



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

संचिका सं./F. No. GEN/CB/365/2025-CBS

आदेश दिनांक/Date of Order: 10.06.2026

CAO No. 12/2026-27/CAC/PCC(G)/AKP/Adj-CBS जारी दिनांक/Date of issue: 11.06.2026

संख्या:

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द्वारा जारी : अजय कुमार पाण्डेय

Issued By : Ajay Kumar Pandey

प्रधान आयुक्त, सीमाशुल्क (सामान्य)

Pr. Commissioner of Customs (Gen.)

मुंबई - 400 001

Mumbai - 400 001

**ORDER-IN-ORIGINAL मूल आदेश**

**ध्यान दीजिए/ N.B. :**

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

2. इस आदेश के विरुद्ध अपील माँगे गए राशी के 7.5% के भुगतान पर सीमाशुल्क अधिनियम, 1962 129 की धाराA(1B)(i) के संबंधमें सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण में स्वीकार्य है, जहाँ शुल्क या शुल्क एवं जुर्माना विवादित हों, या जुर्माना, जहाँ सिर्फ जुर्माना ही विवादित हो। यह अपील इस आदेश के संप्रेषण की तारीख के तीन महीने के अंदर दायर की जाएगी। यह अपील सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण 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 की इस आदेश के अमल में आते ही, न्याय निर्णयन अधिकारी का अधिकार क्षेत्र समाप्त होता है और सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण, पश्चिम क्षेत्री यखंडपीठ, 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 तदोउ 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), 1982 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 ब्याजवलागाएगए 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 क्रॉसड 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, 1950 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. Hind Ship Airways (PAN No. AABFH5054N), having registered address at Office 4, Floor 1, Plot 89, Shri Krishna Bhuvan, P. D'mello Road, Carnac Bunder, Chinch Bunder, Mumbai - 400009 (hereinafter referred to as the Customs Broker/CB), is the holder of Customs Broker License No. 11/672, 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 regarding the offences committed by the CB, issued by the Additional Director, Directorate of Revenue Intelligence, Ahmedabad Zonal Unit (DRI, AZU) vide letter F. No. DRI/AZU/CI-1/ENQ-62(INT-25)/2025 dated 04.07.2025 and 29.09.2025, was received in the Customs Broker Section, NCH, Zone-I, Mumbai.

2.1 This is a case involving misdeclaration and misuse of import licenses or the import of 10 Mesh material/ tyre scrap, aimed at circumventing the applicable EXIM policy restrictions. Acting on specific intelligence, the DRI, AZU intercepted and examined two consignments of M/s. Shabbir and Sons Eco Exim Pvt. Ltd. at Nhava Sheva port. The examination revealed that the importer M/s. Shabbir and Sons Eco Exim Pvt. Ltd. had imported used tyre scrap consignments by misusing licenses issued specifically for the import of 10 mesh material.

2.2 Mr. Syed Aslam Ali, power of attorney holder of M/s. Shabbir and Sons Eco Exim Pvt. Ltd. was summoned, and his statement was recorded under Section 108 of the Customs Act, 1962. During the course of the statement, he admitted to wilfully misusing the 10 Mesh licenses to import used rubber tyre scrap in forms, such as multiple cuts, shredded, and pressed baled scrap. This admission covered the current intercepted consignments as well as 11 past consignments. Such acts constitute smuggling as defined under Section 2(39) of the Customs Act, 1962. Consequently, for committing offences punishable under Sections 135(a) and 135(b) of the Customs Act, 1962, Mr. Syed Aslam Ali was arrested under Section 104 of the Customs Act, 1962.

2.3 Further scrutiny revealed that the Bills of Entry for both the live consignments and the 11 past consignments, where scanning images confirmed the import of Used Tyre Scrap (pressed baled/multi-cut) not falling under the 10 Mesh license category, were filed by M/s. Yash Shipping Services. Licenses issued for imports under the Customs Tariff Item (CTI) 40040000 for tyre scrap are restricted both in terms of quantity and validity period. These licenses permit the import of only one specific type of rubber tyre scrap within the stipulated time frame either “Used Tyre Scrap (pressed baled/multi-cut)” or “Rubber/granules finer than 10 Mesh to 20 Mesh, devoid of iron, steel, and most fibers” both falling under the broad category of Waste, parings, and scrap of rubber (other than hard rubber), and powders and granules obtained therefrom. Therefore, a valid license authorizes the import of a particular quantity of a specified type of tyre scrap as mentioned in the DGFT license, within the specified period.

2.4 During the course of the investigation, it was also ascertained that the importer was involved in over-debiting licenses, importing quantities exceeding the permitted limits by manipulating manual debit sheets. Such excess imports rendered the goods liable to confiscation and constituted an offence under Section 135 of the Customs Act, 1962. This over debiting appeared to have been carried out with the active involvement of customs brokers. Furthermore, the over-debiting of SIL licences in connection with the import of used tyre scrap by M/s. Shabbir and Sons Eco Exim Private Limited, along with details is presented in Table-A below.

2.5 The Customs Broker M/s. Hind Ship Airways (License No. 11/672) was one of the brokers involved in the over-debiting of the SIL license. As per the offence report dated 29.09.2025 a total quantity of 714.7 metric tons with an assessable value of Rs. 67,63,143/- was over-debited using the license of M/s. Hind Ship Airways. However, para 11.7 of the Show Cause Notice No. 1610/2025-26/Pr. Commissioner of Customs/GR.2H/NS-I/CAC/JNCH dated 15.12.2025 issued by the Principal Commissioner of Customs, NS-I, JNCH post completion of investigation by DRI, AZU mentioned the total over-debited quantity to be 7.8 metric tonnes with an assessable value of Rs. 87,160/-. Accordingly, the

updated fact has been taken on record. Furthermore, the statement of Shri Amrendra Kumar Amar confirmed that he used the SIL license of M/s. Shabbir and Sons Eco Exim Private Limited and the license of the Customs Broker M/s. Hind Ship Airways for customs clearance work. The details of specific violations committed by the customs broker are summarized in the table below:

**Table-A**

Sr. No.	Name of Customs Broker with Licence No.	Violation on the part of Customs Broker	Corresponding Documentary Evidence
1.	M/s. Hind Ship Airways (11/672) (AABFH5054NCH001)	The said license was used in over-debiting of the SIL licence to the tune of 7.8 Mts having assessable value of Rs. 87,160/-	1. The detailed calculation sheet quantifying the over debiting done by the Customs Broker Firm. 2. Statement of Shri Amrendra Kumar Amar, acknowledging that he used the license of M/s. Hind Ship Airways for customs clearance work related to M/s. Shabbir and Sons Eco Exim Private Limited. 3. Statement of Shri Syed Aslam Ali, power of attorney holder of importer.

