC/EXP.ASSMT. /2024-25/ACC(X), dated 21.02.2025, action under the CBLR, 2018 was taken against the Customs Broker M/s Wishwa Naveen Traders (CB License No. 11/711). In view of the Board's Instruction No. 24/2023 dated 18.07.2023, the case was not considered appropriate for immediate suspension of the CB license under Regulation 16 of CBLR, 2018. However, the inquiry under Regulation 17 of CBLR, 2018 was initiated against the Customs Broker M/s Wishwa Naveen Traders (CB License No. 11/711) and accordingly, based on the Offence Report, the following articles of Charges were framed against the CB:

- (i) Article of Charge-I: Violation of Regulation 10(d) of CBLR, 2018.
- (ii) Article of Charge-II: Violation of Regulation 10(f) of CBLR, 2018
- (iii) Article of Charge-III: Violation of Regulation 10(m) of CBLR, 2018

8.1 In light of the above, a Show Cause Notice Show Cause Notice No. 84/2024-25 dated 27.03.2025 was issued to the CB under the provisions of Regulation 17(1) of CBLR, 2018 wherein the CB was called upon to show cause, as to why:

- a. The Customs Broker License bearing no. 11/711 issued to them should not be revoked under regulation 14 read with regulation 17 of the CBLR, 2018;
- b. Security deposited should not be forfeited under regulation 14 read with regulation 17 of the CBLR, 2018;
- c. Penalty should not be imposed upon them under Regulation 18 read with Regulation 17 of the CBLR, 2018.

8.2 Also, Shri Ajay Kumar Prithyani, Assistant Commissioner of Customs, was appointed as Inquiry Officer (IO) to conduct the inquiry proceedings in the matter. The IO concluded the inquiry proceedings and submitted the Inquiry Report dated 28.08.2025, which is discussed below.

## **9. INQUIRY REPORT**

9.1 Inquiry Officer granted Personal Hearing to the Customs Broker M/s. Wishwa Naveen Traders (11/711) on 09.06.2025 and thereafter submitted Inquiry Report dated 21.08.2025. In the IO report dated 21.08.2025, the charges against the CB M/s. Wishwa Naveen Traders (11/711) i.e. violation of Regulation 10(d), 10(f), and 10(m) of the CBLR, 2018 were held as "Not Proved".

### **9.2 Comments of the Inquiry Officer:**

9.2.1 The IO observed that the investigations conducted in the matter did not reveal any fact which indicates that the Charged CB was aware that forged/manipulated Commercial Invoices were prepared by the Exporters to inflate the FOB Value of export goods and thereby availment of undue benefits from the exchequer, that being acting in the capacity of a CB only and the CB firm is not required to make any declaration of the value nor is he required under the law to file description of goods. The IO submitted that CB's role is limited to facilitate the proper filing of the documents on the basis of Invoices, Packing List, Self-Declarations received from the exporter. The IO stated that the CB firm is not required to go in to verify the authenticity of the value of the goods etc. His job is confined to the submissions of the papers as given by the exporter and to identify the exporter to the Customs Authorities which they did so when the goods were duly assessed and examined by the Customs Authorities. In this case, the IO submitted that the CB firm appeared to be acted in a responsible way by verifying the KYC documents, confirming the business address and antecedents of the exporter before undertaking the export clearance shipments. The IO stated that there is nothing to show that the acts of the CB firm, or any of its employees could be attributed to any conscious or deliberate misstatement on behalf of the Exporter. In the instant case, the IO stated that there is no corroborative evidence or

statement of any entity that the CB had either information, knowledge or has alleged forgery of invoices, misdeclaration or had actively connived in the overvaluation or advised the exporter, brought on the records by either of the investigating agencies. This fact is confirmed with the voluntary statement of the handler and brother of the Proprietor of the Exporting firm who took sole responsibility of creating of forged Invoices, overvaluation and mis-statement and confirmed that apart from him no one was aware of his fraudulent Acts. Furthermore, the IO submitted that it is pertinent to note here that all the nine (09) export consignments were duly assessed and examined by the Proper Officers of Customs and after due satisfaction granted LEO for the same. The IO submitted that even the live consignment covered under S/Bill No. 9714762 dated 08.05.2024 had been intercepted after LEO has been granted for the same and called back from Airport Terminal. Thus, it appears that there are no grounds to attribute any negligence to the CB in the instant case.

9.2.2 The IO submitted that he proceeded to dwell on the charges framed against the Charged CB firm, M/s. Wishwa Naveen Traders (CB No.11/711; CB PAN No. ADIPD0504D).

9.2.3 Regarding violation of Regulation 10 (d) of the CBLR, 2018, it is alleged in the said SCN that the CB did not advise the exporter and abetted the exporter by declaring the incorrect value of the goods in S/Bills against the fake invoices to avail undue export incentives in form of Drawback, RoDTEP and ITC under IGST and did not bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs.

9.2.4 The defence submitted that the Exporter was a seasoned exporter and used to export various goods before starting export of "Installed Programs in Pen Drive (including Set Up of Digital Signature Software Support Services for 4 Years)". The IO found that there is no substantial evidence on record to hold that the CB firm had not sensitized their client to comply with the provisions of the Customs and Allied Acts. Being a seasoned Exporter, it is bare minimum expectation from the exporter about the basic knowledge of Custom and Allied Acts in force. In the instant case, the CB firm submitted that they had sensitized the

exporter to follow all the provisions of Customs Act and Rules & Regulations made thereunder. Further, the IO found that the CB firm cannot be held responsible for the declared value and cannot be expected to know about the source of the procurement of the export goods by the exporter as it is prerogative of the exporter to procure the goods at the pre-decided value from their vendor. Furthermore, the IO stated that being the technical nature of the export goods it is not expected from the CB firm that they are aware about its value as the value of Software varies on the basis of nature of the subject software and uses thereof.

9.2.5 The IO found that it is proven fact in the instant case, that the Charged CB firm has filed nine (09) S/Bills (including live S/Bill) on behalf of the Exporter on the basis of Invoice, Packing List and Self-Declaration Form provided by the exporter, which was filed by the CB firm in 1.5 ICES System and generated Checklist and after confirmation from the exporter the said Checklist was uploaded in ICEGATE for generation of S/Bill No. It is a matter of fact that all the S/Bills were assessed and examined by the Customs Officers and only after due satisfaction granted LEO for the same (even LEO for live S/Bill was granted) The IO found that it cannot be expected from any CB firm to act as an investigator to find out whether the details being furnished by the exporter are correct or not. The CB has to verify the correctness of the documents and details made available by the exporter and verify the same based on the reasonable resources at his command. It is a general trade parlance that the Exporter only procures the export goods and submitted Export Invoice and Packing List to the CB firm for filing the same before Customs in form of S/Bill and facilitate clearance of the goods.

9.2.6 The IO found that the Charged CB in their written reply submitted that it is trade practice that they had discussed, sensitized and obtained confirmation from the exporter about the correctness of the contents in the Checklist including classification and value of the goods. Details of said goods have been verified and cleared for export by the Proper Officer of Customs.

