



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/568/2024-CBS

आदेश दिनांक/Date of Order: 4.09.2026

CAO No. 143/2025-26/CAC/CC(G)/SJS/Adj-CBS जारी दिनांक/Date of issue: 19.09.2026

संख्या:

DIN:- 20260277000000778757

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।  
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2. इस आदेश के विरुद्ध अपील माँगे गए राशी के 7.5% के भुगतान पर सीमाशुल्क अधिनियम, 1962 की धारा 129A(1B)(i) के संबंध में 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 नियमावली (कार्यविधि), 1982, के प्रावधानों के अंतर्गत, यथोत्तखंडपीठ 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 कि 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 तदोड 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 नियमावली (अपीलस), १९८२ के नियम में उल्लेखित व्यक्ति 2 के उपनियम 3 के तहत निर्धारित है एवं उसी नियमावली के नियम 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 ब्याजवत्तगाएगए जुर्माने की राशि रु-/1000 .पाँच लाख या इस से कम होतो रु ., (ii)यदि यह राशि रुपाँच लाख से अधिक ) एवं -/5000 .हो किंतु पचास लाख से अधिक न होतो रुiii) यदि यह राशि रुपचास लाख से अधिक होतो के शुल्क -/10000 .रु 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, 50 .के तहत निर्धारित रु 6 की अनुसूची मद 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. **O.K. Cargo Craft Private Limited** (CB License No. 11/887, EDI License No. AAACO3043JCH), having its registered address at Office No. 2, 66/4th Clive Cross Lane, Dana Bunder Area, Masjid Bunder East, Mumbai - 400009 (hereinafter referred to as "the Customs Broker" or "the CB") is holder of Customs Broker License No. 11/887, 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 Order-In-Original No. 08/Commr/VC/Sri Balaji Office/ICD-PPG/2024-25 dated 14.08.2024 was received from the Office of the Commissioner of Customs, ICD PPG & Others ICDs, Patparganj, New Delhi. The Relied Upon Documents (RUDs) for the same were received in this office on 07.11.2024, wherein it was *inter-alia* informed that:

2.1 On the basis of specific intelligence gathered by the Directorate of Revenue Intelligence (DRI), Delhi Zonal Unit, two containers having No. IAAU1946450 and IAAU1719884 cleared from SEZ, Mundra and consigned to M/s Sri Balaji Office Systems, New Delhi, a proprietary concern of Shri Sachin Soni, were intercepted. Examination of the goods imported and being transported was conducted by DRI officers. Upon opening, cartons/cardboard boxes were found containing parts of office chairs like Footrest, Chair lifter/Spring (Pneumatic), Screws, Seats of Chair, Base of Chair and other hardware accessories used for the Chair etc. Scrutiny of documents available, pertaining to the examined goods, revealed that the containers were imported by M/s Deals 365 and consigned to M/s Sri Balaji Office Systems. The goods imported in the said containers on examination, *prima facie*, appeared grossly undervalued as per the quality of furniture and its parts. It also appeared that certain items had been misclassified to evade payment of Customs duty. Antecedent verification of M/s Sri Balaji Office Systems revealed that in the past, duty evasion cases were booked by DRI, DZU and also by ICD Tughlakabad. Therefore, it appeared that Sri Balaji Office Systems was a habitual offender.

Thus, the matter was further taken up by the DRI. Accordingly, to recover the documents or things relevant to proceedings under the Customs Act, 1962, different premises (office, residential and warehouse) related to M/s Sri Balaji Office Systems were searched on 03.09.2022. The DRI made a detailed inventory of the detained goods at the godown of M/s Sri Balaji Office Systems on 03.09.2022 and 06.09.2022, during which it was noticed that each furniture item had a unique specification (quality, size, etc.) by which it could be identified. Further, on being asked about why there was a marking of "BALAJI POWER (NEW)" on the packings of chair lifters, although they were imported from China, Shri Pradeep Kumar Das, storekeeper of M/s Sri Balaji Office System stated that the same was made in China with their brand name for their office company, namely M/s Sri Balaji Office Systems. He showed a demo of assembling, during which it was noticed that these chairs and office tables were packed either in completely knocked down (CKD) condition or semi-knocked down (SKD) condition and required a time of 10-15 minutes for assembling. It was nothing but complete chairs and tables. On being asked about accessories springs, he informed that these accessories springs (Pneumatic) were nothing but lifters used for chairs, and were an integral part of the chair.

During the searches at the premises of M/s Sri Balaji Office Systems, certain electronic devices i.e., two (2) iPhones, one (1) Samsung Mobile and one (1) Laptop were resumed which were forensically examined under Panchanama dated 14.02.2023 with the help of a forensic expert in the presence of independent Panchas, as even after repeated requests neither Shri Sachin Soni attended the forensic proceedings nor his representative advocate. On 16.09.2022, the detained goods imported in the containers No. IAAU1946450 and IAAU1719884 and lying at ICD, Garhi Harsaru, were re-examined. It was observed that the examined items were pins of chairs and other furniture and the chair lifters which were being declared by the importer as pneumatic springs were manufactured from China on a customized basis. None of these goods were parts of general use having multiple purposes. Rather, every part was meant specifically and exclusively for chairs or other furniture items, and these were not items of general use.

**2.2 Recording of Statements of Importer, Customs Broker and all relevant parties:**

**2.2.1** Shri Sandeep Booba Shetty, proprietor, M/s Deals 365, was summoned and his voluntary statement was recorded under Section 108 of the Customs Act, 1962. In his statement dated 04.10.2022, he *inter-alia* stated that:

- i) He had taken IEC in the name of his proprietorship firm M/s Deals 365 in the year 2019 on the instructions/suggestions of one of his friends, namely, Shri Sharda Prasad Pal.
- ii) That he was running in financial losses in 2019 when Shri Sharda Prasad Pal, working in Customs Broker firm namely M/s Om Logistics, suggested an idea to take an IEC registration and give it on rent for money; thereafter, he took IEC in the name of his old firm M/s Deals 365 and handed it over to his friend Shri Sharda Prasad Pal and he put it on rent of Rs 10,000/- per container basis.
- iii) That Sharda informed him that this IEC firm was given to one Delhi based importer Shri Sachin Soni, M/s Balaji Office System. Shri Sandeep Booba Shetty further stated that he did not know who was using/misusing the GST no of his firm for sale/purchase.
- iv) That he did not raise any invoice to M/s Balaji Office System, New Delhi from M/s Deals 365; that he had no knowledge who was raising sales invoice to M/s Balaji Office System, New Delhi. On being shown his Bank a/c statement for the last one year, he confirmed that M/s Deals 365 bank account was being used by him and he controlled his bank login credential. He further stated that on directions of Shri Sharda Pal, he received Rs 13,24,900/- from M/s Balaji Office Systems and transferred the same to M/s Om Logistics, a logistics firm.
- v) That he did not know about any M/s Balaji Office System and never dealt with them, either personally or professionally before the interception of these two containers by DRI on 2/3.09.2022. He never imported any furniture, nor filed any documents with Customs in the name of M/s Deals 365 by filing joint bill of entry with M/s Empezar Logistics Pvt Ltd., Mundra Port, SEZ Mundra. That he had not imported any goods and never filed any paper of import with customs, these items did not belong to him, that he had not authorized

any person to sign this sales invoice consigned to M/s Balaji Office System, it might have been signed by the person who was using his firm's IEC.

vi) He further stated that he did not know who was in contact with the foreign suppliers from whom these goods were imported.

**2.2.2** Statement of Shri Sharda Prasad Nanuka Pal, employee of M/s Om Logistics, was recorded on 12.10.2022 vide summons under Section 108 of Customs Act, 1962 wherein he, *inter-alia*, stated that:

i) He advised Shri Sandeep Shetty to take an IEC and rent it through him to Shri Durgesh Shelke who further rented it to Shri Sachin Soni. He had no knowledge of who was raising sales invoice to M/s Balaji Office System.

ii) He further stated that the bank account of M/s Deals 365 was just being used as a layering or transit point. That Shri Sachin Soni transferred the money to M/s Deals 365, then got it transferred to M/s Om logistics for further payments.

iii) That this amount was used to give payments to transporters/shipping lines, CFS charges, Customs Duty and Stamp duty; that IEC of M/s Deals 365 was being used by Shri Sachin Soni and he was the actual beneficiary of goods imported through M/s Deals 365.

iv) For transportation/shipping lines/Customs Duty charges he used to pay the amount in the bank account of M/s Deals 365. He further stated that M/s Pushpanjali Logistics was being used as Customs Broker firm for clearance of M/s Deals 365.