3. Statement of Importer and Customs Broker:

3.1 Statement of Mr. Syed Aslam Ali, power of attorney holder of the importer M/s. Shabbir and Sons Eco Exim Pvt. Ltd. was recorded by DRI, Ahmedabad on 16.06.2025.

In his statement, he, inter-alia, stated that: -

- He had been serving as the Power of Attorney holder for M/s. Shabbir and Sons Eco Exim Pvt. Ltd. since 22.07.2024. The firm was engaged in the processing of tyre scrap, which it sourced from both the domestic market and through imports.
- He was well-acquainted with the import procedures for tyres. Prior to entering the import business, he was involved in collecting used tyres from local sources and supplying them to rubber crumb manufacturing units. In 2019, he purchased a running tyre recycling plant from a company named RS Rubber. He subsequently began manufacturing rubber granules, rubber gitti, and rubber mesh of various sizes (ranging from 10 to 100 Mesh) at the unit. Due to a shortage of raw materials in the domestic market and with the understanding that significant profit could be made by processing imported tyre scrap, the firm decided to venture into imports. Accordingly, they applied for a DGFT license for the import of used tyre scrap. After obtaining the required license, they began importing used tyre scrap for processing. He submitted the details of licenses issued to them as below:

License Details			Permitted Quantity	
License No	Lic. Date	Valid Upto	Mts	CIF Value
111003588	12.04.2022	12.10.2023	1500	18000000
111006699	28.12.2022	28.06.2024	940	11815800
111010714	28.08.2023	13.10.2024	10000	132560000
111021230	20.11.2024	02.03.2026	1500	21636750

- He further stated that no amendments were made to the quantity specified in the license issued to the firm. The only amendment pertained to the country of export, which was reflected in License No. 111021230 dated 20.11.2024. Additionally, he submitted that apart from the MoEF (Ministry of Environment, Forest and Climate Change) license mentioned earlier, the Directorate General of Foreign Trade (DGFT) has also issued licenses to M/s. Shabbir and Sons Eco Exim Pvt. Ltd. for the import of crumb rubber. The details of those licenses were as below:

License Details			Permitted Quantity	
License No	Lic. Date	Valid Upto	Mts	CIF Value
111006724	28.12.2022	28.06.2024	5259	70596816
111012946	04.01.2024	04.07.2025	8820	118752480
111017681	04.07.2024	04.01.2026	6556	70615987
111023963	04.04.2025	04.10.2026	15155	207684120

- He handled the complete sale purchase process in M/s. Shabbir and sons Eco Exim Private limited. He had placed order to the overseas supplier on telephone for the supply of goods imported vide bill of entry no. 2383298 dated 30.05.2025 and 2402654 dated 31.05.2025.
- They had applied for the MOEF permission for the purpose of import of used tyres scrap for their unit II, situated in Vadodara but the process of issuance of permission was delayed due to unavailability of CPCB staff. After that they had to apply in DGFT for the issuance of SIL license. Since the license process was underway, they had placed the order to their overseas suppliers for supply of used tyre scrap.
- However, they had informed them before loading of container to send the tyre granules only as he was not having the license for import of old and used tyres scrap, to which the overseas supplier assured them that he would send tyre granules only. They had used the Granule license as they were not aware that the goods in the container were used tyre scrap and not tyre granules.
- He also stated that they had started working with Munna (Amrendra Kumar Amar) in the year 2022. Thereafter, Shri Das of M/s. Das Cargo approached them and gave the quotation at better price for customs clearance work. Subsequently, the customs clearance responsibilities were assigned to Mr. Das for a few months. However, due to certain shortcomings in the quality of service, they again started working with Munna in the year 2023 end. Since then, Mr. Munna was handling customs clearance work of M/s. Shabbir and sons Eco Exim Private limited.

- He also added that, their Customs Broker Mr. Munna advised them to import used tyre scrap under the SIL license for import of Crumb rubber/Granules.
- He was aware that used tyre scrap of CTI-40040000 is a restricted item and could only be imported under the licenses issued by DGFT. He agreed that by importing the used tyre scrap in pressed and balled/multi cut form by mis declaring and importing it under the Granule/10 mesh license, had made the goods liable for confiscation under section 111(d) of the Customs Act, 1962.

3.2 Statement of Shri Amrendra Kumar Amar, was recorded by DRI, AZU on 28.08.2025. In his statement, he, inter-alia, stated that: -

- M/s. Harsh Clearing & Forwarding Pvt Ltd was being operated from the address 402, Mayuresh Chamber, Sector 11, CBD Belapur, Navi Mumbai, Maharashtra, 400614. They used CHA licenses and clearance work of other firms also such as M/s Yash Shipping Services and M/s Hirannya Shipping and Logistics Services from the said address. He further stated that for a small period of time they had also used license of M/s Hind Ship Airways and M/s Bharat Impex for customs clearance work.
- He further stated that the CHA licences of M/s Yash Shipping Services, M/s. Harsh Clearing & Forwarding, M/s Hirannya Shipping & logistics and M/s Hind Ship Airways were used for import of “Multiple Cut Fine Rubber Crumb Granules” and “Waste Pairing of Scrap Granules.”