9.2.7 On perusal of allegations made against them in the impugned SCN, it appeared that it is baldly alleged that the Charged CB has knowingly connived with the exporter and actively participated in the overvaluation of the goods in S/Bills. In the instant case, the IO submitted that the exporter used to forward the goods directly to ACC through their own logistics team and forward the relevant export documents through E-mail or hand delivery through Freight Forwarding firm, M/s. Pace Express Pvt. Ltd. The IO submitted that the subject allegation is made without any cogent documentary or circumstantial evidence. In contrary, it is a matter of fact that Shri Manoj Jayeshbhai Shingala, handler and beneficial owner of exporter firm, M/s. Shri Narayanmuni Enterprise, in his voluntary statement recorded u/s. 108 of the Customs Act, 1962 had admitted that he was sole responsible for the said overvaluation and attempt to avail undue export incentives and no one else, including the Charged CB was aware about the same. It is a settled law that the statements and admissions under the provisions of Section 108 ibid are having evidentiary value and can be used against the person or any other person/entity whose name has appeared in such statement in any judicial or quasi-judicial proceedings. This admission on the part of the handler and brother of the Proprietor of exporting firm (who solely handles all the activities of the firm) is admissible in present quasi-judicial proceedings, which made it clear that the Charged CB firm or any of their employees are aware of the said fraudulent act of the handler and brother of the Proprietor of exporting firm. Further, the Io submitted that no other evidence was brought forward by the Investigating Agency or the CBS Section to point the active participation of the Charged CB firm in present case. Accordingly, it is a matter of fact that they as CB had nothing whatever to do with the alleged fake invoices of local purchase procured by the exporter.

9.2.8 In this regard, the IO submitted that he had gone through the SCN No. 84/2024-25 dated 27.03.2025, wherein Shri Manoj Jayeshbhai Shingala, the brother of the Proprietor of the exporting firm (who solely handles all the activities of the firm) in his voluntary statement had accepted that the CB M/s, Wishwa Naveen Traders (PAN: ADIPD0504D) No. 11/711 was authorized by him to handle clearance of the goods as well as he admitted

to generating fake invoices and he claimed sole responsibility for the fraudulent activities. These voluntary admissions made it pretty clear the bona fides of the Charged CB firm in handing these export consignments.

9.2.9 The IO submitted that he had also gone through the SCN No. 84/2024-25 dated 27.03.2025, wherein, Shri Nitin Naveen Dhawan, 'F' Card and Power of Attorney holder of the Charged CB firm in his statement recorded u/s. 108 of the Customs Act, 1962, wherein, he has stated that they do not have any knowledge about the allegedly preparation of fake purchase Bills or of the export goods being overvalued. The IO found that the need to advise a client would arise only if the CB was aware about such mis-declaration by the exporter/importer. The IO observed that assessment and physical examination of said goods had been conducted and cleared for export by the Proper Officer of Customs. Hence, the IO found substance in the submissions made by the Charged CB.

9.2.10 Further, the Charged CB submitted that they never suspected or found anything illegal which was required to be brought to the notice of the Authorities since they had no knowledge of the alleged overvaluation of export goods and fake invoices of local procurement. Therefore, the IO submitted that he is of the considerate view that it cannot be said that the Charged CB had aided and abetted the exporter.

9.2.11 The IO found that there was no corroborative evidence in the form of statement or any other form to establish that the CB firm, M/s, Wishwa Naveen Traders (CB No. 11/711; CB PAN NO. ADIPD0504D) was aware about the over-valuation or existence of fake invoices. The IO found that charges of declaration of the incorrect value of the goods in S/Bills against the fake invoices to avail undue Drawback and non-sensitizing the Exporter by the CB firm are not sustainable.

9.2.12 The IO found that no material evidence has been brought on record regarding the involvement of the Charged CB or their Directors/Employees in mis-statement of value in the S/Bills and availment of undue export incentives in form of Drawback, RoDTEP and IGST by the exporter, M/s. M&J Export.

9.2.13 The IO found that there was no evidence cited in SCN to show that any advice contrary to the provisions of the Customs Act 1962, other allied Acts and the Rules and Regulations was given by the Charged CB, M/s, Wishwa Naveen Traders (CB No.11/711; CB PAN No. ADIPD0504D) to the exporter M/s. Shri M&J Export. Thus, in absence of any such evidence, no contravention of Regulation 10 (d) of CBLR, 2018 can be alleged.

9.2.14 From the above, the IO submitted that he did not find substance in the charge that the CB has failed in advising the client to comply with the provisions of the Act, other allied Acts and the Rules and Regulations made thereunder. Accordingly, the IO found and hold that the contents of Article of Charge-I alleging violation of Regulation to (d) of the CBLR, 2018 as "**Not Proved**"

9.2.15 In respect of alleged violation of provisions of Regulation 10 (f) of CBLR, 2018 is concerned, the Revenue alleged that the Exporter did not furnish the declarations at the time of exports in format annexed with the Circular No. 16/2009-Customs dated 25.05.2009 Thus, the CB failed to verify the said declaration at the time of exports in format annexed with the Circular No. 16/2009- Customs dated 25.05.2009, which is gross negligence on the part of the CB.

9.2.16 In this regard, the IO submitted that the Charged CB in their written/oral reply submitted that the CB had submitted all the relevant documents, viz. Invoice, Packing List, Self-Declaration Form, Tax Invoice and other relevant documents w.r.t. clearance of export goods. All the relevant documents were carefully scrutinized by the then Customs Officers and only after being satisfied with the contents of the same they assessed the S/Bills and the Shed Officer, after they verified description, quantity, RITC and value of the consignments granted LEO for the same.

9.2.17 The IO submitted that the CB after being satisfied with the declarations in Invoice and Packing List w.r.t. description, RITC and value, used to file Checklist in ICES System, thereafter got confirmation about correctness of the Checklist from the Exporter, then only they (CB) used to file S/Bill in ICEGATE which subsequently transferred electronically to

the Assessing Officer and Shed Officer. The Assessing Officer after being satisfied with the declarations either transmit the S/Bills to the Shed Officer or called for any further explanation information from the Exporter or CB. The Shed Officer, who after being satisfied with the contents of the consignment w.r.t. description, quantity, RITC and Value thereof granted LEO for the same. The IO submitted that as and when any query raised by the Customs Officials the CB got the explanation from the Exporter and submits the same to the Customs Officer for further necessary action.

9.2.18 Furthermore, The IO found that the Exporter in the present case is not new to the trade and exporting goods since 2016, therefore, it is irrelevant to state that the Exporter is not aware about the Circular No. 16/2009-Customs dated 25.05.2009. The CB also informed the Exporter about the said Circular at the relevant time and took the requisite declaration from them and submitted to Customs Officer and only after being satisfied with the documents, the said Customs Officers assessed and granted LEO for the consignments.

9.2.19 The IO found that there is nothing on record to indicate the circumstances in which the Charged CB withheld any information that would involve violation of Regulation 10 (f). It is alleged in the SCN that Charged CB did not provide information regarding Circular 16/2009-Customs to the exporter, but no evidence has been produced to substantiate the claim. The IO submitted that the said Circular dated 25.05.2009 issued by CBIC, which casts burden on the exporter for claiming Drawback is readily and freely available on open web platform. Thus, the IO found and hold that the contents of Article of Charge-II alleging violation of Regulation 10(f) of the CBLR, 2018 as "Not Proved".

9.2.20 In respect of alleged violation of provisions of Regulation 10 (m) of CBLR, 2018 is concerned, the Revenue re-iterated the same allegations as against above said two charges. It is alleged that the CB did not verify the supplier's name. Additionally, as the Exporter, M/s. M&J Export, is a "Merchant Exporter", the CB not only failed to advise the Exporter but also withheld the information contained in Circular No. 16/2009-Customs dated 25.05.2009 from the Exporter, who was entitled to such information, which mandates that Merchant exporters purchasing goods from the open market must furnish a declaration

at the time of export. This declaration should include the name and complete address of the traders from whom the goods were purchased to claim Drawback benefits. Thus, it appears that the CB did not perform its duty with the utmost efficiency as mandated under Regulation 10 (m) of the CBLR, 2018.

9.2.21 In this regard, the Charged CB submitted that the provisions of Regulation 10 (m) have stipulated to discharging of duties as a Customs Broker with utmost speed and efficiency and without any delay and there is no allegation from the Exporter that they have had made any delay in filing of S/Bills or clearance of goods from Customs Authorities. Therefore, the allegations made w.r.t. this Regulation vis-à-vis facts of the present case is totally misplaced.