**2.2.3** Further, Shri Narendra Bhanushali, Proprietor of M/s Sanjana Traders, was summoned and his voluntary statement was recorded on 12.10.2022, under Section 108 of the Customs Act, 1962, wherein he, *inter-alia*, stated that:

i) He rented his IEC to Shri Sachin Soni for importing furniture in SEZ Mundra by filing joint bill of entry with M/s Empezar Logistics Private Limited, Mundra Port, SEZ at the rate of Rs 40,000/- per container for using his IEC; that from Rs. 40,000/- he used to keep Rs 20,000/- per container himself and Rs. 20,000/- he used to forward to Shri Durgesh Shelke as his commission.

ii) That Shri Sachin Soni used to pay him through proper banking channel, as a lump sum amount which included IEC rent, transportation, CFS, Customs Clearance, Shipping lines,

CGST/IGST etc. charges which used to vary in the range of 6-7 Lakhs per container. He raised the GST bills to M/s Balaji Office System and filed GST returns regularly to claim IGST credit.

iii) That he did not receive any payments for the imported goods for which he had raised the invoices to M/s Balaji Office System; that he further stated that he did not know the mode of payment through which Shri Sachin Soni had been paying to the overseas suppliers.

iv) That he raised the bills for the whole imported consignments but received the payment only for IEC rent, transportation, CFS, Customs Clearance, Shipping lines, CGST/IGST etc. Shri Sachin Soni had imported around 20-25 containers in his firm through SEZ Mundra. He further stated that Shri Sachin Soni used to place the order to the overseas suppliers.

v) That Shri Sachin Soni used to place the order to the overseas supplier and payment used to also be made by Mr. Sachin Soni; that he did not know the mode of payment Mr. Sachin Soni was using for payment to the overseas suppliers. That M/s Pushpanjali Logistics was being used as Customs Broker firm for clearance of M/s Sanjana Traders through M/s Om Logistics.

**2.2.4** Statement of Shri Durgesh Shelke, employee of OM Logistics and Proprietor of M/s V Shelke OPC, was recorded under Section 108 of the Customs Act on 22.11.2022 and 23.11.2022 wherein he, *inter-alia*, stated that Shri Sachin Soni requested him to arrange consignee/front importer in whose name he could do import. They agreed to give IECs of firms M/s Deals 365, M/s Sanjana Traders and JP Performance which were not actual importers. Shri Sachin Soni imported around 20-25 containers in the firm M/s Sanjana Traders; 2 containers in the IEC of JP Performance and 2 containers by using IEC of Deals 365. Shri Sachin Soni directed him to take the SEZ based route to evade Customs Duty due to less supervision in the SEZ and suggested to get clearance either in Chapter 73 or 83 wherein BCD is 10% and 15% respectively.

2.2.5 Statement of Shri Rahul Bhanushali, Manager of M/s Pushpanjali Logistics, a CB firm, was recorded on 11.11.2022 and 29.11.2022 under Section 108 of the Customs Act, wherein he, *inter-alia*, stated that:

i) Shri Sandeep Shetty of M/s. Deals 365 had contacted them to handle their hardware accessories and furniture consignment at Mundra SEZ and asked them to file joint Warehouse Bill of Entry with M/s. Empezar Logistics Private Ltd; that Shri Sandeep Shetty shared import documents viz Bill of Lading, Invoice, Packing Lists of both the consignments.

ii) He stated that the above said two containers had been shifted to M/s. Empezar Logistics Private Limited area; that after gate-in, the seals were verified by the customs in presence of SEZ unit staff, as well as their staff, that the Seals bearing no. IAAF772112 and IAAG134709 had been found intact on the containers bearing no. IAAU1946450 and IAAU1719884 respectively; thereafter the said containers had been moved to the warehouse; that on 29.08.2022, they had filed DTA Bill of Entry after mentioning the details of the declared description of the goods as per packing list and Invoice and as mentioned in the both Bills of Lading i.e. 'Hardware accessories and furniture'; that before filing the DTA Bill of Entry, the Customs Officer had examined the goods on 29.08.2022 and issued out of charge after the examination.

iii) That new temporary seals were placed on the containers but he did not remember those seals at present; that they were submitting all the documents pertaining to this consignment for the office's reference.

2.2.6 Statement of Shri Sachin Soni, Proprietor of M/s Balaji Office Systems, was recorded under Section 108 of the Customs Act on 21.11.2022, 24.11.2022, 28.11.2022, and 24.02.2023 wherein he, *inter-alia*, stated that:

i) He requested Shri Durgesh Shelke to give him imported furniture which he got under proper CGST bill imported through M/s Sanjana Traders. He admitted that the Spring/chair lifter was rightly classifiable under CTH 9403 wherein BCD is 25% instead of misclassified CTH 73 wherein BCD is only 10%. He raised his purchase order in China to one supplier HK QXR TRADE LIMITED.

ii) That he maintained his inventory as per Model wise/colour wise/size wise; however, on the day of search on 03.09.2022, the software which kept this record was not properly functioning due to some technical issues.

iii) That he agreed that Pneumatic Spring was nothing but a chair lifter and was rightly classifiable under chapter 94 and it was an essential part of the chair and not classifiable under chapter 73 of the Customs Tariff; that the importer had misclassified to evade customs duty as under chapter 94 the Basic Customs Duty is 25%; however, when it was being misclassified under CTH 73 its BCD was only 10%. Further Footrest (fitting-accessories) and base (fitting accessories), which were essential parts of salon chairs were wrongly classified under CTH 83 as it was rightly classifiable under 9402 chapter as it was used in salon chairs; that most of the importers of the furniture were importing either under CTH 83 or under CTH 73, for saving the customs duty.

**2.2.7** Statement of Shri Runit S Shah, Proprietor of M/s JP Performances, was recorded on 03.04.2023, under Section 108 of the Customs Act, 1962, wherein he, *inter-alia*, stated that:

i) In December 2019, he sought help from his friend Shri Kishore Bhanushali of M/s Om Logistics who in turn advised him to open a firm in the name of M/s. JP Performances. He had taken IEC in the name of his proprietorship M/s. JP Performance in the year 2019 on the instructions/suggestions of his friend Shri Kishore Bhanushali, who assured him that he would help him financially and suggested him to take an IEC registration and give it on rent for money; Shri Kishore Bhanushali opened M/s. JP Performance and took IEC in his name and put it on rent of Rs 15,000/- per container basis; He informed him that this IEC firm was given on rent to one Delhi based importer Shri Sachin Soni, M/s Balaji Office System.

ii) That all the work whether it was putting the IEC on rent or using GST was all done by Shri Kishore Bhanushali of M/s Om Logistics; He received the payment from M/s. Balaji Office System in M/s. JP Performances A/c which was maintained with IndusInd Bank; He did not remember how much amount he had received in the A/c of M/s. JP Performances; However, he stated that whatever amount was received in the A/c of M/s.

JP Performances was transferred to the account of M/s Om Logistics by him; that he only received Rs. 15,000/- per container; He further stated that as far as he knew only three containers were imported till date in the IEC of M/s JP Performances.

iii) That he had never imported any furniture nor filed any documents with Customs as he had already stated above that his IEC of M/s JP Performances was being used by M/s Om Logistics. iv) On being shown Panchanama dated 03.09.2022 drawn at the Shop Cum office premise of M/s Sri Balaji office System in which the purchase file in respect of M/s JP Performance was resumed and sought comments on it, he stated that he had never imported any goods and never filed any paper for import with customs and never raised any GST bill. However, these papers were made by M/s OM Logistics for M/s Sri Balaji Office System as he had given Shri Kishore Bhanushali of M/s OM Logistics full rights of the IEC of M/s JP Performance for money.

**2.2.8** Statement of Shri Sunil Navin Joiser, Manager of M/s Ok Cargo Craft Pvt Ltd and authorized representative of Shri Dinesh Liladhar Bhanushali, director of M/s Ok Cargo Craft Pvt Ltd was recorded on 10.04.2023, under Section 108 of the Customs Act, 1962, wherein he, *inter-alia*, stated that:

i) They had received import documents viz Bill of lading, invoice, packing list etc. in respect of M/s Deals 365 and M/s Sanjana Traders. He stated that Shri Kishore Bhanushali of M/s Om Logistics was known to him for a long time. Shri Kishore Bhanushali & Shri Narendra Bhanushali, Proprietor of M/s Sanjana Traders, were real brothers; Shri Sandeep Booba Shetty, Proprietor of M/s Deals 365 was a friend of Shri Kishore and Narendra and met him at M/s Om Logistics office in Mumbai in the month of April 2022 and requested to get customs clearance of furniture at FTWZ, Mundra.

ii) He explained to him that they would import and trade furniture and their parts along with some hardware accessories. After discussing and finalizing the Customs Clearance rate which was Rs 7000/- per container, they submitted their KYC along with letter of authorization for Customs Clearance at Mundra port; he submitted all the documents and KYC along with letter of authorization. As the work of customs clearance of import

consignment was placed through M/s Om Logistics, a freight forwarder firm, M/s Ok Cargo Craft Pvt. Ltd. raised the bills to M/s Om Logistics.

iii) Shri Kishore Bhanushali introduced Shri Narendra Bhanushali as his younger brother and Shri Sandeep Booba Shetty as his friend cum younger brother, thus, he used to raise bills directly to M/s Om Logistics. Shri Sandeep Booba Shetty and Shri Kishore Bhanushali had also agreed on that.

iv) That they had maintained all records pertaining to the clearance of all 14 shipments/Containers imported in the IEC of M/s Sanjana Traders and M/s Deals 365. He further stated that 11 Containers were imported in the name of M/s Sanjana Traders and 3 were imported in the name of M/s Deals 365. He submitted the documents pertaining to M/s. Sanjana Traders and stated that he would submit the documents in respect of M/s Deals 365 through email as soon as possible.

v) That they had just facilitated his work from April 22 to mid of June 22, however simultaneously, he hired another CHA namely M/s Pushpanjali Logistics.