3.3 Statement of Shri Amrendra Kumar Amar, was also recorded by DRI, AZU on 29.08.2025. In his statement, he, inter alia, stated that: -

- Initially, the firm carried out customs clearance activities using the CHA license of M/s. Hirannya Shipping and Logistics Services (11/2002). However, when the CHA license of M/s. Hirannya Shipping and Logistics Services (11/2002) was suspended towards the end of 2023, they temporarily shifted to using the CHA licenses of M/s. Hind and M/s. Bharat Impex for their import activities. Subsequently, once the license of M/s. Hirannya Shipping and Logistics Services (11/2002) was revoked, the firm discontinued the use of the CHA license of M/s. Hind Ship Airways for import clearance.
- He further stated that, multiple CHA licenses were used to avoid hinderance in business due to license suspension as they had already faced the situation during the cancellation of CHA license of M/s. Hirannya Shipping and Logistics Services (11/2002).

- He also added that he had clearly directed his employees to take care of licence debiting. As per his knowledge, there should be no excess imports in customs broker firms which were used by him.
- He assured that there would be no excess imports in customs broker firms which were used by him. Still, if any such imports were found they would readily pay fine and penalty to the department.

4. This is a case involving misdeclaration and misuse of import licenses for the import of 10 Mesh material/ tyre scrap, aimed at circumventing the applicable EXIM policy restrictions. Acting on specific intelligence, the Directorate of Revenue Intelligence, Ahmedabad Zonal Unit, intercepted and examined two consignments of M/s. Shabbir and Sons Eco Exim Pvt. Ltd. at the Nhava Sheva port. The examination revealed that the importer M/s. Shabbir and Sons Eco Exim Pvt. Ltd. was misusing licenses issued specifically for the import of 10 Mesh rubber crumb, which were instead used to import restricted used tyre scrap in various forms such as pressed, baled, shredded and multi-cut scrap. The investigation further revealed that the firm over-debited quantities from the SIL licenses by manipulating manual debit sheets, with the active involvement of customs brokers. A total quantity of 7.8 metric tons with an assessable value of Rs. 87,160/- (Rupees Eighty Seven Thousand One Hundred Sixty only) was over-debited using the license of M/s. Hind Ship Airways (License No. 11/672). Furthermore, the statement of Shri Amrendra Kumar Amar confirmed that he used the SIL license of M/s. Shabbir and Sons Eco Exim Private Limited and the license of the Customs Broker M/s. Hind Ship Airways (11/672) for customs clearance work. In view of the foregoing, and considering the grave violations and deliberate misuse of SIL licenses through over-debiting, it was evident that the Customs Broker had engaged in misdeclaration and unauthorized use of restricted import licenses. These actions carried out are in clear contravention of the DGFT Policy, constituted a serious offence warranting strict legal action under the Customs Brokers Licensing Regulations (CBLR), 2018 and other applicable statutory provisions.

#### 5. **Role of Customs Broker:** -

It was evident that the Customs Broker M/s. Hind Ship Airways (License No. 11/672) had failed to fulfil their obligations laid down under the Customs Brokers

Licensing Regulations (CBLR), 2018. The CB appeared to have actively guided the importer in committing the offence. In view of the above, the relevant provisions of CBLR, 2018, outlining the obligations of customs brokers, are stated below:

(i) Regulation 1(4) of CBLR, 2018: -

*"Every license granted or renewed under these regulations shall be deemed to have been granted or renewed in favour of the licensee, and no license shall be sold or otherwise transferred."*

In the present case, it appeared that the Customs Broker M/s. Hind Ship Airways rented out its CB license to Shri Amrendra Kumar Amar in exchange for monetary consideration. Further, as per the statement recorded on 29.08.2025 by the Directorate of Revenue intelligence, Ahmedabad and upon scrutiny of the subject report, it was revealed that Shri Amrendra Kumar Amar had obtained the CB license from M/s. Hind Ship Airways and used it for the clearance of the subject imported goods. This conduct clearly constituted a violation of Regulation 1(4) of the Customs Broker Licensing Regulations (CBLR), 2018. Such an omission represented a significant breach of the duties and responsibilities prescribed under Regulation 1(4). In light of the foregoing, it appeared that the Customs Broker had contravened the provisions of Regulation 1(4) by unlawfully renting out the Customs Broker license to Shri Amrendra Kumar Amar.

(ii) Regulation 10(a) of CBLR, 2018: -

*"obtain an authorisation from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Broker and produce such authorisation whenever required by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;"*

In the present case, it appeared that the Customs Broker, M/s. Hind Ship Airways, failed to comply with the mandatory requirement as mandated in regulation 10(a) of CBLR, 2018. The Customs Broker did not obtain the necessary authorization from the importer, as there was no record or indication of any direct meeting or interaction between the Customs Broker and the importer. This was further substantiated by the statement of Mr. Syed Aslam Ali, the authorized representative of M/s Shabbir and Sons Eco Exim Private Limited. He clearly affirmed that he personally managed the procurement of goods from

overseas suppliers and their subsequent sale to domestic buyers on behalf of the importer. He further stated that all Customs clearance-related activities were handled by Mr. Amrendra Kumar Amar. In his own statement, Mr. Amrendra Kumar Amar also confirmed that he carried out the Customs clearance work by using the license of the Customs Broker, M/s. Hind Ship Airways. Therefore, it was evident that the Customs Broker neither met with the importer nor obtained the requisite authorization, thereby constituting a clear violation of Regulation 10(a) of CBLR, 2018.

(iii) Regulation 10(b) of CBLR, 2018: -

*"transact business in the Customs Station either personally or through an authorised employee duly approved by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;"*

Based on the subject report and the statement of Mr Amrendra Kumar Amar, dated 29.08.2025, recorded by the Directorate of Revenue Intelligence, Ahmedabad, it was evident that he conducted customs clearance-related activities on behalf of the Customs Broker, M/s. Hind Ship Airways with respect to imports made by M/s Shabbir and Sons Eco Exim Private Limited. However, as per Regulation 10(b), a Customs Broker is required to carry out business either personally or through an authorized employee who has been duly approved by the Deputy Commissioner of Customs or Assistant Commissioner of Customs. In the instant case, it appeared that the Customs Broker was not transacting business either personally or through an authorised employee, as required under regulation 10(b) of CBLR, 2018. This was further substantiated by the statement of Mr. Amrendra Kumar Amar, who confirmed that he independently carried out the Customs clearance work by using the license of the Customs Broker, Hind Ship Airways. This constituted a clear violation of Regulation 10(b) of CBLR, 2018.