9.2.22 In view of above discussions and findings the IO found that the allegations made by the Department that they had not sensitized the exporter to comply with the provisions of Customs and Allied Acts as well as non-submission of declaration w.r.t. details of suppliers is concerned, it is matter of fact that the Charged CB had submitted all the relevant documents to the Department as well as submitted the additional documents as and when called for by the Customs Officers and only after satisfied with all aspects of the consignments the Proper Officers of Customs has assessed and examined the goods and granted LEOs thereof.

9.2.23 Also, owing to the provisions of the Regulation 10 (m) of CBLR, 2018, the allegations made in this Article of Charge is not correct, hence, the IO found and hold that the allegations made in Article of Charge-III w.r.t. violation of provisions of Regulation 10 (m) found to be "Not Proved".

9.2.24 The IO found that the in the written reply to the SCN, the Charged CB had discussed and kept reliance on various case laws of various legal forums in their defence. The IO found that owing to the facts of the case, the ratios of these case laws are appropriate and applicable.

## **10. SUMMARY OF THE FINDINGS:**

The IO submitted that he had concluded the Inquiry and the summary of the findings is under:

1.	Violation of Regulation 10(d) of CBLR, 2018	Not Proved
2.	Violation of Regulation 10(f) of CBLR, 2018	Not Proved
3.	Violation of Regulation 10(m) of CBLR, 2018	Not Proved

## 11. Disagreement Memo

The Inquiry Officer in his report dated 21.08.2025 held the Charges for violation of regulation 10(d), 10(f), and 10(m) as "Not Proved". Commissioner of Customs (G), Mumbai-I disagreed with the Inquiry Officer's report in the respect of the Charges under regulation 10(d), 10(f) and 10(f) in the light of available evidences on record. Therefore, a Disagreement Memo dated 07.11.2025 was issued by the Commissioner of Customs (G), Mumbai-I. Under the provisions of Regulation 17(6) of CBLR, 2018 a copy of the Inquiry Report dated 21.08.2025, Disagreement Memo dated 07.11.2025 was shared with the CB and further, to uphold the Principle of Natural Justice an opportunity of personal hearing was granted to the CB on 16.12.2025.

## 12. RECORDS OF PERSONAL HEARING

The personal hearing in the matter was fixed on 16.12.2025, Ms Aishwarya Kantawala, Authorized Representative and Shri Harsh Gosalia, appeared for the hearing and submitted their written submission dated 16.12.2025. They submitted a written reply dated 06.01.2026 and reiterated the same. Accordingly, the written submission of the CB was taken on record.

## 13. WRITTEN SUBMISSIONS OF THE CB: -

13.1 The CB submitted that the Disagreement Memo seeks to impose the entire burden of the Exporter's alleged violations under the Customs Act, 1962 upon the CB, which is

not only beyond the scope of the CBLR, 2018 but also traverses beyond the Show Cause Notice.

13.2 The CB submitted that the Disagreement Memo dated 07.11.2025 is completely devoid of merits and does not in any way consider the findings of the Inquiry Report dated 21.08.2025 in the right spirit, wherein it was found that all charges framed under Regulation 10(d), 10(f), and 10(m) of the Customs Broker Licensing Regulations (CBLR), 2018, were "Not Proved". The Inquiry Officer (I.O.), after a thorough evaluation of the evidence and CB's detailed reply dated 06.06.2025 as well as Oral Submissions during Personal Hearing dated 09.06.2025, rightly concluded that the CB acted with due diligence and that no lapse is attributable to them.

13.3 The CB further submitted that the IO correctly noted that the CB's role is not that of an investigator but limited to facilitating the proper filing of the documents. It has been concluded that they filed the Shipping Bills based entirely on the documents provided by the exporter. The IO noted that nothing revealed any indication that the CB was aware of forged/manipulated commercial invoices prepared by the Exporter to inflate the FOB Value of export goods and thereby, availment of undue benefits from the Ex-chequer. The IO duly noted that the CB is not required to make any declaration of the value nor is required under law to file description of goods. The IO rightly concluded that the CB's role is limited to facilitate the proper filing of the documents on the basis of invoices, packing list, self-declarations received from the exporter and is not required to verify the authenticity of the value of the goods. The IO noted the responsible manner of the CB in verifying the KYC documents, confirming the business address and antecedents of the exporter before undertaking export clearance of the shipment. The CB submitted that the IO has rightly concluded that nothing could be attributed to any conscious or deliberate misstatement on behalf of the exporter by the CB. The CB submitted that this exoneration is in absence of any corroborate evidence or statement of any entity of their knowledge of participation in the alleged acts by the exporter. The CB

submitted that it cannot be ignored that the exporter took sole responsibility of creating forged invoices, overvaluation and misstatement. It has been correctly held that the export consignments were duly examined and assessed by the Proper Officer and only after their due satisfaction, the LEO was granted. The CB submitted that this direct involvement of the Proper Officer in the Assessment and Examination, as per the established process, absolves them. The CB submitted that the findings of the IO are reasoned, factually correct, and legally sound, and should be upheld.

13.4 The CB further submitted that at the outset, the Disagreement Memo is misconceived. Assuming and denying for the sake of argument, that the CB faulted to advise the exporter to comply with requirement under Circular No. 16/2009, that cannot be seen as a failure which facilitated the exporter's fraud and even remotely cannot be termed as Abetment by Omission especially considering that the exporter admitted to generating fake and bogus invoices to claim undue export benefits. The CB submitted that there is absolutely no evidence to prove that the CB did not advise the exporter to comply with his requirement and it cannot even by implication be suggested that their failure, assuming and denying, would have facilitated the exporter's fraudulent claims. Further, the CB stated that his statement dated 27.05.2025 has been misconceived and wrongly interpreted as he has not admitted to any such omission and failure to verify the supplier's identity but has in fact, clarified that being a Customs Broker, the verification of the supplier of the goods is not done as the exporter submits the Tax Invoice of the goods (Para 6.1.2 of the Disagreement Memo).

13.5 The CB submitted that they cannot be an Investigator and cannot take the role of a Customs Officer "to detect and report the absence of genuine invoices" and cannot be seen as a lapse in professional conduct or breach of Regulatory Duty, Further, in fact, the word "abetment/active conspiracy" does not appear in the CBLR provisions which cannot be overread. Assuming for the sake of argument that there was failure to verify the supplier's identity, the same cannot be overread and over interpreted in Regulation 10(d). Furthermore, the CB stated that the alleged fraudulent intent was executed solely by the

Exporter, without any knowledge, participation, or connivance on the part of them. The CB submitted that the duty under Regulation 10(d) is advisory in nature and presupposes that the Customs Broker is aware of circumstances requiring such advice. The CB respectfully submitted that the verification and investigation of commercial terms, antecedents and supply chain of an exporter from any such third-party supplier is beyond the scope of due diligence expected of a Customs Broker under the CBLR, whose purview is primarily restricted to the export documents and physical goods for Customs purposes. The CB submitted that it is the Disagreement Memo which expects more than the standard of diligence and compliance expected under CBLR, 2018. (Para 6.1.3 and 6.1.4).

13.6 In regard to Regulation 10(f), the Hon'ble CESTAT has time and again emphasized that a Customs Broker is not to carry put substantive verification of declaration and check the existence or correctness of material particulars pertaining to acquisition of goods for export. It is submitted that such an exercise would result in exaggerating the scope of Regulation 10(f) and reading beyond and rather between the lines by foisting unnecessary investigatory burden on the C.B. Reliance is placed on the Order of Hon'ble CESTAT, Mumbai in the case of *Bablani Clearing Forwarding & Logistics Co. Pvt. Ltd. v. Principal Commissioner of Customs*, reported in 2025 SCC OnLine CESTAT 1746, to submit that a Customs Broker cannot be treated as a guarantor of the importer/exporter's conduct, and cannot be penalized for fraud committed independently by the Exporter. (Para 7.1.1-7.1.3 of the Disagreement Memo).