vi) He stated that M/s Empezar Logistics Pvt Ltd. created a login Id and Password at NSDL, SEZ online site for them. On behalf of M/s. Empezar Logistics and importer they created warehouse Bill of Entry and after the creation of the warehouse Bill of Entry they took permission for the transit of imported container from the Port Terminal to M/s Empezar Logistics Pvt. Ltd. On receiving the container at M/s Empezar Logistics Pvt. Ltd. they created home consumption Bill of Entry on behalf of M/s Empezar Logistics Pvt. Ltd, on account of the importer. The Bill of Entry was digitally signed and submitted to the customs by M/s Empezar Logistics Pvt. Ltd at the SEZ portal. The joint Bill of Entry was reflected at the SEZ Portal and he was not aware of the provision of law under which the joint Bill of Entry was being filed; however, it was the standard practice which was being followed by every SEZ unit and which was also allowed by the SEZ and Customs Authority.

vii) That he did not know any person by the name of Shri Sachin Soni. On being informed that during the investigation initiated against M/s. Deals 365 in respect of Customs Duty evasion by way of misclassification and undervaluation of goods, a search was conducted at the godown of M/s Balaji Office System wherein it was noticed that a lot of misclassified

and undervalued goods were found stored imported by different importers including M/s Sanjana Traders and asked as to whether he had ever advised the importers regarding valuation and classification of the goods and sought his comments on it, he stated that the valuation of imported goods was decided by the importers.

viii) That they as a Customs clearance agent just facilitated the importers and submitted the declaration as per the documents provided by the Importers; he further wanted to state that he had suggested to the importers that the furniture and its parts were classifiable in chapter 94. However, the importers decided to declare the goods in chapter 73. He further stated that in FTWZ, there was 100% examination of the imported goods also. M/s Sanjana Traders were importing the Hardware Accessories Spring/chair lifter under CTH 73; however, the same product was actually classifiable under CTH 94 in which Basic Customs Duty is 25%. However, when it was classified under CTH 73 its BCD was only 10%. In this regard, he stated that when the issue of classification was raised with the importers namely Shri Kishore Bhanushali and Shri Narendra Bhanushali, they informed that it was a hardware spring which was used in different kinds of products, as it was made of steel with multi-usage and in spite of suggestion the Importer had mis-declared it in chapter 73. He further clarified that if it was used in furniture, then it had to be classified in chapter 94.

**2.2.9** Statement of Shri Kishore Bhanushali, Proprietor of M/s Om Logistics, was recorded on 23.11.2022, wherein he stated:

i) That he knew Shri Sachin Soni of M/s Balaji Office System as he had been their client since 2017-18; however, he had never met him in person; that he was their client through one of their employees Shri Durgesh Shelke.

ii) That in April 2022, Shri Sachin Soni had requested Shri Durgesh Shelke to arrange a consignee/front importer in whose name he could do import; They had agreed to provide Shri Sachin Soni front IECs of Firms (like M/s Deals 365, M/s Sanjana Traders and JP Performances) which were not the actual importers; that in order to show them as the actual importer, Shri Sachin Soni also sought GST bills post sale; that he used to place the orders

to the foreign supplier; that after Customs clearance, they used to add 3 percent on total value then raised a local CGST bill to him which showed that the IEC holder had imported the goods and sold the same goods locally to M/s Balaji Office System; that actually, this added 3 percent covered all the commission/incentive and sundries; that no cash dealing was being done with M/s Balaji Office System. Out of this 3 percent which was their commission of total billing which was in the range of 45-60 thousand rupees; this amount was being shared by M/s Om Logistics, IEC holder and Shri Durgesh Shelke.

iii) That Shri Sachin Soni used to give them money through a proper banking channel for each container which was a lump sum amount for IEC rent, transportation, CFS, Customs Clearance, Shipping lines, CGST and GST etc. that varied in the range of 6-7 Lakhs per container to the IEC holder firm account which was controlled by M/s Om Logistics; however, it did not include the value of imported goods; that Shri Sachin Soni had raised all purchase orders to the Chinese supplier; that M/s Om Logistics, Shri Narendra Bhanushali, Sandeep Booba Shetty and Shri Durgesh Shelke had just helped him (Sachin Soni) by providing the IECs and other logistics facility.

iv) He stated that M/s Om Logistics did not have any contact/negotiation/terms and conditions with the Chinese supplier; that any foreign payment had been looked upon by Shri Sachin Soni of M/s Balaji Office System.

v) The GST bills were raised to M/s Balaji Office System and GST returns were regularly filed to claim IGST credit through the front IEC Holder's firm; however, the payment to the Overseas suppliers had been done by Shri Sachin Soni of M/s Balaji Office System as he used to contact and place the orders to the suppliers himself; that he had not received any payments for the imported goods for which he had raised the invoices to M/s Balaji Office System.

vi) M/s Pushpanjali Logistics was being used as their customs Broker firm for clearance of M/s Sanjana Traders, M/s Deals 365 and M/s JP Performance at Mundra Port; On being shown the statement of Shri Sachin Soni dated 21.11.2022, he stated that he had read the

content of the same; however, agreed with the same and contradicted on the following points:

- Shri Sachin Soni had come forward to deal with them for such a foolproof Customs Duty evasion arrangement; he had heard from trade that he was a habitual offender and had been doing Customs clearance even in the Chennai SEZ although he was a Delhi based importer; that he devised the SEZ based route to evade Customs Duty due to less supervision in the SEZ. He had learnt that he had been booked many times in Delhi by many agencies of the customs department on charges of misclassification and misdeclaration due to which he left Delhi ports and moved to different ports across India to find easy clearance like Chennai SEZ and Mundra Port. He misstated that they were the seller of the imported furniture in the Indian market; however, they were only a Customs Clearing and logistics support company and they had never dealt with the selling of furniture as it was not their profession; that he was placing purchase orders in China as per his requirement from the same supplier since 2017.
- As per general practice, the importer knows his CTH which he gets from the supplier as he had been a regular importer of chair Lifters/Springs. He suggested to them to get his clearance either in Chapter 73 or 83 wherein BCD is 10% and 15% respectively; that the evasion benefit or profit never ever had been given to them which showed his intention to enrich himself by evading Customs Duty.
- He had never raised purchase orders to them and he himself used to negotiate in China with the Supplier; that after booking the container and making freight payment till India, then only he supplied the import docket for clearance purposes; that after clearing the containers from the Indian Customs after paying the Customs duty and all shipping charges and transportation he raised CGST invoice to him which showed that he was a local trader; however, he was the actual importer as he was making profit and was the beneficiary of the imported goods on which Customs duty liability would arise. Shri Sachin Soni misstated the facts that he used to place

purchase orders to Shri Durgesh Shelke, in this regard, he stated that Shri Durgesh Shelke was a young new employee who was working as a marketing executive with a monthly salary of Rs 35000/- only, he had no connection links in China; that it was actually Shri Sachin Soni who placed orders to the Chinese Supplier.

**2.2.10** Statement of Shri Akash Desai, President of Empezar Logistics, was recorded on 03.04.2023, under Section 108 of the Customs Act, 1962, wherein he, *inter-alia*, stated that:

- i) He stated that the joint bill of entry was being filed under Rule 29 and 48 of SEZ Rules; as they were warehouse keeper/custodian of the cargo as per practice, any Bill of Entry/Bill of export had to be filed jointly with them. As per the process/standard practice they always obtained/took an undertaking from the CHA who approached them for a sub-agent user ID and password for filing Bill of Entry and bill of export.
- ii) He stated that he did not want to offer a comment on that as they followed the standard practice which was being opted/accepted and allowed by the SEZ Customs Authority and they were still following this practice.
- iii) He stated that it was the standard practice which was being followed by every SEZ unit and which was allowed by the SEZ and Customs Authority.
- v) That declaration of the goods/examinations of the goods in the import documents were being looked after by the CHA as they did not have any role in it, they had never met/heard about any importer by the name of M/s Sri Balaji Office System. He submitted a list of Bills of Entry filed by M/s Deals 365 and M/s Sanjana Traders which were processed by CHA namely M/s Pushpanjali Logistics and M/s Ok Cargo Craft Pvt. Ltd by using sub login IDs provided by them on their request. He also submitted the undertaking and KYCs taken from the CHAs.

**2.3** In the present matter, investigation by the DRI revealed that a conspiracy was hatched by Shri Sachin Soni, Proprietor of M/s. Sri Balaji Office Systems in connivance

with certain persons and the IEC owners to evade Customs duty in the import of furniture and parts thereof from China, via the SEZ route, by filing joint DTA Bills of Entry/ex-bond Bills of Entry for DTA clearance, misdeclaring/suppressing the actual transaction value and by misclassification of certain imported goods. Shri Sachin Soni, after import of misdeclared goods in terms of value and classification, surrendered his IEC and his father's IECs to the DGFT; then opted to use someone else's IEC to avoid any Customs Duty liability if the same arose in future. He subsequently started to use IECs of third parties, viz M/s Deals 365, M/s Sanjana Traders and M/s JP Performances which were admittedly arranged by Shri Durgesh Shelke and others. The goods imported in these three IECs belonged to and were owned by Shri Sachin Soni of M/s Sri Balaji Office Systems, since the effective control over these imported goods rested with Sachin Soni only and all the goods were consigned to him after clearance from the Mundra SEZ customs. Moreover, the dealings with the foreign supplier were done by Shri Sachin Soni, and not by the (on-paper) three proxy importers. The documents required for filing with Customs at MSEZ, related to these consignments viz. invoice, Bill of Lading etc. were given by Shri Sachin Soni to Shri Durgesh Shelke etc., who in turn sent the same to the importers or the CHA to file the Bills of Entry for home consumption. Shri Kishore Bhanushali facilitated the import of the said consignments by way of Custom clearance work through his freight forwarders and Customs Broker company, namely M/s OM Logistics, Pushpanjali Logistics and OK Cargo. While facilitating the said import, Shri Kishore Bhanushali appeared to be clearly aware that the actual beneficial importer for the imports done in the name of the said three IECs was Shri Sachin Soni/ M/s Sri Balaji Office Systems. For clearance of the said goods, the undervalued invoices were prepared by Shri Sachin Soni, and these invoices were meant only for filing Bills of Entry, whereas the full consideration of the imported goods admittedly appeared to have been transferred via illegal channels. By way of such undervaluation and misclassification Shri Sachin Soni and others had knowingly defrauded the government exchequer by evading customs duty and violated the provisions of the Customs Act, 1962.