(iv) Regulation 10(d) of CBLR, 2018: -

*"Advise the client to comply with the provisions of the Customs Act, allied Acts, and the rules and regulations thereof, and in cases of noncompliance, bring the matter to the notice of the Deputy Commissioner or Assistant Commissioner of Customs, as applicable;"*

It appeared that the Customs Broker failed to advise their client to declare the correct description of goods, specifically “Used Tyre Scrap (pressed baled/multi-cut)” which does not fall under the 10 Mesh license category. Licenses issued for imports under Customs Tariff Item (CTI) 40040000 pertaining to tyre scrap are restricted both in terms of quantity and validity period. These licenses authorize the import of only one specific type of rubber tyre scrap within the stipulated timeframe, either “Used Tyre Scrap (pressed baled/multi-cut)” or “Rubber/granules finer than 10 Mesh to 20 Mesh, devoid of iron, steel, and most fibers.” Both types fall under the broader category of waste, parings and scrap of rubber (other than hard rubber), including powders and granules obtained therefrom. Therefore, a valid license permit is required for the import of a specified quantity of a particular type of tyre scrap as detailed in the DGFT license within the prescribed period. By misdeclaring the goods, the importer circumvented the conditions imposed by the DGFT import policy. Further, the Customs Broker has been found complicit in the over-debiting of the SIL issued by the Directorate General of Foreign Trade (DGFT). The investigation revealed that the SIL was misappropriated to the extent of 7.8 metric tonnes.

As per Regulation 10(d) of the CBLR, 2018, it is the responsibility of the Customs Broker to advise the importer to declare the correct description of goods and ensure the proper utilization of the SIL license issued by the DGFT, rather than allowing or facilitating its over-debiting. Furthermore, the Customs Broker failed to report this non-compliance to the Deputy Commissioner or Assistant Commissioner of Customs, as required under the said regulation. This omission represented a clear deviation from the responsibilities outlined in Regulation 10(d) of CBLR, 2018. In view of the above, it appeared that the Customs Broker had contravened the provisions of Regulation 10(d) by not ensuring compliance with the relevant statutory requirements and by neglecting to inform the Deputy/Assistant Commissioner of the irregularities.

(v) Regulation 10(e) of CBLR, 2018: -

*"Exercise due diligence to ascertain the correctness of any information provided to the client related to clearance of cargo or baggage."*

It appeared that the Customs Broker failed to exercise due diligence and merely relied upon the incorrect declaration submitted by the importer without verifying or ensuring the correct declaration of the goods under Customs Tariff Heading (CTH) 40040000, which pertained specifically to tyre scrap. Given that the goods in question were categorized as restricted under the DGFT Policy, such a lapse represented a serious breach of regulatory obligations and a clear violation of the applicable policy conditions governing restricted imports. Moreover, the Customs Broker was also found complicit in the over-debiting of the SIL issued by the Directorate General of Foreign Trade (DGFT). The investigation revealed that the SIL was misused to the extent of 7.8 metric tonnes. As per Regulation 10(e) of the CBLR, 2018, it is the responsibility of the Customs Broker to exercise due diligence and ensure the proper utilization of the SIL license issued by the DGFT rather than allowing or facilitating its over-debiting. Accordingly, it appeared that the Customs Broker failed to adhere to the prescribed procedures and responsibilities outlined under Regulation 10(e) of the Customs Broker Licensing Regulations (CBLR), 2018.

6. The misdeclaration and unauthorized use of restricted import licenses, particularly in blatant contravention of DGFT Policy, amounted to a serious offence warranting stringent legal action under the Customs Brokers Licensing Regulations (CBLR), 2018 and related statutes. Moreover, the gross negligence and dereliction of duty exhibited by the Customs Broker posed a significant threat to the Indian economy at large. In the era of trade facilitation, the Customs Broker acts as a bridge between importer and the Customs authorities. However, in the instant case, it appeared that CB M/s. Hind Ship Airways was careless in its duties and knowingly misused the license by renting it out for monetary gain. The CB was also found involved in over-debiting of SIL licenses, importing quantities exceeding the permitted limits by manipulating manual debit sheets. Thus, it appeared that the CB M/s. Hind Ship Airways (CB License No. 11/672) had violated regulations 1(4), 10(a), 10 (b), 10(d) & 10(e) of the CBLR, 2018, which made them unfit to transact business at Mumbai Customs as well as at other Customs Stations.

6.1 Accordingly, the Customs Broker License No. 11/672 held by the CB M/s. Hind Ship Airways was suspended by the Commissioner of Customs (General) vide Order No. 10/2025-26 dated 17.10.2025 under regulation 16(1) of the CBLR, 2018. An opportunity for a personal hearing was granted to the CB on 31.10.2025. The suspension of the CB license was further continued vide Order No. 14/2025-26 dated 13.11.2025 under regulation 16(2) of the CBLR, 2018 for contraventions of Regulations 1(4), 10(a), 10(b), 10(d) & 10(e) of the CBLR, 2018.