13.7 The CB submitted that in the absence of any knowledge of the forged documents, there was no occasion for them to advise the Exporter against engaging in fraudulent conduct. The CB submitted that the grant of LEO by the Customs Officer, after thorough scrutiny, Assessment and Examination of goods confirms that the documents presented by them were considered sufficient for export at the time, and such intervening step by the Customs Officer, validates the bona fides of the documents presented by the CB. The CB submitted that the onus to prove any kind of negligence or default in duties therefore shifts to the Customs Officer Who Assessed the S/B and granted the LEO, and not them who

merely processed the documentation. Even if assuming but not admitting that the CB filed Shipping Bills without producing the necessary details in the format prescribed by the CBIC Circular No. 16/2009-Customs dated 25.05.2009, the same cannot be treated as default in obligation as the same were found complete Proper Officer of Customs, only after which the LEO was granted. The CB therefore submitted the allegation of default under Regulation 10(d) & (f) is unsustainable.

13.8 The CB submitted that the Adjudicating Authority has vide the Disagreement Memo effectively re-written the plain language of Regulation 10(f) to import obligations that the statute does not impose, thereby shifting the Exporter's responsibility onto the Customs Broker, which was not the intent of the legislature and finds no place in the Regulations. The CB submitted that they had no knowledge of, nor participation in, the alleged fraud and in any event lacked the means and authority to verify the Exporter's internal records or intent. The CB submitted that the Department's re-characterization of Regulation 10(f) in the Disagreement Memo is therefore a material misapplication of law and fact, which has unfairly implicated them and rendered the adjudicatory process vitiated. For these reasons the CB stated that the allegation under Regulation 10(f) is unsustainable and must be dismissed. The CB submitted that such a deliberate re-characterization of Regulation 10(f) represents a grave misapplication of the statutory scheme.

13.9 The CB further submitted that the Disagreement Memo found them defaulting in their obligation under Regulation 10(m) of CBLR, 2018 at Para 8 of the Disagreement Memo. The CB submitted that the AA is relying on the Offence Report which is issued pre-investigation and is a prima-facie Report alleging offences, whereas, contrastingly, an Inquiry Officer's Report is a conclusion basis thorough investigation, The CB submitted that there is no substantive obligation on the CB under Regulation 10(m) and such import of inferences to suggest that a CB should ensure regulatory compliance is erroneous. (Para 8.1.1 - 8.1.3 of the Disagreement Memo). The CB submitted that the allegation under Regulation 10(m) is manifestly baseless as there is not a shred of acceptable evidence to show any delay in filing the Shipping Bill. Carting the goods, or de-stuffing for

examination by the Proper Officer of Customs, neither the Exporter nor the statutory officers entrusted with assessment and examination have ever suggested that they caused any delay. The CB submitted that to import a finding of default in these circumstances is a patent overreach as it invents culpability where none exists and seeks to punish them for conduct that is neither pleaded nor proved. The CB submitted that the charge under Regulation 10(m) is therefore wholly unsustainable in law and must be rejected. The CB submitted that they had place reliance upon the judgments of Kunal Travel (Cargo) Vs. Commissioner of Customs & Central Excise reported in 2017 (354) E.L.T. 46 (All.) affirmed by Supreme Court in 2017 (354) E.L.T. A16 (S.C.), and World Line Cargo Movers Vs. Commissioner of Customs (Airport & General), New Delhi reported in 2024 (388) E.L.T. 334 (Tri. -Del.).

#### **DISCUSSIONS AND FINDINGS:**

14. I have gone through the facts and records of the case; the offence report received in the form of Show Cause Notice No. 73/ADC/EXP.ASSMT./2024-25/ACC(X), dated 21.02.2025, issued by the Additional Commissioner of Customs (Export), Air Cargo Complex, Sahar, Mumbai.; Show Cause Notice No. 84/2024-25 dated 27.03.2025 issued under Regulation 17(1) of CBLR, 2018; Order-in-Original No. JC/NP/16/2025-26/ADJ(X) ACC dated 09.09.2025 issued by the Joint Commissioner of Customs (Export), Air Cargo Complex, Mumbai; Inquiry Report dated 21.08.2025, Disagreement Memo dated 07.11.2025, PH records dated 16.12.2025 and the CB's written submission dated 16.12.2025.

15. Briefly stated, the investigation into M/s Wishwa Naveen Traders was initiated following an NCTC alert regarding Shipping Bill No. 9714762 dated 08.05.2024, which uncovered a systematic attempt by a coordinated syndicate involving M/s Shri Narayanmuni Enterprise and M/s M&J Export to defraud the exchequer. The exporter mis-declared "installed programs in pen drive" at an exorbitant value of Rs. 93.62 Lakhs, whereas subsequent admissions by the operator, Shri Manoj Jayeshbhai Shingala, revealed the items were actually DSC tokens worth only Rs. 250/- per piece, representing a 37,000%

overvaluation designed to illicitly claim Drawback, RoDTEP, and IGST refunds through fake purchase orders and bogus invoices. The authorized F-card holder, Shri Nitin Naveen Dhawan, admitted that the firm neither verified the procurement source nor advised the merchant exporter on the mandatory supplier disclosure requirements under Circular No. 16/2009-Customs, thereby facilitating the filing of mis-declared documents and the siphoning of government revenue.

16. I find that the charge of violation of Regulation 10(d) of the CBLR, 2018 has been levelled against the CB on the grounds that, 'From the facts of the offence report and the statement of Shri Manoj Jayeshbhai Shingala, Partner of the exporter firm M/s. M & S J Exports & brother of Shri Nikunj Shingala, Proprietor of Exporter Firm M/s Shri Narayanmuni Enterprise, it is evident that the exporter, M/s Shri Narayanmuni Enterprise, operated as a Merchant Exporter and had purchased the impugned goods from M/s. Star Solutions, Jaipur, without any legitimate invoices. Shri Manoj Jayeshbhai Shingala himself prepared fake and bogus invoices to avail export benefits.

Furthermore, Shri Nitin Naveen Dhawan, an F-Card holder of the CB firm, admitted in his statement recorded on 27.05.2024 that they failed to verify the supplier's name. The investigation revealed that the goods were procured from the Domestic Tariff Area (DTA) without any invoices. Consequently, the CB failed to advise the exporter regarding Circular No. 16/2009-Customs dated 25.05.2009, which mandates that merchant exporters purchasing goods from the open market must furnish a declaration at the time of export. This declaration should include the name and complete address of the traders from whom the goods were purchased to claim drawback benefits. The CB's failure to provide this crucial advice to its client suggests that the CB abetted the exporter in availing undue export benefits, such as RODTEP, Drawback, and ITC. Additionally, in case of non-compliance with the declaration as mandated in the aforementioned circular, the CB should have brought the same to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs. In conclusion, the CB's actions demonstrate a clear violation of Regulation 10(d) of the CBLR, 2018.'

16.1 I find that the Inquiry Officer, in his report dated 21.08.2025, held the charge under Regulation 10(d) of the CBLR, 2018, as “Not Proved”. The IO observed that the exporter was a seasoned entity, and no substantial evidence was found on record to suggest that the CB firm had failed to sensitize the client to comply with the provisions of the Customs and Allied Acts . The IO noted that the shipping bills were filed based on documents provided by the exporter and were subsequently assessed and examined by the Proper Officers of Customs who granted Let Export Order (LEO), which the IO interpreted as confirming the CB's bona fides. Furthermore, the IO emphasized that a Customs Broker is not expected to act as an investigator or possess expert knowledge regarding the valuation of technical goods such as software dongles, whose value can vary significantly based on their specific nature and use. Crucially, the IO relied on the voluntary statement of the beneficial owner, Shri Manoj Jayeshbhai Shingala, who took sole responsibility for the overvaluation and fraudulent acts, explicitly stating that the CB firm and its employees were unaware of his actions. In the absence of corroborative evidence establishing active participation or connivance, the IO concluded that no contravention had occurred.