In accordance with provisions of General Rules of interpretation and Explanatory notes to Chapter heading 9401, the imported furniture and identifiable parts of chairs appeared to be rightly classifiable under CTH 9401 and assessable to duties accordingly. The differential duty arising out of the misclassification of CTH and undervaluation by M/s Balaji Office Systems, was calculated to Rs. 15,50,26,047/- (Rupees Fifteen Crore Fifty Lakh Twenty-Six Thousand and Forty-Seven only).

### **3. Role of Customs Broker:**

The Customs Broker (CB) is an agent authorized by the exporter to work on their behalf. As per regulations of the CBLR, 2018, it is the obligation of the Customs Broker to exercise due diligence to ascertain the correctness of any information he imparts to a client and to advise the client accordingly to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be. Further, it is mandatory for a Customs Broker to verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information.

4. In the instant case, the importer had engaged the CB, M/s Ok Cargo Craft Pvt. Ltd. as agent on their behalf to file import documents and process the Bills of Entry. The CHA is an agent of the importer. He works on behalf of the importer. He also takes authorization to work on behalf of the importer. A CHA remains fully aware that omission and commission by the importer affects the working image of the CHA. It is a business practice that the CHA knows on whose behalf they are working, as a CHA can face investigation for omission and commission at any time. As per CHA Regulations, a CHA also requires to know the client. Even in the absence of such requirement, it is business practice that the CHA knows on whose behalf they are working as the relation between CHA and importer is a long-time relation.

5. From the statements recorded under Section 108 of the Customs Act, 1962, it appeared that the Customs Broker M/s. O.K. Cargo Craft Private Limited did not advise their clients to comply with the provisions of the Customs Tariff Act, 1975 regarding the correct classification of goods, the Customs Act, 1962, other allied Acts and the rules and regulations thereof especially and have not exercised due diligence to ascertain the correctness of any information which they imparted to the client with reference to any work related to clearance of cargo and contravened the provisions of Regulations 10(d), 10(e) and 10(m) of the CBLR, 2018. By their acts of omission and commission, the CB M/s. O.K. Cargo Craft Private Limited, appeared to have rendered the impugned goods liable for confiscation under Section 111(m) of the Customs Act, 1962, and the Customs Broker (CB) M/s. O.K. Cargo Craft Private Limited liable for penal action under Section 112(a) and/or Section 114AA of the Customs Act, 1962.

5.1 It appeared from the offence report that the CB did not exercise due diligence in respect of verifying the identity of the actual importer and the correct classification norms. It appeared that the CB failed to perform their obligations under Regulations 10(d), 10(e) and 10(m) of the Customs Brokers Licensing Regulations (CBLR), 2018.

5.2 On conclusion of the investigation, the CB was made noticee in the relevant Show Cause Notice leading to the Order-In-Original dated 14.08.2024 issued under the Customs Act, 1962, calling them to show cause as to why penalty should not be imposed on M/s. O.K. Cargo Craft Private Limited for the various acts of omission and commission under Section 112(a) and/or Section 114AA of the Customs Act, 1962, read with Regulation 10(d), 10(e) and 10(m) of the Customs Brokers Licensing Regulations, 2018.

6. In view of the above facts and findings of the investigation, it appeared that the Customs Broker M/s. O.K. Cargo Craft Private Limited had failed to comply with the following regulations of the Customs Brokers Licensing Regulations, 2018: -

**6.1 Regulation 10 (d) of 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 non-*

*compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be.”*

a) From the statement of Shri Sunil Navin Joiser, Manager of Customs Broker M/s. O.K. Cargo Craft Private Limited recorded under Section 108 of the Customs Act, 1962, it appeared that the Customs Broker M/s. O.K. Cargo Craft Private Limited did not ask for the correct declaration of classification as per the Customs Tariff Act, 1975, vide which the importer was required to correctly classify the customized chair lifters and furniture accessories under Chapter 94 (attracting 25% BCD) instead of deliberately misclassifying them under Chapter 73 (attracting 10% BCD) to evade Customs duty, and further facilitated the clearances for dummy importers without verifying their actual credentials.

b) In the instant case, the CB appeared to have failed to advise his client to comply with the above-mentioned rules and regulations framed under the provisions of the Customs Act, 1962 and the Customs Tariff Act, 1975. Moreover, despite being aware and suspicious of the misclassification, the CB also failed to bring the matter of non-compliance to the notice of the Deputy/Assistant Commissioner of Customs. Hence, it appeared that the CB failed to perform their obligation under Regulation 10(d) of CBLR, 2018.

## **6.2 Regulation 10 (e) of CBLR, 2018:**

*“A Customs Broker shall exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage.”*

From the findings of the investigation, it appeared that the Customs Broker M/s. O.K. Cargo Craft Private Limited did not advise their clients to comply with the provisions of the Customs Tariff Act, 1975 pertaining to the correct classification of goods, the Customs Act, other allied Acts and the rules and regulations thereof especially. It also appeared that the CB failed to sensitize the importers to comply with the above-mentioned rules and regulations framed under the provisions of the Customs Act, 1962 and thus, failed

to exercise due diligence in respect of the said cargo to be cleared. Hence, it appeared that the CB failed to perform their obligation under Regulation 10(e) of CBLR, 2018.

### 6.3 Regulation 10 (m) of CBLR, 2018:

*"discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay;"*

In the instant case, the CB failed to check the misclassification and undervaluation of the goods despite being suspicious about the misclassification. Had the CB informed customs authorities regarding the wrong classification of goods the loss to the exchequer could have been avoided. Further the CB M/s Ok Cargo Craft Pvt Ltd., appeared to have facilitated imports by dummy Importers. From the above, it was clear that the CB did not discharge his duties efficiently. Hence, it appeared that the CB failed to perform their obligation under Regulation 10(m) of CBLR, 2018.

7. In view of the offence report received in the form of Order-In-Original No. 08/Commr/VC/Sri Balaji Office/ICD-PPG/2024-25 dated 14.08.2024 issued by the Office of the Commissioner of Customs, ICD PPG & Others ICDs, Patparganj, New Delhi, action under the CBLR, 2018 was initiated against the CB M/s. O.K. Cargo Craft Pvt. Ltd. (CB License No. 11/887). Further, 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 the CBLR, 2018. However, action under Regulation 17 of CBLR, 2018 was initiated against the CB M/s. O.K. Cargo Craft Pvt. Ltd. and accordingly, based on the Offence Report, the following articles of charge were framed against the CB:

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

7.1 In light of the above, a Show Cause Notice (SCN) No. 76/2024-25 dated 05.02.2025 was issued to the CB M/s. O.K. Cargo Craft Pvt. Ltd. (CB License No. 11/887) under the

provisions of Regulation 17(1) of the CBLR, 2018 wherein, the CB was called upon to show cause, as to why:

- a. The Customs Broker License bearing no. 11/887 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;

Penalty should not be imposed upon them under Regulation 18 read with Regulation 17 of the CBLR, 2018.

7.2 Shri Devendra R. Agarwal, Assistant Commissioner of Customs, was appointed as Inquiry Officer (IO) to conduct the inquiry proceedings against CB M/s. O.K. Cargo Craft Pvt. Ltd. under Regulation 17 of the CBLR, 2018.

**INQUIRY REPORT: -**

8. The Inquiry Officer (here in after referred to as the 'IO') concluded the inquiry proceedings and submitted the Inquiry Report dated 12.09.2025, wherein the charges levelled against the CB of violation of Regulations 10(d) and 10(m) of the CBLR, 2018 were held as "Not Proved" and the charge of violation of Regulation 10(e) was held as "could not be fully proved". Further, the IO stated that the prescribed timeline under Regulation 17 for completion of inquiry proceedings could not be adhered to as he was allotted multiple sensitive charges involving time bound compliances.

**FINDINGS OF THE INQUIRY OFFICER: -**

9. The IO submitted that he had gone through the Show Cause Notice No. 76/2024-25 dated 05.02.2025, the records of the Personal Hearings and Defence submissions made during the personal hearings. The IO submitted that he had also gone through the statements of all the persons recorded during the investigation, the alleged Articles of Charges or contraventions mentioned in the Show Cause Notice as well as legal provisions reflected in CBLR, 2018.

9.1 The IO submitted that he had taken on record the submissions made by the CB and discussed all the submissions & examined their merits.

**9.2 Article of Charge -I- Violation of Regulation 10(d) of CBLR, 2018**

The IO found that the CB submitted that they had acted purely on the basis of the documents provided by the importers; that they had no prior knowledge of any intentional misdeclaration or undervaluation by the importers M/s Deals 365 or M/s Sanjana Traders; and that there was no question of bringing the matter of non-compliance to the notice of the Deputy/Assistant Commissioner of Customs as they were allegedly unaware of the fraud orchestrated by Shri Sachin Soni prior to the DRI investigation. The IO found that the charged CB M/s O.K. Cargo Craft Pvt. Ltd. had filed multiple Bills of Entry on behalf of the proxy importers for the clearance of items declared as "Hardware accessories and furniture" and "Hardware Accessories Spring/chair lifter". The IO found that as per the offence report, these items were actually customized chair lifters and pneumatic springs which are rightly classifiable under CTH 9403, attracting a Basic Customs Duty (BCD) of 25%.