6.2 In view of the offence report received vide letters F.No. DRI/AZU/CI-1/ENQ-62(INT-25)/2025 dated 04.07.2025 and 29.09.2025 from DRI, AZU, the following articles of charges were framed against the CB M/s. Hind Ship Airways (CB License No. 11/672):

- (i) Article of Charge-I: Violation of Regulation 1(4) of the CBLR, 2018.
- (ii) Article of Charge-II: Violation of Regulation 10(a) of the CBLR, 2018.
- (iii) Article of Charge-III: Violation of Regulation 10(b) of the CBLR, 2018.
- (iv) Article of Charge-IV: Violation of Regulation 10(d) of the CBLR, 2018.
- (v) Article of Charge-V: Violation of Regulation 10(e) of the CBLR, 2018

6.3 In light of the above, a Show Cause Notice (SCN) No. 37/2025-26 dated 18.12.2025 was issued to the CB M/s. Hind Ship Airways (CB License No. 11/672) 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. 11/672 issued to them should not be revoked under regulation 14 read with regulation 17 of the CBLR, 2018;
- b. Security deposited should not be forfeited under regulation 14 read with regulation 17 of the CBLR, 2018;
- c. Penalty should not be imposed upon them under Regulation 18 read with Regulation 17 of the CBLR, 2018.

6.4 Shri Amit Bhatia, Assistant Commissioner of Customs was appointed as Inquiry Officer (IO) to conduct the inquiry proceedings against the CB M/s. Hind Ship Airways (CB License No. 11/672) under Regulation 17 of the CBLR, 2018.

7. In the meanwhile, aggrieved by the Suspension Continuation Order No. 14/2025-26 dated 13.11.2025, the CB M/s. Hind Ship Airways filed an Appeal No. 87891 of 2025 in Hon'ble CESTAT, Mumbai Bench against the said order. Hon'ble Tribunal vide Final Order No. A/85399/2026 dated 09.03.2026 allowed the appeal in favour of the CB by setting aside the Suspension Continuation Order No. 14/2025-26 dated 13.11.2025 with further direction to complete the inquiry proceedings under Regulation 17 of CBLR, 2018 within a period of six months from the receipt of the Hon'ble Tribunal's Order. The Hon'ble Tribunal's observations were as below:

*(i) Para 7.7 - From the facts of the case, it is clear that there is no ground or evidence produced by the department to implicate the appellants CB in mis-declaration of import goods and in over-debiting of SIL licenses. In fact, even in the proceedings initiated for the customs offences against the importer, the appellants CB is no more a co-noticee for any action to be taken against them and proceedings against the appellants have come to an end. Hence, there existed no ground in order to claim that the learned Commissioner had gone by his preponderance of probability, in order to decide that the present case is an appropriate case for immediate suspension, on the basis of his subjective satisfaction of the facts and evidences. There is neither such basis recorded by learned Commissioner of Customs nor there exists any facts or documents evidencing such ground. Hence, we are of the considered opinion, that the impugned order is contrary to the requirement of the provisions of Regulation 16 of CBLR, 2018 and therefore it does not stand the scrutiny of law.*

*(ii) Para 8.1 - On the basis of above discussion on the crux of the grounds of appeal against the impugned order, it is hereby made very clear that we are not examining the allegations of violation of various Regulations under CBLR against the appellants, as it is pre-mature inasmuch as the licensing authority i.e., Commissioner of Customs is yet to finally pass a speaking order under Sub-regulation (8) of Regulation 17 of CBLR, 2018. We are also therefore not expressing our opinion on any of the alleged violations of Regulation 10 Ibid, as there is an independent inquiry proceeding that is required to be conducted by the jurisdictional Customs Commissionerate as licensing authority and on which a speaking order is required to be passed by him in terms of Regulation 17 of CBLR.*

*(iii) Para 8.3 - In view of the foregoing discussions, we do not find any merits in the impugned order 13.11.2025 passed by the learned Commissioner of Customs, in continued suspension of the CB license of the appellants, inasmuch as there is no*

*finding given by the Commissioner of Customs for displaying the appropriateness of the case for invocation of such action, and justifying the continued suspension of CB license under Regulation 16 of CBLR, 2018. Further, the impugned order is also not sustainable as it has failed to establish the role of appellants CB in the alleged over-debiting of SIL license with respect to import goods, as the appellants CB had not handled those imports.*

*(iv) Para 9 - Therefore, by setting aside the impugned order dated 13.11.2025, we allow the appeal in favour of the appellants. We also direct the learned Commissioner of Customs to complete the inquiry proceedings under Regulations 17 of CBLR, 2018 expeditiously, preferably within a period of six months from receipt of a copy of this order. Consequently, the appellants CB firm is entitled to carry on its business as CB with immediate effect, for which the jurisdictional Commissioner shall issue necessary order for compliance.*

7.1 In compliance of the Hon'ble Tribunal's directions, the CB's license was made operative in the ICES 1.5 system and a Notice No. 03/2026-27 dated 13.04.2026 was issued in this regard.

**INQUIRY REPORT: -**

8. The Inquiry Officer (here in after referred to as the 'IO') concluded the inquiry proceedings and submitted the Inquiry Report dated 17.03.2026. The IO held the charges of violation of Regulations 1(4), 10(b), 10(d) & 10(e) of the CBLR, 2018 as "Proved" and charge of violation of Regulation 10(a) as "Not Proved".

**FINDINGS OF THE INQUIRY OFFICER: -**

9. The IO submitted that he had gone through the Show Cause Notice No. 37/2025-26 dated 18.12.2025. The IO submitted that he had also gone through the records of the Personal Hearings, Defence submissions made during the personal hearings, statements of all the persons taken during the investigation. The IO had also gone through the alleged Articles of Charges or contraventions mentioned in Show Cause Notice as well as legal provisions reflected in CBLR, 2018.

10. The IO submitted that he had already taken on record the submissions made by the CB and now he proceeded to discuss all these submissions & examine their merits.