16.2 I find that the Customs Broker (CB), in their written and oral submissions, vehemently denied the alleged violation of Regulation 10(d), asserting that their professional role is strictly limited to facilitating the proper filing of documents based on the invoices and self-declarations provided by the exporter. The CB contended that they cannot be expected to function as an investigator or detect the absence of genuine procurement invoices, as the duty under Regulation 10(d) is advisory in nature and presupposes that the broker is already aware of the specific circumstances requiring such advice. They further argued that the substantive verification of commercial terms and the internal supply chain of a third-party supplier falls beyond the scope of due diligence mandated for a licensed intermediary. Crucially, the CB highlighted that the fraudulent intent was executed solely by the exporter, who took absolute responsibility for the overvaluation, and that the grant of Let Export Order (LEO) by the Proper Officers of Customs effectively validates the *bonafides* of the documents processed by the firm.

16.3 I have perused the documents, available evidences on record and the CB's submission. I find that the Inquiry Officer's conclusion that the charge is not proved is based on the erroneous assumption that the exporter's status as a seasoned entity absolves the Customs Broker of its statutory obligations. I find this logic fundamentally flawed. The duty under Regulation 10(d) is an independent, non-delegable responsibility cast upon the license holder to ensure compliance, regardless of the client's experience level. Furthermore, the IO's reliance on the grant of Let Export Order (LEO) by Customs as a validation of the CB's conduct is misplaced; an officer's oversight during the examination process does not cure a broker's prior failure to advise on mandatory legal requirements, such as Circular No. 16/2009-Customs, which requires merchant exporters to disclose supplier details for drawback claims. By failing to identify that M/s Shri Narayanmuni Enterprise was clearing goods at an overvaluation of 37,000%, the IO failed to appreciate the CB failed to verify the basic legitimacy of a transaction involving a declared value of Rs. 93.62 Lakhs against an actual value of Rs. 4,250/-.

Further, I find the CB's defense, that its role is strictly limited to "facilitating the proper filing of documents" based on the exporter's self-declarations to be a gross reduction of its professional liability. Shri Nitin Naveen Dhawan, the authorized F-card holder of M/s Wishwa Naveen Traders, admitted that the firm did not verify the supplier's name or the procurement source, despite the client being a merchant exporter. The CB's argument that they had no knowledge of the overvaluation is untenable given the staggering disparity between the declared value and the market price of the DSC tokens. A licensed intermediary cannot hide behind a client's fraud such as the fake purchase orders created by Shri Manoj Jayeshbhai Shingala when they failed to perform the most basic technical verification of the supply chain. Both the IO and the CB have incorrectly interpreted the standard of due diligence as a passive exercise, arguing that the broker is not an investigator.

The failure of M/s Wishwa Naveen Traders to advise the client on the mandates of Circular No. 16/2009-Customs and to report the blatant overvaluation constitutes a clear

and intentional violation of Regulation 10(d). This finding is supported by the "Gatekeeper" doctrine established by the Hon'ble Supreme Court in Commissioner of Customs V/s. K. M. Ganatra and Co., which held that a broker is the first line of defence for the Revenue and any contravention of professional obligations even without established intent is sufficient for punishment. Furthermore, the ratio in M/s. Rubal Logistics Pvt. Ltd. Versus Commissioner of Customs clarifies that a lack of due diligence facilitating revenue loss warrants a penalty regardless of the broker's knowledge of the underlying fraud. As a repository of legal knowledge, the CB had a mandatory duty to bridge the gap between complex regulations and the trade; by facilitating a shell firm's fraudulent claims through inaction, the CB failed the professional standards required of its license. In view of the above facts, I hold that the CB has violated the provisions of Regulation 10(d) of the CBLR, 2018.

17. I find that the charge of violation of Regulation 10(f) of the CBLR, 2018 has been levelled against the CB on the grounds that, 'The investigation established that M/s Shri Narayanmuni Enterprise attempted to export goods described as "INSTALLED PROGRAMS IN PEN DRIVE" at a staggering overvaluation to illicitly claim export benefits, including Drawback and IGST refunds. As the client was a merchant exporter, the clearance was governed by the specific mandates of Circular No. 16/2009-Customs dated 25.05.2009, which requires the mandatory declaration of supplier names and addresses for claiming drawback. The Customs Broker, M/s Wishwa Naveen Traders, despite being aware of the client's status and the nature of the cargo, failed to provide the information contained in this Circular to the client. By withholding these vital legal instructions, the CB effectively ensured that the regulatory requirements for procurement verification were bypassed, thereby keeping the Department in the dark regarding the fraudulent procurement and facilitating the circumvention of policy restrictions.'

17.1 I find that the Inquiry Officer, in his report dated 21.08.2025, held the charge under Regulation 10(f) as "Not Proved," observing that there was no independent corroborative evidence to establish the Customs Broker's prior knowledge or deliberate involvement in

the overvaluation. The IO noted that Regulation 10(f) requires evidence of intentional omission or commission to establish abetment, which was absent in this case. Furthermore, the IO relied on the cross-examination of the exporter's partner and the beneficial owner, both of whom stated that the CB had not withheld any information from them. Consequently, the IO concluded that without proof of *mens rea* or direct participation, the CB cannot be held liable for withholding statutory instructions or abetting the exporter's fraudulent actions.

17.2 I find that the Customs Broker (CB), in their defense, argued that they did not withhold any order, instruction, or public notice from the exporter and that the charge is based on unfounded assumptions rather than evidence of intentional omission. The CB submitted that all necessary documents, including invoices and self-declarations, were transparently filed and scrutinized by the Proper Officers of Customs who granted Let Export Order (LEO), which signifies that no legal requirements were suppressed during the clearance process. They further contended that Circular No. 16/2009-Customs is a public document readily accessible on open web platforms, and since M/s Shri Narayanmuni Enterprise has been actively exporting since 2016, it is legally untenable to claim the client was entitled to information they should already possess as a seasoned trade entity. The CB maintained that they had fulfilled their professional duty by sensitizing the client and that the Department has failed to provide any independent corroborative evidence to substantiate the claim of active or passive abetment.

17.3 Having gone through the facts of the case, relevant documents and the CB's submission I find that the Inquiry Officer's conclusion that the charge is not proved stems from a legally flawed interpretation of withholding information as strictly a physical act of concealment. The IO relied heavily on the cross-examination of Shri Manoj Jayeshbhai Shingala of M/s Shri Narayanmuni Enterprise, who stated that no information was withheld from him. This reliance is misplaced; Regulation 10(f) mandates that a CB shall not withhold instructions relating to clearance from a client entitled to such information. By failing to inform a merchant exporter client about the mandatory procurement declarations required under Circular No. 16/2009-Customs, the CB effectively ensured the Department

remained unaware of the fraudulent procurement of DSC tokens re-valued at 37,000% above their market price. The IO's reliance on *Thakkar Shipping Agency* is countered by the fact that professional suppression of a statutory circular facilitating a fraudulent export is a substantive violation, not a mere allegation.

Further, I find the CB's submission that Circular No. 16/2009-Customs is a public document and the client was a "seasoned" exporter to be legally untenable. A Customs Broker is a repository of legal knowledge and is licensed specifically to bridge the gap between complex regulations and the trade. The CB's duty is proactive; the client's alleged experience does not absolve the CB from the obligation to provide the specific legal instructions governing a high-value export of "Installed Programs in Pen Drives". The CB's reliance on *Kunal Travels (Cargo) vs. Principal Commissioner of Customs* which holds that a CB is not an inspector does not apply here. While a CB may not be an "inspector" of facts, they are a "guardian" of the law; withholding the applicability of a crucial procurement circular to facilitate the fraudulent IGST claim is a direct betrayal of that role.