The IO found from the offence report that the impugned goods were covered under the specific category of furniture parts. In accordance with the provisions of the General Rules of Interpretation and Explanatory notes to Chapter heading 9401, the export/import of these identifiable parts of chairs is governed by Chapter 94. However, the actual importer intentionally misclassified them under Chapter 73 (attracting a lower BCD of 10%) to evade Customs duty.

The IO found from the investigation that Shri Sunil Navin Joiser, Manager of the CB, in his statement recorded on 10.04.2023 under Section 108 of the Customs Act, 1962, stated that he had suggested to the importers (Shri Kishore Bhanushali and Shri Narendra Bhanushali) that the furniture and its parts were classifiable in Chapter 94, but the importers decided to declare the goods in Chapter 73 claiming they were multi-usage steel springs. However, the IO observed that the goods imported under the said Bills of Entry were subjected to 100% physical examination by the SEZ Customs Officers. The IO found that

the proper officers had verified the goods and issued the out-of-charge without raising any dispute regarding the classification or valuation at the time of clearance.

The IO submitted that the CB processed the clearances based strictly on the import documents viz. Bill of Lading, Invoice, and Packing List provided by the importers. The IO found that the need to advise a client or bring the matter to the notice of Customs would arise only if the charged CB were conclusively aware of the intent to evade duty. The IO observed that since the proper officers of Customs themselves did not object to the classification during the examination at Mundra SEZ, the CB could not be solely faulted for the misclassification.

The IO submitted that reliance was placed on the judgment of the Hon'ble High Court of Delhi in the case of *Kunal Travels (Cargo) v. Commissioner of Customs (I&G), IGI Airport, New Delhi reported in 2017 (354) E.L.T. 447 (Del.)*. The IO found that as per the said judgment, the CB is not an inspector to weigh the genuineness of the transaction and is merely a processing agent of documents. The IO found that it would be far too onerous to expect the CB to inquire into and verify the exact technical classification and genuineness of the IE Code given to it by a client when such code is mentioned and goods pass customs scrutiny. Hence, the IO submitted that the ratio of the said judgement was applicable in the instant case to support the CB's defence.

The IO found that there was no conclusive evidence to prove that the CB had willfully withheld information or failed to advise their client regarding compliance, especially when the customs authorities had cleared the goods. Thus, the IO found that the CB had neither actively participated in the misclassification nor intentionally failed to bring the non-compliance to the notice of the Customs Authorities. Accordingly, the IO held the Article of Charge alleging violation of Regulation 10(d) of the CBLR, 2018 as "Not Proved".

### **9.3 Article of Charge –II- Violation of Regulation 10(e) of CBLR, 2018**

The IO stated that the defence submission stated that the SCN alleged that the CB failed to exercise due diligence regarding the correctness of the information imparted to

Customs; that the importers in their statements recorded under Section 108 inter-alia stated that the classification was done as per their instructions; that in the statement of the CB recorded under Section 108 of the Customs Act, 1962, the CB stated that the importers had submitted standard commercial documents on the basis of which they filed the Bills of Entry after due diligence.

The IO found from the statement of Shri Sunil Navin Joiser, Manager of M/s. O.K. Cargo Craft Pvt Ltd, recorded on 10.04.2023, that they did not independently verify the actual beneficiary of the IECs as the documents were provided by their regular freight forwarder M/s Om Logistics, vide which the CB was engaged to file the joint warehouse and home consumption Bills of Entry. The IO found that while the CB had suggested classifying the goods under Chapter 94, they ultimately filed under Chapter 73 as insisted by the clients, and the goods were subsequently subjected to 100% physical examination by the Customs officers at Mundra SEZ who granted the Out of Charge without raising any objections regarding the misclassification.

The IO found that it was the responsibility of the CB to exercise due diligence to ascertain the correctness of information. However, since the CB relied on the customs assessment process which itself failed to detect the misdeclaration at the time of clearance, and there was no evidence of willful complicity, the IO submitted that the CB could not be solely held responsible for failing to exercise due diligence while filing the Bills of Entry for the subject import consignments. Accordingly, the Article of Charge alleging violation of Regulation 10(e) of the CBLR, 2018 "could not be fully proved".

#### **9.4 Article of Charge –II- Violation of Regulation 10(m) of CBLR, 2018**

The IO stated that the defence submission stated that the SCN alleged that the CB did not discharge their duties with utmost efficiency as they failed to check the misclassification despite being suspicious, and facilitated imports by dummy importers; that the CB in their statements asserted that there was absolutely no evidence or admission indicating that they had prior knowledge of the misdeclared and undervalued goods prior to Customs examination; and that the clearances were processed without any delay.

The IO found that Regulation 10(m) specifically mandates the Customs Broker to discharge their duties with "utmost speed and efficiency and without any delay". The IO observed that the present case was not related to a lack of speed, as the customs clearances for the consignments had been taken in a timely manner and not withheld. The IO found from the records that the CB did not have any direct interaction with the proxy importers or the actual beneficiary, but solely relied on the information and instructions provided by the employer of the logistics firm, Shri Kishore Bhanushali of M/s Om Logistics.

The IO found that in the absence of any concrete evidence establishing that the CB had prior knowledge of the misdeclaration and undervaluation, or that they had willfully aided and abetted the importer, they could not be faulted for inefficiency under this specific regulation. Since the clearances were executed without delay and the allegation of failing to discharge duties efficiently was not supported by evidence of intentional complicity, the IO submitted that the charge was not sustainable. Accordingly, the Article of Charge alleging violation of Regulation 10(m) of the CBLR, 2018 was "not proved".

9.5 The IO submitted that the CB, in their defence, asserted that they cannot be held responsible for the misclassification and undervaluation committed by the importers, as they merely filed documents based on the information provided, which was subsequently assessed and cleared by Customs. The CB relied upon various judicial pronouncements to support their case.

In this regard, the IO submitted that he relied on the decision of the Hon'ble High Court of Delhi in the case of Kunal Travels (Cargo) v. Commissioner of Customs (I&G), IGI Airport, New Delhi reported in 2017 (354) E.L.T. 447 (Del.), which held in its order that the CHA is a processing agent of documents and not an inspector to weigh the genuineness of the transaction;

The IO found that the ratio of the above case law is applicable in the instant case as the Charged CB had processed the clearances without prior knowledge of the misdeclaration. The IO relied upon the following case laws:

a. *In the case of RKV Freight Services P. Ltd. v Commissioner of Customs [2024 (9) TMI 946], it was held that –*

*"where the proper officer is aware of the tariff heading claimed in respect of the goods and has granted clearance to the goods under the said tariff heading, it cannot be alleged that the CHA had colluded with importer/exporter to misclassify the goods."*

b. *In the case of Classic Shipping & Co. Versus Commissioner of Customs [2024 (9) TMI 1326], it was held that-*

*"classification is not the responsibility of the CHA. It is not for CHA to have opinion on how the goods are to be classified and that it is for Customs Authorities to correctly classify goods."*

c. *In the case of M/s H2O LOGISTICS Versus PRINCIPAL COMMISSIONER OF CUSTOMS (GENERAL) [(2024) 17 Centax 3 (Tri.-Bom)], the Tribunal observed that-*

*"Customs broker declaring description of imported goods and value in bill of entry exactly as given in invoice supplied by importer. Customs broker not to be faulted for failure to advise his client to comply with statutory provisions. Order concluding that customs brokers violated regulation 10(d) of Regulations not sustainable."*

d. *In the case of Ratnadeep Shipping Pvt. Ltd Versus Commissioner of Customs (Gen) Mumbai [2015 (330) E.L.T. 488 (Tri. Mumbai)], it was held that-*

*"No evidence on record indicating CHA aided and abetted importers in evasion of duty. Forgery of official documents and signatures by Importer cannot ipso facto form ground of violation..."*

e. *In the case of M/s Access World Wide Cargo V/s Commissioner of Customs [(2023) 13 Centax 279 (Tri. -Bang)], it was held that "lack of proof that there was mala fide and wilful misrepresentation by customs broker. Considering this fact and also unblemished record of the customs broker penalty imposed... set aside."*

Accordingly, the IO accepted the defence of the charged Customs Broker and concluded that the charges under the provisions of Regulation 10(d), 10(e) and 10(m) of the CBLR, 2018 were not sustainable.

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

The IO concluded the findings of the inquiry as under:

1.	Violation of Regulation 10(d) of CBLR, 2018	Not Proved
2.	Violation of Regulation 10(e) of CBLR, 2018	Could not be fully Proved
3.	Violation of Regulation 10(m) of CBLR, 2018	Not Proved

10.1 Under the provisions of Regulation 17(6) of the CBLR, 2018, the Adjudicating Authority disagreed with the findings of the Inquiry Officer. Accordingly, a Disagreement Memo was issued, and a copy of the Inquiry Report dated 12.09.2025 along with the Disagreement Memo was shared with the CB. Further, to uphold the Principle of Natural Justice, an opportunity of personal hearing was granted to the CB on 06.01.2026.