**10.1 Article of Charge-I-Regulation 1(4) of CBLR, 2018:**

The IO submitted that he had perused Show Cause Notice No. 37/2025-26 dated 18.12.2025 vide F.No. GEN/CB/365/2025-CBS. The IO found that it is stated in the Article of Charge-I viz. Violation of Regulation 1(4) of the CBLR, 2018 that:

*"Further, as per the statement recorded on 29.08.2025 by the Directorate of Revenue Intelligence, Ahmedabad and upon scrutiny of the subject report, it was revealed that Shri Amrendra Kumar Amar had obtained the CB license from M/s. Hind Ship Airways and used it for the clearance of the subject imported goods".*

The IO submitted that in order to examine role of the charged CB he had perused Show Cause Notice No. 37/2025-26 dated 18.12.2025 and the submissions made by the CB along with the documents submitted by them. On perusal of the records, the IO saw that Sh. Syed Aslam Ali, power of attorney holder of M/s Shabbir and Sons Eco Exim Pvt Ltd, has given a statement dated 16.06.2025 to DRI u/s 108 of Customs Act, 1962 wherein he had stated that they started working with Sh. Amrendra Kumar Amar alias Munna since 2023 and since then Munna was handling their Customs clearance work of M/s Shabbir and Sons Eco Exim Pvt Ltd, and also that Munna advised them to import used tyre scrap under the SIL license for import of rubber granules. Further Sh. Amrendra Kumar Amar alias Munna in his statement recorded on 28.08.2025 and 29.08.2025 to DRI u/s 108 of Customs Act, 1962 has inter alia stated that he used CHA License of M/s Hind Shipping for import of 'multiple cut fine rubber crumb granules' and 'waste pairing of scrap granules'. The IO submitted that also during the course of PH on 19.01.2026, the CB submitted an SCN No. 1610/2025-26/Pr. Commissioner of Customs/Gr.2H/NS-I/CAC/JNCH dated 15.12.2025 which was issued to them by the Hon'ble Principal Commissioner of Customs, NS-I, JNCH under section 124 of the Customs Act, 1962 pursuant to completion of investigation by the DRI in the matter of import of Tyre Rubber Scrap by the importer M/s. Shabbir and Sons Eco Exim Pvt. Ltd. The IO submitted that on perusal of para 9.13 of the said SCN dated 15.12.2025 it is seen that DRI had recorded a statement dated 08.12.2025 of Sh. Abdul Wahab Abubakar Surty (Partner in M/s Hind Ship Airways) u/s 108 of Customs Act, 1962 wherein he had inter alia stated that they took up customs clearance of

used rubber tyre scrap on behalf of Sh. Amrendra Kumar Amar when the license of M/s Hirannya Shipping was under suspension; that they carried out the clearance of used rubber tyre scrap during the period September 2024 to April 2025 and undertook the filing and clearance work in co-ordination with the staff of Sh Amrendra Kumar Amar; that he was involved in the import related work in respect of tyre scrap including filing of BEs and managing of debiting of license along with the help of staff of Sh Amrendra Kumar Amar; that he did know Sh Syed Aslam Ali personally but he was aware that Sh Syed Aslam Ali was the de facto owner of M/s. Shabbir and Sons Eco Exim Pvt. Ltd.; that vis a vis DGFT license no. 111021230 the act of importing goods in excess of permissible limit was an unintentional error on their part and that they are ready to pay the applicable fine and penalty in the subject matter; that he was aware that the import of old and used tyre scrap more than the permissible quantity mentioned in DGFT made such goods prohibited in nature and this made the goods liable for confiscation and penalty u/s 112 and 114AA of the Customs Act, 1962.

The IO submitted that from the above it is clear that there was a nexus between M/s. Shabbir and Sons Eco Exim Pvt. Ltd, Sh Amrendra Kumar Amar alias Munna and M/s Hind Ship Airways for clearance of used Rubber tyre scrap in guise of rubber crumb/granules popularly known as 10 mesh license for which they did not possess DGFT License and also the CB was complicit in over debiting of the license and that M/s Hind Ship Airways allowed the use of their License by Sh Amrendra Kumar Amar alias Munna for import of the Rubber tyre scrap by the importer for which they did not have the requisite permission/ license by DGFT. The IO submitted that he had taken cognizance of the various submissions made by M/s. Shabbir and Sons Eco Exim Pvt. Ltd, Sh Amrendra Kumar Amar alias Munna and M/s Hind Ship Airways. Accordingly, the IO held the article of Charge alleging violation of Regulation 1(4) of the CBLR, 2018 as Proved.

## **10.2 Article of Charge - II - Regulation 10(a) of CBLR, 2018:**

The IO submitted that the issue before him for determination are:

- (i) Whether the charged Customs Broker had obtained authorization from their client M/s Shabbir and Sons Eco Exim Private Limited.?
- (ii) Whether the Charged Customs Broker produce an authorization when demanded by the Department?

**Observations on issue No. (i):** The IO submitted that the CB in their defence submission stated that they had obtained the mandatory statutory Authorization from the importer. The IO stated that the CB had submitted copy of the Authorisation dated 18.07.2024 along with KYC documents like IEC, PAN, GST Regn. Aadhaar Card etc. of the importer. The CB submitted to the IO that the purpose of 'authorization' is to establish that 'customs broker is contracted agent of importer or exporter for each transaction and, thereby, bringing Section 147 of the Customs Act, 1962 into play. The manner in which it is to be obtained is not set out in Regulation 10(a) of the CBLR, 2018 and, obviously, considering its purpose, is only required to be produced when asked for. It is not open to the licensing authority to insinuate more stipulations into this obligation than contemplated in the Regulation.

The IO submitted that he had perused copy of authorization letter dated 18.07.2024 from the importer M/s Shabbir and Sons Eco Exim Private Limited, which was produced by the charged customs broker during the inquiry proceedings. The IO found that the authorization was duly signed by the authorised signatory of the importer and that there was no allegation to effect that there was no authorization or the authorization produced by the Charged CB was not genuine or that CB did not produce the authorization. Thus, the IO submitted that it is apparent that the CB had obtained an authorization as laid down in Regulation 10(a) of CBLR, 2018.

The IO found that as per the provisions of Regulation 10(a) of CBLR, 2018 there are following two obligations on the Customs Broker:

- (i) To obtain an authorisation from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Broker and
- (ii) To produce such authorisation whenever required by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be".