Finally, the violation of Regulation 10(f) is proved through the application of the "Gatekeeper" doctrine established by the Hon'ble Supreme Court in *Commissioner of Customs v/s. K. M. Ganatra and Co.*, which stipulates that the CB must safeguard the interests of the Revenue and that any contravention of professional obligations warrants punishment regardless of intent. Furthermore, following the ratio in *M/s. Rubal Logistics Pvt. Ltd. Versus Commissioner of Customs*, a lack of due diligence that facilitates an exchequer loss as seen here in the attempted fraudulent drawback and IGST claims constitutes a clear violation. In view of the aforementioned facts, I hold that the CB has violated the provisions of Regulation 10(f) of the CBLR, 2018.

18. I find that the charge of violation of Regulation 10(m) of the CBLR, 2018 has been levelled against the CB on the grounds that, 'The investigation revealed that M/s Shri Narayanmuni Enterprise, acting as a merchant exporter, attempted to clear goods described as "INSTALLED PROGRAMS IN PEN DRIVE" at a grossly inflated value to illicitly claim export benefits. I find that the Customs Broker, M/s Wishwa Naveen Traders, failed

to discharge its duties with the "utmost speed and efficiency" by omitting fundamental verifications of the underlying transaction. Specifically, the CB processed the shipping documents without verifying the supplier's name or advising the merchant exporter on the mandatory procurement disclosures required under Circular No. 16/2009-Customs. This lack of professional diligence and qualitative efficiency in identifying a suspicious transaction involving a 37,000% overvaluation facilitated the attempted siphoning of government revenue and constitutes a substantive failure to meet the standards mandated under Regulation 10(m).

18.1 I find that the Inquiry Officer, in his report dated 21.08.2025, held the charge under Regulation 10(m) of the CBLR, 2018, as "Not Proved," concluding that the Customs Broker had discharged its duties with the required speed and efficiency. The IO observed that the CB had submitted all relevant documents to the Department and provided additional documentation as and when called for by the Customs Officers. Furthermore, the IO emphasized that the grant of Let Export Orders (LEOs) by the Proper Officers of Customs, which occurred only after they were satisfied with all aspects of the consignments, indicated that the CB's performance was in accordance with standard procedures. Consequently, the IO determined that the allegations of lack of qualitative efficiency or failure in professional caution were not correct.

18.2 I find that the Customs Broker (CB) in their written submissions vehemently denied the charge under Regulation 10(m), asserting that the allegation is wholly unsustainable in law and constitutes a patent overreach by inventing culpability for conduct that was neither pleaded nor proved. The CB contended that they discharged their professional duties with the required speed and efficiency, noting that at no stage during the assessment or examination did the Department suggest that they had caused any delay. They further argued that a broker cannot be held liable for a lack of "efficiency" based on the independent fraudulent acts of an exporter, placing heavy reliance on the judicial precedents of *Kunal Travel (Cargo)* and *World Line Cargo Movers* to emphasize that a

licensed intermediary is not an inspector tasked with weighing the underlying genuineness of every transaction.

18.3 Having gone through the facts of the case, relevant documents and the CB's submission I find that the Inquiry Officer's conclusion holding the charge as "Not Proved" based on the CB's speed in submitting documents is legally flawed and overlooks the qualitative dimension of Regulation 10(m) . The IO argued that the grant of Let Export Orders (LEOs) by Customs Officers and the CB's responsiveness to departmental queries indicated efficient performance. However, professional "efficiency" in a regulatory context is not merely a measure of clerical speed. The IO failed to appreciate that processing a shipping bill for M/s Shri Narayanmuni Enterprise involving a 37,000% overvaluation (Rs. 93.62 Lakhs declared vs Rs. 4,250/- actual) represents a gross failure of qualitative efficiency.

The CB relied on Kunal Travels (Cargo) Vs. Commissioner of Customs to argue that they are mere "processing agents" of documents. This reliance is misplaced. While a CB is not expected to sit in judgment over every commercial fact, Regulation 10(m) requires the exercise of professional intelligence. Shri Nitin Naveen Dhawan, representing the CB, admitted that the firm did not verify the supplier's name or the procurement source. Both the IO and the CB argue that the assessment and examination by Customs Officers, culminating in the grant of LEO, effectively validates the CB's performance. I find this logic to be flawed as it suggests that a broker's liability is contingent upon the Department's ability to catch fraud. Furthermore, the Hon'ble CESTAT Mumbai in M/s. Noble Agency V/s. Commissioner of Customs observed that the complexity of Customs procedures makes the CB's role vital, and any dereliction that facilitates exchequer loss is a failure of efficiency. In view of the aforementioned facts, I hold that the CB has violated the provisions of Regulation 10(m) of the CBLR, 2018.

19. I find that a Customs Broker occupies a very important position in the Custom House and is supposed to safeguard the interests of both the importers/exporters and the Customs Department. A lot of trust is kept in CB by the Government Agencies; however,

by their acts of omission and commission it appeared that the CB M/s. Wishwa Naveen Traders (CB No. 11/711) has violated Regulation 10(d), 10(f) and 10(m) of the Customs Broker Licensing Regulation (CBLR), 2018 and for their act of omission and commission, the CB M/s. Wishwa Naveen Traders (CB No. 11/711) has rendered itself liable for penal action under CBLR, 2018 Hence, while deciding the matter, I rely on the following case laws:

a) **The Hon'ble Supreme Court in the case of Commissioner of Customs V/s. K. M. Ganatra and Co.** in civil appeal no. 2940 of 2008 upheld the observation of Hon'ble CESTAT Mumbai in M/s. Noble Agency V/s. Commissioner of Customs, Mumbai that:

*"the CHA occupies a very important position in the Custom House. The Customs procedures are complicated. The importers have to deal with a multiplicity of agencies viz. carriers, custodians like BPT as well as the Customs. The importer would find it impossible to clear his goods through these agencies without wasting valuable energy and time. The CHA is supposed to safeguard the interest of both the importers and the Customs. A lot of trust is kept in CHA by the importers/exporters as well as by the government agencies. To ensure appropriate discharge of such trust, the relevant regulations are framed. Regulation 14 of the CHA Licensing Regulations lists out obligations of the CHA. Any contravention of such obligations even without intent would be sufficient to invite upon the CHA the punishment listed in the Regulations".*

b) **The Hon'ble CESTAT Delhi in case of M/s. Rubal Logistics Pvt. Ltd. Versus Commissioner of Customs (General)** wherein in (para 6.1) it is opined that:-

*"6.1 These provisions require the Customs Broker to exercise due diligence to ascertain the correctness of any information and to advice the client accordingly. Though the CHA was accepted as having no mensrea of the noticed mis-declaration /under- valuation or mis-quantification but from his own statement acknowledging the negligence on his part to properly ensure the same, we are of the opinion that CH definitely has committed violation of the above mentioned Regulations. These Regulations caused a mandatory duty upon the CHA, who is an important link between the Customs Authorities and the importer/exporter. Any dereliction/lack of due diligence since has caused the Exchequer loss in terms of evasion of Customs Duty, the original adjudicating authority has rightly imposed the penalty upon the appellant herein."*