#### **RECORDS OF PERSONAL HEARING: -**

11. An opportunity for a Personal Hearing was initially granted to the CB on 06.01.2026 at 12:30 p.m., as intimated to them vide the Disagreement Memo. Subsequently, the hearing was rescheduled based on the request by the CB through Email Dated 03.01.26, and the CB was granted a personal hearing on 20.01.2026 at 1:00 p.m. The authorized representative of the CB, Shri R.K. Tomar (Advocate), appeared for the Personal Hearing on the rescheduled date and time. During the hearing, he submitted their written submissions and reiterated the facts. His oral and written submissions were taken on record. Consequently, the matter was taken up for adjudication based on the facts, their written submissions, and the evidence available on record.

#### **WRITTEN SUBMISSION OF THE CB: -**

12. The CB made written submissions dated 25.03.2025 and 20.01.2026, and further reiterated their defense during the PH on 20.01.2026, the main contentions and defence of which is summarized below:

12.1 Firstly, the CB submitted that the present proceedings against them under Regulation 17 of CBLR, 2018, are vitiated due to gross violation of mandatory timelines; that the inquiry was not concluded within the prescribed period of 90 days as mandated under Regulation 17(5) of the CBLR, 2018.

12.2 Further, the CB submitted that they filed Joint Warehouse and Home Consumption Bills of Entry for and on behalf of M/s Deals 365, M/s Sanjana Traders, and M/s JP Performances for import of 'Hardware accessories and furniture' from SEZ, Mundra. The CB submitted that they had no occasion to examine the goods prior to the filing of the Bills of Entry and filed the same strictly based on the import documents viz. Bill of Lading, Invoice, and Packing List provided by the importers. The matter was investigated by DRI, DZU. The CB submitted that the goods were subjected to 100% physical examination by the proper officers of Customs at SEZ Mundra, and Out of Charge was granted as no discrepancy was noticed by the assessing officers at the time of clearance.

12.3 The CB submitted that the statements of the dummy importers were recorded under Section 108 of the Customs Act, 1962, wherein they did not implicate the CB or indicate any knowledge on the CB's part regarding the fraud orchestrated by the actual beneficiary, Shri Sachin Soni. Further, the CB stated that the statement of their Manager, Shri Sunil Navin Joiser, was also recorded on 10.04.2023 wherein he inter-alia stated that they had merely facilitated the customs clearance based on the authorization and documents provided by the clients and had no prior knowledge of any intentional misdeclaration or undervaluation.

12.4 The CB further stated that the import consignments were cleared between April 2022 and June 2022. The SCN under Regulation 17 of CBLR, 2018 had been issued on 05.02.2025, which is after a period of more than two and a half years from the date of the

alleged offence. Therefore, the CB stated that the extreme action of revocation after such a time lag is unjustified.

12.5 The CB mentioned that it is pertinent to note that they had obtained proper Authorization letters from the importers. By the said letters, the said importers had declared that the goods imported by them do not contain any low price/misdeclared articles and that in case any misdeclaration is found in their documents or goods, they would be solely responsible for the same. In the present case the misdeclaration was only detected much later when the DRI intercepted the goods. The CB further submitted that penalty under Section 114AA of the Customs Act against them had already been dropped in the Order-In-Original dated 14.08.2024, and they have preferred an appeal before CESTAT against the penalty imposed under Section 112.

12.6 With respect to charge of violation of Regulation 10(d):

The CB submitted that the Bills of Entry were filed for imported furniture parts and hardware accessories. Upon assessment and DRI interception, it was alleged that the goods were misclassified under Chapter 73 instead of Chapter 94. The CB submitted that their manager had specifically suggested to the importers that if the accessories are used in making furniture, they should be classified under Chapter 94. However, the importers insisted on Chapter 73 claiming multi-usage, and the Customs officers subsequently examined and cleared the goods under the declared tariff without objection. Therefore, the CB submitted that there was no question of advising their client further or bringing it to the notice of the Assistant/Deputy Commissioner, as the Customs assessment itself allowed the clearance. The CB further submitted that they had no knowledge of the undervaluation to advise the client against it, and therefore, the charge under regulation 10(d) of CBLR, 2018 does not sustain and merits to be withdrawn. The CB submitted that they placed reliance upon the case of *Classic Shipping & Co. v Commissioner of Customs* [2024 (9) TMI 1326] and *RKV Freight Services P. Ltd. v Commissioner of Customs* [2024 (9) TMI 946].

12.7 With respect to charge of violation of Regulation 10(e):

The CB submitted that the SCN has alleged that they had not exercised due diligence to ascertain the correctness of information imparted to a client. The CB stated that they had obtained all mandatory KYC documents, including IEC, GSTIN, PAN, Aadhaar, and Bank Certificates, and verified the identity of the importers in accordance with Regulation 10(n). Further, the CB stated that they had submitted standard commercial documents on the basis of which they had filed the Bills of Entry after due diligence. That being so there is no violation of Regulation 10(e) of CBLR, 2018. The CB submitted that as a processing agent, they are not expected to act as an inspector to weigh the genuineness of the transaction or the IE Code. Therefore, the CB stated that the charge under Regulation 10(e) does not survive and merits to be withdrawn, relying upon the judgment of the Hon'ble Delhi High Court in Kunal Travels (Cargo) v. Commissioner of Customs [2017 (354) E.L.T. 447 (Del.)].

12.8 With respect to charge of violation of Regulation 10(m):

The CB submitted that the SCN has alleged that they did not discharge their duties with utmost speed and efficiency. The CB stated that there is absolutely no allegation or evidence that the customs clearance was delayed or withheld by them. The CB submitted that they processed the documents provided by the importers efficiently and in a timely manner. In the absence of any knowledge or complicity in the evasion, the charge of inefficiency is misplaced. Therefore, the CB stated that the charge under Regulation 10(m) does not survive and merits to be withdrawn.

12.9 The CB submitted that the SCN is unsustainable in law and the CB is liable to be discharged and the SCN dropped and Your Honour is requested to do so.

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

13. I have gone through the facts and records of the case; the offence report received in the form of Order-In-Original No 08/Commr/VC/Sri Balaji Office/ICD-PPG/2024-25 dated 14.08.2024 issued by the Office of the Commissioner of Customs, ICD PPG & Others ICDs, Patparganj, New Delhi; Show Cause Notice No. 76/2024-25 dated

05.02.2025 issued under Regulation 17(1) of the CBLR, 2018; the Inquiry Report dated 12.09.2025, the Disagreement Memo issued by the Adjudicating Authority, and the CB's written submissions.

14. Briefly stating, the case involved an investigation by the Directorate of Revenue Intelligence (DRI) into the evasion of Customs duty by way of misclassification and undervaluation in the import of furniture and parts thereof from China through the SEZ route. The actual beneficiary, Shri Sachin Soni, Proprietor of M/s Sri Balaji Office Systems, utilized dummy IECs to orchestrate the imports. The Customs Broker, M/s. O.K. Cargo Craft Private Limited (CB License No. 11/887), filed 11 Joint Warehouse and Home Consumption Bills of Entry on behalf of proxy importers (such as M/s Sanjana Traders and M/s J.P Performance) for the clearance of items declared as "Hardware accessories and furniture" or "Hardware Accessories Spring/chair lifter". Upon investigation, it was determined that the items were customized chair lifters and pneumatic springs, rightly classifiable under CTH 9403 (attracting 25% BCD) rather than the declared CTH 73 (attracting 10% BCD). During statement recording, the Manager of M/s. O.K. Cargo Craft Pvt. Ltd. admitted that he had suggested classifying the goods under Chapter 94, but ultimately filed the documents under Chapter 73 as insisted by the clients and freight forwarders. The SCN alleges the CB failed to advise their client to comply with the provisions of the Customs Tariff Act, failed to exercise due diligence to verify the correctness of information regarding the cargo and the identity of the actual importer, and failed to discharge their duties with utmost efficiency. Consequently, the CB is charged with violating Regulations 10(d), 10(e) and 10(m) of the CBLR, 2018.

14.1 I observe that an Order-In-Original No 08/Commr/VC/Sri Balaji Office/ICD-PPG/2024-25 dated 14.08.2024 was passed against the Offence Report wherein, the Adjudicating Authority has observed that the Customs Broker M/s. O.K. Cargo Craft Pvt. Ltd. did not advise their clients to comply with the provisions of the Customs Act, 1962, and the Customs Tariff Act, 1975, and have not exercised due diligence to ascertain the correctness of information imparted to a client with reference to clearance of cargo and

contravened the provisions of Regulations 10(d), 10(e) and 10(m) of the CBLR, 2018. For the various acts of omission and commission by the Customs Broker (CB) M/s. O.K. Cargo Craft Pvt. Ltd., which appear to have rendered the impugned goods liable for confiscation under the Customs Act, 1962, the Customs Broker rendered themselves liable for penal action. Consequently, while the penalty under Section 114AA was dropped against the CB, a penalty under Section 112 of the Customs Act, 1962, was imposed on the CB M/s. O.K. Cargo Craft Pvt. Ltd. for their involvement in the confiscated goods.

15. I find that 03 articles of charges have been framed against the CB i.e. violation of Regulations 10(d), 10(e) and 10(m) of the CBLR, 2018. Now, I proceed to discuss the articles of charges, sequentially.