The IO submitted that the provisions of Regulation 10(a) of CBLR, 2018 are clear. There are two obligations of CB, first is to obtain an authorization from their client and second is to produce such authorization to Customs Department i.e. Deputy Commissioner or Assistant Commissioner of Customs. The IO found that the CB had complied with the both the provisions of Regulation 10(a) of CBLR, 2018. The IO submitted that he placed reliance upon the decision of Hon'ble CESTAT, Chennai in case of Seaswan Shipping and Logistics Vs. Commissioner of Cus., Chennai-II, reported in 2022 (380) E.L.T. 358 (Tri. - Chennai). Relevant para 8 of the said order is re-produced below:

*"8. The relevant provisions have already been reproduced above. Under Regulation 11(a), the Customs Broker has to obtain authorization from the firm/individual by whom he is being employed as a Customs Broker. In the present case, there is no dispute with the address of the importer or his IE Code. The only allegation put forward under Regulation 11(a) is that the appellant had not obtained the KYC documents from the importer directly but through a middleman, be it Shri Ramadhurai or Shri Karthi. When the necessary authorization and KYC documents have been obtained and when these documents are proper, merely because the said documents were not obtained directly from the importer, the appellant cannot be said to have violated provisions of Regulation 11(a). It may not always be practical for a Customs Broker to obtain the documents directly from the importer. In the case of K.S. Sawant & Co. (supra) in para 5.1, the Tribunal has discussed that "obtaining authorization from the importer does not mean that the same should be obtained directly; so long as the concerned import documents were signed by the importer, it amounts to authorization by the importer and therefore it cannot be said that there has been violation of Regulation 13(a)". The above decision was under CHALR, 2004 wherein the provisions of Regulation 13(a) are similar to Regulation 11(a) of CBLR, 2013".*

The IO found that Hon'ble CESTAT, Chennai had rightly observed that when the necessary authorization and KYC documents had been obtained and when these documents are proper, merely because the said documents were not obtained directly from the importer, the appellant cannot be said to have violated provisions of Regulation 11(a). The IO found that ratio of the aforesaid judgement is applicable in the instant case. The IO submitted that he also placed reliance upon the decision of Hon'ble CESTAT, New Delhi in case of Perfect cargo & Logistics Vs. Commissioner of Customs (Airport & General),

New Delhi, reported in 2021 (376) E.L.T. 649 (Tri. - Del). Relevant para 18 of the said order is re-produced below:

*"18. This conclusion drawn by the Commissioner is clearly erroneous. The Regulation requires the Customs Broker to obtain an authorisation, which the Appellant did. It is not the case of the Department that the signatures on the authorisation letter were forged or that the persons authorising the Appellant denied having given the authority letters. This apart, the Appellant also claims that due diligence was carried out for ascertaining the functioning of the clients at the address declared by the clients and in this connection the partnership deed as well as service tax registration, PAN card, Import Export Code, voter card, electricity bill, bank details and mobile number of the partners with email id were also examined. The Commissioner, therefore, committed an illegality in holding that Regulation 10(a) of the Licensing Regulations had been violated".*

The IO found that Hon'ble CESTAT, New Delhi has rightly observed that it is not the case of the Department that the signatures on the authorization letter were forged or that the persons authorizing the Appellant denied having given the authority letters. The IO found that there is no allegation in article of charge that the signature on authorization letter is forged or M/s Shabbir and Sons Eco Exim Private Limited has denied having given the said authority letter. Hence, the IO found that ratio of the aforementioned judgement is applicable in the instant case. The IO submitted that he also placed reliance upon the decision of Hon'ble CESTAT, Bangalore in case of Trans Asia Shipping Services Vs. Commissioner of Customs, Bangalore, reported in 2024 18 Centax 230 (Tri. Bang). Relevant para 6 of the said order is re-produced below:

*"6. Regarding violation of Regulations 10(a) and (n) of CBLR, 2018 the regulation casts responsibility on the Customs Broker to obtain authorization and in the present case they have obtained the authorization and produced the same during investigation. The issue regarding revocation of Customs Broker license was considered by Principal Bench in the matter of Perfect Cargo & Logistics v. CC (Airport & General), New Delhi reported in 2021 (376) E.L.T. 649 (Tri.-Del.) and categorically held that there is no binding on the Customs Broker to verify the address of the importer/exporter by physically visiting the premises as per the document furnished by the importer and such verification can be done by verifying the details at declared address by using reliable, independent, authentic documents, data or*

*information. Similarly Hon'ble Tribunal in the matter of Seaswan Shipping and Logistics v. CC, Chennai-II reported in 2022 (380) E.L.T. 358 (Tri.-Chennai) considered the issue whether failure of the CHA to obtain KYC from importer directly amount to violation of Regulation 11(a) of the CBLR 2013 and categorically held that in the absence of any finding regarding genuineness of the documents produced by the Customs Broker, proceedings under 10(a) and (n) cannot be taken against the Customs Broker".*

The IO found that Hon'ble CESTAT, Bangalore has referred judgement in case Seaswan Shipping and Logistics v. CC, Chennai-II reported in 2022 (380) E.L.T. 358 (Tri.-Chennai) in their findings. The IO found that Hon'ble CESTAT has rightly observed that in the absence of any finding regarding genuineness of the documents produced by the Customs Broker, proceedings under 10(a) cannot be taken against the Customs Broker. The IO found that in the instant case genuineness of the Authority letter has not been challenged by the Department. Hence, ratio of the judgement is applicable in the instant case.

**Observations on issue No. (ii):** The IO found that the authorization had been signed by the importer and that there is no allegation to effect that there was no authorization or the authorization produced by the Charged CB was not genuine or that CB did not produce the Authorization. The IO found that in the article of charge it has not been alleged that CB such authorization was demanded by the Department and charged CB failed to produce the same. The IO found that the charged CB had produced Authorization duly signed by M/s Shabbir and Sons Eco Exim Private Limited during the inquiry proceedings. Hence charges levelled against the charged CB are unsustainable. The IO submitted that he had taken cognizance of the various case laws. The IO found that the ratio of the judgement relied upon by the Charged CB is applicable in the instant case. The IO submitted that there nothing on record that the Customs Broker had failed in obtaining Authorization from M/s Shabbir and Sons Eco Exim Private Limited or the Charged CB had failed to produce such authorization to Customs Department. Accordingly, the IO hold that article of Charge alleging violation of Regulation 10(a) of the CBLR, 2018 as Not Proved.