20. As discussed in the foregoing paragraphs, I conclude that the Customs Broker M/s Wishwa Naveen Traders is guilty of violating Regulations 10(d), 10(f), and 10(m) of the CBLR, 2018. However, while determining the quantum of punishment, I must take into account the specific factual matrix of the case and the principle of proportionality. It is a matter of record that in the primary adjudication proceedings under the Customs Act, 1962 (O-in-O No. JC/NP/15/2025-26/ADJ(X)ACC dated 09.09.2025), a substantial penalty of Rs. 1,50,00,000/- under Section 114AA and Rs. 30,00,000/- under Section 114AC was imposed on the Customs Broker. This confirms that the firm's professional failure in facilitating the fraudulent export of DSC tokens declared at an exorbitant value of Rs. 93,62,875/- against an actual re-determined value of only Rs. 4,250/- has already been met with significant penal consequences. While this reflects a grave lack of professional caution and a failure to identify the overvaluation and the resultant attempt of fraudulent export, I must ensure that the regulatory action under CBLR remains corrective and deterrent rather than purely punitive. Applying the doctrine of proportionate punishment and the judicial guidelines governing professional licenses, I am not inclined to revoke the license. Such an action would lead to the "civil death" of the firm and the permanent loss of livelihood for its employees, which is disproportionate to the established infractions when a heavy financial deterrent has already been applied in the main case. In this regard, I place reliance on the following settled case laws:

a) **Delhi High Court has, in the case of Falcon Air Cargo and Travels (P) Ltd [2002 (140) ELT 8 (DEL)] held as follows:**

*"13. By order dated 15-7-2000, licence was revoked. It is not clear how there could be revocation when the licence itself was not functional after 13-1-2000. Licence can be suspended or revoked on any of the grounds as mentioned in Regulation 21. It is, therefore, clear that if any of the grounds enumerated existed, two courses are open to the Commissioner. One is to suspend the licence and the other is to revoke it. Suspension would obviously mean that licence would be for a particular period inoperative. An order of revocation would mean that licence is totally inoperative in future, it loses its currency irretrievably. Obviously, suspension/revocation, as the case may be, has to be directed looking to the gravity of the situation in the background of facts. For minor infraction or infraction which are not of very serious*

*nature order of suspension may suffice. On the contrary, when revocation is directed it has to be only in cases where infraction is of a very serious nature warranting exemplary action on the part of the authorities, otherwise two types of actions would not have been provided for. Primarily it is for the Commissioner/Tribunal to decide as to which of the actions would be appropriate but while choosing any of the two modes, the Commissioner/Tribunal has to consider all relevant aspects and has to draw a balance sheet of gravity of infraction and mitigating circumstances. The difference in approach for consideration of cases warranting revocation or suspension or non-renewal has to be borne in mind while dealing with individual cases. In a given case the authorities may be of the view that non-renewal of licence for a period of time would be sufficient. That would be in a somewhat similar position to that of suspension of licence though it may not be so in all cases. On the other hand, there may be cases where the authorities may be of the view that licensee does not deserve a renewal either. Position would be different there. Though we have not dealt with the question of proportionality, it is to be noted that the authorities while dealing with the consequences of any action which may give rise to action for suspension, revocation or nonrenewal have to keep several aspects in mind. Primarily, the effect of the action vis-a-vis right to carry on trade or profession in the background of Article 19(l)(g) of the Constitution has to be noted. It has also to be borne in mind that the proportionality question is of great significance as action is under a fiscal statute and may ultimately lead to a civil death."*

**b) Delhi High Court has in case of Ashiana Cargo Services [2014 (302) ELT 161 (DEL)] held as follows:**

*"11. Viewing these cases, in the background of the proportionality doctrine, it becomes clear that the presence of an aggravating factor is important to justify the penalty of revocation. While matters of discipline lie with the Commissioner, whose best judgment should not be second-guessed, any administrative order must demonstrate an ordering of priorities, or an appreciation of the aggravating (or mitigating) circumstances. In this case, the Commissioner and the CESTAT (majority) hold that —there is no finding nor any allegation to the effect that the appellant was aware of the misuse of the said G cards, but do not give adequate, if any weight, to this crucial factor. There is no finding of any mala fide on the part of the appellant, such that the trust operating between a CB and the Customs Authorities (as a matter of law, and of fact) can be said to have been violated, or be irretrievably lost for the future operation of the license. In effect, thus, the proportionality doctrine has escaped the analysis".*

- c) **In the case of ACE Global Industries [2018 (364) ELT 841 (Tri Chennai)], Hon'ble Tribunal observed as follows:**

*"6. We are unable to appreciate such a peremptory conclusion. The CBLR, 2013 lays down that stepwise procedures are to be followed before ordering any punishment to the Customs broker. True, the said regulations do contain provisions for revocation of the license and for forfeiture of full amount of security deposit, however these are maximum punishments which should be awarded only when the culpability of the Customs broker is established beyond doubt and such culpability is of very grave and extensive nature. In case of such fraudulent imports, for awarding such punishment, it has to be established without doubt that the Customs broker had colluded with the importer to enable the fraud to take place. No such culpability is forthcoming in respect of the appellant herein....."*

- d) **Hon'ble CESTAT, Mumbai in the matter of Setwin Shipping Agency Vs. CC (General), Mumbai – 2010 (250) E.L.T 141 (Tri.-Mumbai) observed:**

*"it is a settled law that the punishment has to be commensurate and proportionate to the offence committed".*

21. Further, I find that the Customs Broker M/s Wishwa Naveen Traders (11/711) was issued a Show Cause Notice (SCN) No. 85/2024-25 dated 27.03.2025. Shri Ajay Kumar Prithyani, Assistant Commissioner of Customs, was appointed as the Inquiry Officer (IO) to conduct the inquiry proceedings under Regulation 17 of the CBLR, 2018. The Inquiry Report was submitted on 21.08.2025 by Shri Ajay Kumar Prithyani. While the report was submitted beyond the initial 90-day window, the progression of the inquiry was subject to the procedural requirements of the principles of natural justice, including the evaluation of the CB's written reply dated 06.06.2025 and the oral submissions made during the personal hearing conducted on 09.06.2025. The time taken was utilized to ensure a thorough examination of the DRI's investigative findings vis-à-vis the defense submissions of the Customs Broker. Upon perusal of the records, I find that the delay in the submission of the Inquiry Report was occasioned by a combination of administrative pressures and unavoidable personal circumstances of the Inquiry Officer.

21.1 I also find that, under Regulation 17(6) of CBLR, 2018, a copy of the Inquiry Report and the Disagreement Memo dated 10.11.2025 was shared with the CB. In adherence to the Principles of Natural Justice, an opportunity for a personal hearing was granted to the

CB on 28.11.2025. However, due to administrative reasons, including the superannuation of the then Pr. Commissioner of Customs (General) on 31.08.2025, the adjudication process was transitioned to the current Adjudicating Authority, and the personal hearing was rescheduled accordingly. Under Regulation 17(7) of CBLR, 2018, the adjudication order should ideally be passed within ninety days from the date of submission of the Inquiry Report. However, due to the administrative exigencies the order could not be passed within the time limit. Regarding the contention of the CB that the actions under Regulation 17 of CBLR, 2018, are time-barred, I observe that the timelines prescribed under the CHALR/CBLR are directory in nature and not mandatory. In this regard, I place reliance on the following case laws:

**a) Hon'ble High Court of Judicature at Bombay in the case of Principal Commissioner of Customs (General), Mumbai Versus Unison Clearing P. Ltd.** reported in 2018 (361) E.L.T. 321 (Born.), which stipulates that:

*"15. In view of the aforesaid discussion, the time limit contained in Regulation 20 cannot be construed to be mandatory and is held to be directory. As it is already observed above that though the time line framed in the Regulation need to be rigidly applied, fairness would demand that when such time limit is crossed, the period subsequently consumed for completing the inquiry should be justified by giving reasons and the causes on account of which the time limit was not adhered to. This would ensure that the inquiry proceedings which are initiated are completed expeditiously, are not prolonged and some checks and balances must be ensured. One step by which the unnecessary delays can be curbed is recording of reasons for the delay or non-adherence to this time limit by the Officer conducting the inquiry and making him accountable for not adhering to the time schedule. These reasons can then be tested to derive a conclusion whether the deviation from the time line prescribed in the Regulation, is "reasonable". This is the only way by which the provisions contained in Regulation 20 can be effectively implemented in the interest of both parties, namely, the Revenue and the Customs House Agent."*