#### **15.1 Violation of Regulation 10(d) of the CBLR, 2018:**

(a) 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 statement of Shri Sunil Navin Joiser, Manager of Customs Broker M/s. O.K. Cargo Craft Pvt. Ltd., recorded under Section 108 of the Customs Act, 1962, it appeared that the Customs Broker did not ask for the correct declaration of classification as per the Customs Tariff Act, 1975. The importer was required to correctly classify the customized chair lifters and furniture accessories under Chapter 94 (attracting 25% BCD) instead of deliberately misclassifying them under Chapter 73 (attracting 10% BCD) to evade Customs duty. In the instant case, the CB appeared to have failed to advise his clients to comply with the above-mentioned rules and regulations framed under the provisions of the Customs Act, 1962. Moreover, despite being suspicious and aware of the misclassification, the CB also failed to bring the matter of non-compliance to the notice of the Deputy/Assistant Commissioner of Customs, and hence, it appeared that the CB failed to perform their obligation under Regulation 10(d) of CBLR, 2018.

(b) I find that the Inquiry Officer, in this regard, has observed that the defence submission of the CB stated that they had filed the Bills of Entry strictly on the basis of the import documents provided by the importers, and that the goods were subjected to 100% physical examination by the SEZ Customs officers who granted Out of Charge without

objection. The IO observed that Shri Sunil Navin Joiser in his statement dated 10.04.2023 had suggested to the importers (Shri Kishore Bhanushali and Shri Narendra Bhanushali) that the furniture parts were classifiable under Chapter 94, but the importers decided to declare them in Chapter 73 claiming they were multi-usage steel springs. The IO found that since the proper officers of Customs did not object to the classification during the examination at Mundra SEZ, the CB could not be solely faulted for the misclassification. The IO found that there was no conclusive evidence to prove that the CB had willfully withheld information or failed to advise their client regarding compliance, especially when the customs authorities had cleared the goods. Thus, the IO found that the CB had neither actively participated in the misclassification nor intentionally failed to bring the non-compliance to the notice of the Customs Authorities. Accordingly, the IO held the Article of Charge alleging violation of Regulation 10(d) of the CBLR, 2018 as "Not Proved".

(c) The CB in this regard submitted that they had no occasion to examine the goods prior to filing the Bills of Entry and had filed the same based on standard commercial documents. The CB submitted that they had advised the clients regarding Chapter 94, but the clients insisted on Chapter 73. Therefore, since the Customs assessing officers themselves cleared the goods after 100% examination, there was no question of bringing the matter of non-compliance to the notice of the Deputy/Assistant Commissioner. The CB further submitted that they had no knowledge of the undervaluation or the dummy nature of the importers, and therefore, the charge under Regulation 10(d) of CBLR, 2018 does not sustain and merits to be withdrawn. The CB submitted that they placed reliance upon the cases of *Kunal Travels (Cargo) vs Commissioner of Customs (I&G), New Delhi* [2017 (354) E.L.T. 447 (Del.)] and *RKV Freight Services P. Ltd. vs Commissioner of Customs* [2024 (9) TMI 946].

(d) Regulation 10(d) mandates that a Customs Broker shall advise his client to comply with the provisions of the Act and allied Acts, and in case of non-compliance, shall bring the matter to the notice of the Deputy/Assistant Commissioner of Customs. Having gone through the facts and records of the case, I find that the investigation revealed that the CB

filed multiple Bills of Entry for customized chair lifters and furniture accessories. These items are correctly classifiable under CTH 9403. I find that the CB's Manager admitted in his statement dated 10.04.2023 that he was aware the items were furniture parts and had explicitly raised the issue of correct classification under Chapter 94 with the handlers at M/s Om Logistics. Consequently, despite knowing the importers were insisting on the incorrect Chapter 73 to evade higher Customs duty, the CB proceeded to file the documents. I find that the CB contended that the Customs officers cleared the goods without objection. However, the failure of the Customs assessing officers to detect the misclassification during physical examination does not absolve the CB of its independent statutory obligation. The obligation to advise compliance and report non-compliance is a proactive duty that must be performed irrespective of the Customs department's assessment process. The CB's conscious decision to process the documents with the wrong classification, despite their own suspicion, is a blatant disregard of their statutory duty.

Further, I find the CB's and IO's reliance upon the cases of Kunal Travels (Cargo) vs Commissioner of Customs and RKV Freight Services P. Ltd. vs Commissioner of Customs as misplaced. While a Customs Broker is a processing agent, Regulation 10(d) specifically triggers when the CB has reason to believe or knows that the client is non-compliant. In the present case, the CB explicitly admitted to discussing the correct classification with the client and knowing the client was deliberately misdeclaring it. Hence, I find that the ratio of the judgements relied upon by the CB is not applicable in the instant case. Accordingly, I am of the firm opinion that the CB's actions were severely lacking in professional diligence by choosing to remain a silent spectator to the evasion of Customs duty. Therefore, I completely disagree with the findings of the Inquiry Officer and uphold the charge of violation of Regulation 10(d) of the CBLR, 2018.

## **15.2 Violation of Regulation 10(e) of the CBLR, 2018:**

(a) I find that the charge of violation of Regulation 10(e) of the CBLR, 2018 has been levelled against the CB on the grounds that, from the findings of the investigation, it appeared that the Customs Broker M/s. O.K. Cargo Craft Pvt. Ltd. failed to exercise due

diligence to ascertain the correctness of information imparted to Customs with reference to the clearance of cargo. It appeared that the CB processed clearances for dummy importers (M/s Sanjana Traders and M/s Deals 365) whose IECs were rented out to the actual beneficiary, Shri Sachin Soni. It also appeared that the CB failed to exercise due diligence by blindly facilitating the import of grossly undervalued and misclassified goods under Chapter 73 instead of Chapter 94, acting hand-in-glove with the handlers at M/s Om Logistics. Hence, it appeared that the CB failed to perform their obligation under Regulation 10(e) of CBLR, 2018.

(b) I find that the Inquiry Officer, in this regard, has observed that, as per the statement of Shri Sunil Navin Joiser, Manager of M/s. O.K. Cargo Craft Pvt. Ltd., recorded on 10.04.2023, the CB did not independently verify the actual beneficiary of the IECs as the documents were provided by their regular freight forwarder M/s Om Logistics. The IO further observed that while the CB had suggested classifying the goods under Chapter 94, they ultimately filed under Chapter 73 as insisted by the clients. The IO found that the goods were subsequently subjected to 100% physical examination by the Customs officers at Mundra SEZ who granted the Out of Charge without raising any objections. Thus, the IO found that since the CB relied on the customs assessment process which itself failed to detect the misdeclaration at the time of clearance, the CB could not be solely held responsible for failing to exercise due diligence while filing the Bills of Entry. Accordingly, the IO submitted that the Article of Charge alleging violation of Regulation 10(e) of the CBLR, 2018 "could not be fully proved".

(c) The CB in this regard submitted that they had obtained all mandatory KYC documents, including IEC, GSTIN, PAN, Aadhaar, and Bank Certificates, and verified the identity of the importers in accordance with Regulation 10(n). Further, the CB stated that they had submitted standard commercial documents on the basis of which they filed the Bills of Entry after due diligence. That being so there was no violation of Regulation 10(e) of CBLR, 2018. The CB submitted that they had no occasion to examine the goods prior to filing and as a processing agent, they are not expected to act as an inspector to weigh the

genuineness of the transaction. Therefore, the CB stated that the charge under Regulation 10(e) does not survive and merits to be withdrawn.

(d) I have meticulously perused the Offence report, the IO's findings, the CB's submissions, the Disagreement Memo, and the available facts and evidences on record. On perusal of the same I observe that the IO has held this charge as "could not be fully proved". I find that the CB argued during the Inquiry that they exercised due diligence by obtaining KYC documents and relying on the Customs examination process. I find this argument untenable. A Customs Broker is expected to be diligent in their filing process, peruse the documents submitted by the client, and apply their mind so as to tender proper advice and ascertain the correctness of the information being imparted to Customs. The CB's failure to independently verify the authenticity of the proxy importers and their blind reliance on a freight forwarder (M/s Om Logistics), coupled with filing documents under an incorrect tariff heading despite their own manager's suspicion, demonstrates a severe lack of due diligence mandated under Regulation 10(e). By failing to verify the true identity of the actual beneficiary and willfully ignoring the obvious misclassification to accommodate the client's intent to evade duty, the CB failed to exercise the degree of diligence required during the clearance process. The failure of Customs officers to detect the misclassification during physical examination does not extinguish the independent statutory obligations of the Customs Broker. Consequently, I find that the IO has incorrectly concluded the findings on this charge. In light of the facts on records and the associated findings detailed in the Disagreement Memo, I completely disagree with the IO's findings and hold the CB guilty of violation of Regulation 10(e) of the CBLR, 2018.

### **15.3 Violation of Regulation 10(m) of the CBLR, 2018:**

(a) 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 CB failed to discharge their duties as a Customs Broker with utmost speed and efficiency and without any delay. In the instant case, it appeared that the CB did not discharge their duties efficiently, as they failed to check the misclassification and undervaluation of the goods despite their own manager

being suspicious about the misclassification. Had the CB efficiently verified the credentials and informed the Customs authorities regarding the wrong classification of goods, the massive loss to the exchequer could have been avoided. Further, the CB appeared to have facilitated imports by dummy importers, rendering their professional service highly questionable and inefficient. In view of the above, it appeared that the CB violated Regulation 10(m) of the CBLR, 2018.