**(b) The Hon'ble High Court of Telangana, in the matter of M/S. Shasta Freight Services Pvt Ltd vs Principal Commissioner Of Customs, [Writ Petition No. 29237 of 2018] held that:-**

*"42. Therefore, if the tests laid down in Dattatreya Moreshwar, which have so far held the field, are applied, it would be clear (i) that the time limit prescribed in*

*Regulation 20 (7) is for the performance of a public duty and not for the exercise of a private right; (ii) that the consequences of failure to comply with the requirement are not spelt out in Regulation 20(7) (iii) that no prejudicial consequences flow to the aggrieved parties due to the non-adherence to the time limit; and (iii) that the object of the Regulations, the nature of the power and the language employed do not give scope to conclude that the time limit prescribed is mandatory. Hence, we hold that the time limit prescribed in Regulation 20 (7) is not mandatory but only directory. ”*

**(c) The Hon’ble High Court of Karnataka, in the matter of The Commissioner of Customs vs M/s. Sri Manjunatha Cargo Pvt Ltd on 12 January [C.S.T.A. No. 10/2020] held that:-**

*“13. A reading of Regulation 17 of the C.B.L.R., 2018 makes it very clear that though there is a time limit stipulated in the Regulations to complete a particular act, non-compliance of the same would not lead to any specific consequence.*

*14. A reading of the Regulation 17 would also go to show that the Inquiry Officer during the course of his inquiry is not only required to record the statement of the parties but also to give them an opportunity to cross-examine and produce oral and documentary evidence. In the event of the respondents not co- operating, it would be difficult for the Inquiry Officer to complete the inquiry within the prescribed period of 90 days, as provided under Regulation 17(5). Therefore, we find force in the argument of the learned counsel for the appellant that the Regulation No.17 is required to be considered as directory and not mandatory. Though the word "shall" has been used in Regulation 17, an overall reading of the said provision of law makes it very clear that the said provision is procedural in nature and non-compliance of the same does not have any effect. If there is no consequence stated in the Regulation for non-adherence of time period for conducting the inquiry or passing an order thereafterwards, the time line provided under the 22 statute cannot be considered as fatal to the outcome of inquiry.*

*15. Under the circumstances, we are of the considered view that the provisions of Regulation 17 of the C.B.L.R., 2018 is required to be considered as directory and not mandatory and accordingly, we answer the substantial questions of law Nos.1 to 3 in favour of the appellant and against the respondent. ”*

**(d) The Hon’ble CESTAT Mumbai in the matter of M/s. Muni Cargo Movers Pvt. Ltd. Vs. Commissioner of Customs (General), Mumbai [Order No. A/996/13CSTB/C-I dated 23.04.2013] held that:-**

*“Para 4.2:- As regards the third issue regarding non-adherence to the time-limit prescribed in CHALR, there is some merit in the argument. But nevertheless, it has to be borne in mind that time-limit prescribed in the law though required to be followed by the enforcement officers, at times could not be adhered to for administrative reasons. That by itself does not make the impugned order bad in law”.*

22. On a holistic appreciation of the Inquiry Report, the submissions of the Customs Broker, and the material available on record, it is evident that the CB has failed to fully discharge the obligations cast upon them under Regulations 10(d), 10(f), and 10(m) of the CBLR, 2018. The findings in the preceding paragraphs are supported by documentary evidence, statements recorded under Section 108 of the Customs Act, and clear factual inconsistencies which demonstrate serious lapses in authorization verification, advisory responsibility, and professional due diligence. These lapses, particularly the failure to advise the merchant exporter on the mandatory procurement disclosures required under Circular No. 16/2009-Customs and ignoring a 400-fold value disparity in the export of software dongles, cannot be brushed aside as mere technical errors and warrant regulatory action under the CBLR framework.

23. At the same time, it is noted that the proceedings including the primary adjudication under the Customs Act do not establish conclusive evidence of deliberate abetment or *mens rea* on the part of the Customs Broker in the attempted export of overvalued goods. The role of the CB, though marked by negligence and a lack of professional caution that facilitated a fraudulent syndicate seeking undue IGST and Drawback benefits, appears to be one of omission and failure to adhere to prescribed "Gatekeeper" standards rather than active complicity in the fraud. This distinction is of material importance while determining the proportionality of punishment under the licensing regulations.

24. The objective of action under the CBLR is not punitive alone but also corrective and deterrent, aimed at ensuring that Customs Brokers adhere to the high standards of diligence and responsibility expected of them as licensed intermediaries. In the present case, the regulatory lapses established on record justify the imposition of a maximum monetary

penalty and the forfeiture of the security deposit to underscore the seriousness of the obligations violated and to deter the recurrence of such lapses in the future.

25. However, having regard to the absence of proven abetment in the main case, the nature of the technical goods involved, and the fact that revocation of the license would have severe and disproportionate consequences on the livelihood of the CB and its employees, the extreme penalty of revocation resulting in the "civil death" of the firm is not warranted. Accordingly, while upholding the findings of violation, it is just, reasonable, and proportionate to impose a financial penalty and security forfeiture alone. This approach balances the need for regulatory discipline with the principles of fairness and proportionality. In the light of the foregoing discussion and findings, I pass the following order:

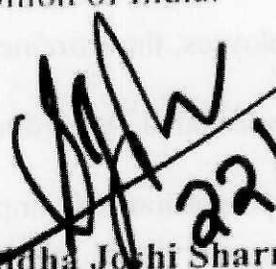
**ORDER**

26. I, Commissioner of Customs (General), in exercise of the power conferred upon me under Regulation 17(7) of CBLR, 2018, pass the following order:

- (i) I hereby order for forfeiture of the entire amount of the security deposit furnished by the CB M/s. Wishwa Naveen Traders (CB License No. 11/711) under Regulation 14 of the CBLR, 2018.
- (ii) Proviso for Concurrent Forfeiture: I take note that an order for the forfeiture of the same security deposit has also been passed in the matter of M/s Shri Narayanmuni Enterprise (SCN No. 85/2024-25). To avoid the double-realization of the same security, it is ordered that the forfeiture in the present case shall run concurrently with the forfeiture ordered in the Narayanmuni case. While the physical realization of the security shall occur only once, this order stands as an independent and substantive forfeiture. In the event that the forfeiture in the concurrent case is set aside, modified, or stayed by any competent appellate authority, the forfeiture ordered herein shall immediately and independently remain enforceable against the security deposit of the firm.

(iii) I, hereby impose a penalty of Rs. 50,000/- (Rs. Fifty Thousand Rupees Only) on the CB M/s. Wishwa Naveen Traders (CB License No. 11/711) under Regulation 18(1) of the CBLR, 2018.

This order is passed without prejudice to any other action that may be taken or purported to be taken against the Customs Broker and their employees under the Customs Act, 1962, or any other act for the time being in force in the Union of India.

  
22/1/26  
(Shraaddha Joshi Sharma)  
Commissioner of Customs (G)  
NCH, Mumbai-I

To,

**M/s. Wishwa Naveen Traders (CB License No. 11/711)**  
4/5, Joanna House,  
Sahar Air Cargo Link Road,  
Andheri (East), Mumbai, 400099

Copy to:

1. The Pr. Chief Commissioner/ Chief Commissioner of Customs, Mumbai I, II, III Zone.
2. SIIB (X), ACC, Sahar, Mumbai.
3. EDI of NCH, ACC & JNCH
4. ACC (Admn), Mumbai with a request to circulate among all departments.
5. JNCH (Admn) with a request circulate among all the concerned.
6. Cash Section
7. Office Copy