(b) I find that the Inquiry Officer, in this regard, has observed that Regulation 10(m) specifically mandates the Customs Broker to discharge their duties with "utmost speed and efficiency and without any delay". The IO observed that the present case was not related to a lack of speed or withholding of clearances, as the customs clearances for the consignments had been taken in a timely manner. The IO further found that in the absence of any concrete evidence establishing that the CB had prior knowledge of the misdeclaration and undervaluation, or that they had willfully aided and abetted the importer, they could not be faulted for inefficiency under this specific regulation. Since the clearances were executed without delay and the allegation of failing to discharge duties efficiently was not supported by evidence of intentional complicity, the IO submitted that the charge was not sustainable. Accordingly, the IO held the Article of Charge alleging violation of Regulation 10(m) of the CBLR, 2018 as "Not Proved".

(c) The CB in this regard submitted that there is absolutely no allegation or evidence in the Show Cause Notice that the customs clearance was delayed or withheld by them at any point. The CB stated that they processed the documents provided by the importers efficiently and filed the Bills of Entry in a timely manner based on standard commercial documents. The CB contended that in the absence of any knowledge or complicity in the evasion of duty, the charge of inefficiency is entirely misplaced. Therefore, the CB stated that the charge under Regulation 10(m) does not survive and merits to be dropped.

(d) I have meticulously perused the Offence report, the IO's findings, the CB's submissions, the Disagreement Memo, and the available facts and evidences on record. On perusal of the same, I observe that the IO has held this charge as "Not Proved" by narrowly

interpreting Regulation 10(m) to merely mean the mechanical speed of filing documents. I find this interpretation and the ensuing argument by the CB fundamentally flawed and untenable. Regulation 10(m) mandates that a Customs Broker must conduct business not only with "speed" and "without delay", but critically with "utmost efficiency". Efficiency in the context of a Customs Broker encompasses due care, professional standards, active scrutiny of documentation, verification of importer credentials, and transactional authenticity.

The mere fact that the Bills of Entry were filed within statutory timelines cannot override the CB's failure to exercise professional diligence and vigilance during the clearance process. By their own admission, the CB's manager was suspicious of the classification under Chapter 73 for items that were clearly furniture parts (Chapter 94). Efficient discharge of duties required the CB to halt the processing, thoroughly verify the actual beneficiary behind the rented IECs (M/s Deals 365 and M/s Sanjana Traders), and refuse to file documents that they knew or suspected were misdeclared. Instead, the CB blindly accommodated the irregular imports orchestrated through the freight forwarder M/s Om Logistics. Consequently, I find that the IO has incorrectly concluded the findings on this charge by ignoring the "efficiency" aspect of the Regulation. In light of the facts on records and the associated findings detailed in the Disagreement Memo, I completely disagree with the IO's findings and hold the CB guilty of violation of Regulation 10(m) of the CBLR, 2018.

16. 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 the CB by the Government Agencies; however, by their acts of omission and commission, the Customs Broker M/s. O.K. Cargo Craft Pvt. Ltd. (CB License No. 11/887) has violated Regulations 10(d), 10(e) and 10(m) of the CBLR, 2018. I find that for the violation of obligations provided under the CBLR, 2018 and for their acts of omission and commission, the Customs Broker M/s. O.K. Cargo Craft Pvt. Ltd. has rendered itself liable for penal action under the CBLR, 2018. Hence, while deciding the matter, I rely on the following caselaws:

- 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 CB 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 CB is supposed to safeguard the interest of both the importers and the Customs. A lot of trust is kept in CB 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 CB Licensing Regulations lists out obligations of the CB. Any contravention of such obligations even without intent would be sufficient to invite upon the CB 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 CB 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 CB, 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."*

17. As discussed above, I conclude that the CB M/s. O.K. Cargo Craft Pvt. Ltd. (CB License No. 11/887) is guilty of violating Regulations 10(d), 10(e), and 10(m) of the CBLR, 2018. In view of the detailed discussion and analysis above, it is established that the CB, M/s. O.K. Cargo Craft Pvt. Ltd. has failed to discharge the professional and statutory obligations mandated under the Customs Brokers Licensing Regulations, 2018. The evidence on record confirms that the Customs Broker did not advise the importers

regarding the correct classification of customized chair lifters and furniture parts under Chapter 94 prior to filing the Bills of Entry. Furthermore, by willfully disregarding their own manager's suspicion regarding the misclassification and failing to independently verify the true identity of the beneficiaries behind the proxy IECs, the Customs Broker failed to exercise the requisite due diligence and professional efficiency.

Further, while the investigation by DRI revealed a systemic evasion of duty by the actual beneficiary through multiple dummy importers, it is observed that the role of the CB was characterized by a severe lapse in professional conduct and a failure to act as a gatekeeper for the Department. However, there is no direct evidence on record to establish that the CB was an active co-conspirator or received a share of the proceeds of the fraud beyond their professional service charges. Accordingly, I find no conclusive connivance angle but an act of gross negligence and diminished diligence on the part of the CB during the clearance process. Further, I find that the Adjudicating Authority, while passing the Order-in-Original No. 08/Commr/VC/Sri Balaji Office/ICD-PPG/2024-25 dated 14.08.2024, dropped the charges under Section 114AA and only imposed a penalty under Section 112 of the Customs Act, 1962. Also, I find that a period of over three years has elapsed since the detection of the offence, during which the CB has continued to operate, and there is no evidence of repeated violations. Hence, under the factual matrix of the case and applying the principle of proportionate punishment, I am not inclined to revoke the License of the CB as the punishment of revocation of license is much harsher and disproportionate to the offence committed. However, I am of the considered view that the ends of justice will be met by imposing a penalty under Regulation 18 and ordering the forfeiture of the entire security deposit under Regulation 14 of the CBLR, 2018. This composite action serves as a commensurate punishment for the established infractions and acts as a necessary deterrent to prevent future violations of statutory obligations. In this regard, I place reliance on the following caselaws:

- 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”.*

18. I find that the Inquiry Report against the SCN dated 05.02.2025 in the present case was received on 12.09.2025. The IO attributed the delay in submitting the Inquiry Report to the significant workload and administrative exigencies, as detailed in the report. Further, on receipt of the Inquiry Report and subsequent issuance of the Disagreement Memo, the CB was granted an opportunity for a Personal Hearing on 20.01.2026. Shri Sunil Navin Joiser, Manager of the CB firm M/s. O.K. Cargo Craft Pvt. Ltd., appeared for the Personal Hearing and submitted their detailed written defense, which has been taken on record. Unlike the instances of repeated adjournments, the CB in the current case participated in

the scheduled proceedings once the Disagreement Memo was served. However, with respect to the timelines prescribed under Regulation 17 of the CBLR, 2018, and the time lag between the offence and the initiation of proceedings, I observe that the timelines under CBLR are generally held to be directory in nature and not mandatory. In this regard, relying on the following caselaws:

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.), observed 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 there afterwards, 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 CBLR, 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".

19. Having gone through the facts of the case and evidences on record, it is noted that the role of the CB, though marked by negligence and a significant lack of professional caution, appears to be one of omission and failure to adhere to prescribed standards rather than a calculated modus operandi to orchestrate illegal imports. This distinction is of material importance while determining the proportionality of punishment under the licensing regulations. 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 specifically the failure to independently verify the actual beneficiaries and the disregard for correct classification despite internal suspicion justify the imposition of a monetary penalty under Regulation 18 as well as the forfeiture of the entire security deposit under Regulation 14 of the CBLR, 2018. Such action is necessary to underscore the seriousness of the obligations violated and to deter the recurrence of such lapses in the future. However, having regard to the absence of direct proof of abetment in the proceeds of the fraud and the fact that revocation of the license would have severe and disproportionate consequences on the livelihood of the CB and its employees, I find that the extreme penalty of revocation is not warranted. Nonetheless, the gravity of the professional misconduct is such that the ends of justice would only be met by the combined imposition of a monetary penalty and the forfeiture of the entire security deposit.

20. In view of the above judgements and the "Doctrine of Proportionality," which propagates the idea that a punishment for an offence should be proportional to the gravity of the offence, I am not inclined to revoke the license of the CB. However, for their acts of omission and commission, the Customs Broker M/s. O.K. Cargo Craft Pvt. Ltd. (CB License No. 11/887) is held liable and guilty for violating the provisions of the CBLR, 2018, as mentioned above. I hold that the CB has failed to discharge their duties cast upon them with respect to Regulations 10(d), 10(e) & 10(m) of the CBLR, 2018, and the interest of justice would be met by imposition of penalty and security forfeiture alone. Accordingly, I pass the following order:

**ORDER**

21. I, Commissioner of Customs (General), in exercise of the power conferred upon me under Regulation 17(7) of the 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. O.K. Cargo Craft Pvt. Ltd. (CB License No. 11/887) under Regulation 14 of the CBLR, 2018.

(ii) I, hereby impose a penalty of Rs. 50,000/- (Rupees Fifty Thousand only) on the Customs Broker M/s. O.K. Cargo Craft Pvt. Ltd. (CB License No. 11/887) under Regulation 18(1) of the CBLR, 2018.

This order is passed without prejudice to any other action which 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.

  
4/2/26  
(Shraddha Joshi Sharma)  
Commissioner of Customs (Gen.)  
NCH, Mumbai-I

To,

M/s. O.K. Cargo Craft Pvt. Ltd. (CB License No. 11/887)

Office No. 2, 66/4th Clive Cross Lane,

Dana Bunder Area, Masjid Bunder East,

Mumbai – 400009.

**Copy to:**

1. The Pr. Chief Commissioner/ Chief Commissioner of Customs, Mumbai - I, II, III Zone.
2. The Commissioner of Customs, ICD PPG & Others ICDs, Patparganj, New Delhi.
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, NCH
7. Office copy