**10.3 Article of Charge - III - Regulation 10(b) of CBLR, 2018:**

The IO submitted that in order to examine role of the CB he had perused Show Cause Notice No. 37/2025-26 dated 18.12.2025 and various submissions made by the CB during the course of Inquiry proceedings. The IO submitted that on perusal of the records it is seen that Sh. Syed Aslam Ali, power of attorney holder of M/s Shabbir and Sons Eco Exim Pvt Ltd, had given a statement dated 16.06.2025 to DRI u/s 108 of Customs Act, 1962 wherein he had stated that they started working with Sh Amrendra Kumar Amar alias Munna since 2023 and since then Munna was handling their Customs clearance work of M/s Shabbir and Sons Eco Exim Pvt Ltd, and also that Munna advised them to import used tyre scrap under the SIL license for import of rubber granules. Further Sh Amrendra Kumar Amar alias Munna in his statement recorded on 28.08.2025 and 29.08.2025 to DRI u/s 108 of Customs Act, 1962 has inter alia stated that he used CHA License of M/s Hind Shipping for import of 'multiple cut fine rubber crumb granules' and 'waste pairing of scrap granules'. The IO submitted that during the course of PH on 19.01.2026 the CB submitted an SCN No 1610/2025-26/Pr. Commissioner of Customs/Gr.2H/NS-I/CAC/JNCH dated 15.12.2025 which was issued to them by the Hon'ble Principal Commissioner of Customs, NSI, JNCH under section 124 of the Customs Act, 1962 pursuant to completion of investigation by the DRI in the matter of import of Tyre Rubber Scrap by the importer M/s. Shabbir and Sons Eco Exim Pvt. Ltd. The CB has attached the copy of the said SCN as Annexure B of their written submission. The IO submitted that on perusal of para 9.13 of the said SCN dated 15.12.2025 it is seen that DRI had recorded a statement dated 08.12.2025 of Sh Abdul Wahab Abubakar Surty (Partner in M/s Hind Ship Airways) u/s 108 of Customs Act, 1962 wherein he had inter alia stated that they took up customs clearance of used rubber tyre scrap on behalf of Sh Amrendra Kumar Amar when the license of M/s Hirannya Shipping was under suspension; that they carried out the clearance of used rubber tyre scrap during the period September 2024 to April 2025 and undertook the filing and clearance work in co-ordination with the staff of Sh Amrendra Kumar Amar; that he was involved in the import related work in respect of tyre scrap including filing of B/Es and managing of debiting of license along with the help of staff of Sh Amrendra

Kumar Amar; that he did not know Sh Syed Aslam Ali personally but he was aware that Sh Syed Aslam Ali was the de facto owner of M/s. Shabbir and Sons Eco Exim Pvt. Ltd.; that vis a vis DGFT license no. 111021230 the act of importing goods in excess of permissible limit was an unintentional error on their part and that they are ready to pay the applicable fine and penalty in the subject matter; that he was aware that the import of old and used tyre scrap more than the permissible quantity mentioned in DGFT license makes such goods prohibited in nature and this makes goods liable for confiscation and penalty u/s 112 and 114AA of the Customs Act, 1962.

The IO submitted that from the above it is clear that there was a nexus between M/s. Shabbir and Sons Eco Exim Pvt. Ltd, Sh Amrendra Kumar Amar alias Munna and M/s Hind Ship Airways for clearance of used Rubber tyre scrap in guise of rubber crumb/granules popularly known as 10 mesh license for which they did not possess DGFT License and also the CB was complicit in over debiting of the license and that M/s Hind Ship Airways allowed the use of their License by Sh Amrendra Kumar Amar alias Munna for import of the Rubber tyre scrap by the importer for which they did not have the requisite permission/ license by DGFT. The IO submitted that from the submissions made it is also seen that Sh Amrendra Kumar Amar alias Munna was not an authorised employee of M/s Hind Ship Airways and that he was just using their license for illegal importation of used Rubber tyre scrap. The IO submitted that he had taken cognizance of the various submissions made by M/s. Shabbir and Sons Eco Exim Pvt. Ltd, Sh Amrendra Kumar Amar alias Munna and M/s Hind Ship Airways. Accordingly, the IO held that article of charge alleging violation of Regulation 10(b) of the CBLR, 2018 as Proved.

#### **10.4 Article of Charge-IV-Regulation 10(d) of CBLR, 2018:**

The IO submitted that he had perused Show Cause Notice No. 37/2025-26 dated 18.12.2025. The IO found that in Table-A of Para 5 of the SCN dated 18.12.2025 the charged CB had been provided with the detailed calculation sheet quantifying the over debiting done by the customs broker firm with details of the BEs. From this it can be concluded that CB was fully aware that the importer was having DGFT License for the

import of 10 mesh license category however they were importing used tyre scrap which did not fall under the 10 mesh license category. The IO submitted that it was the duty of the CB to advise the importer about the discrepancies in the declaration made in the BE and the CB should also have intimated the Customs department about the misdeclaration being made by the importer in the concerned BEs. From the SCN it was seen that there is an over debit of 714.7 Metric Tons with an assessable value of Rs. 67,63,143/-. During the course of Inquiry proceedings, the importer has submitted an SCN dated 15.12.2025 which was issued to them by Principal Commissioner of Customs, NS I, JNCH pursuant to the completion of investigation by the DRI and in the said SCN it has been alleged by the DRI that a quantity of 7.8 M Tons having assessable value of Rs. 87,160/- has been over debited. It is pertinent to mention here that in the SCN dated 18.12.2025 issued by Commissioner of Customs, CB Section, New Custom House, Mumbai a quantity of 714.7 M Tons with an assessable value of Rs. 67,63,143/- has been shown as over debited. At this stage it is not clear whether over debiting is for 714.7 MTS or for 7.8 MTS. However, it can be safely concluded that over debiting of License has taken place which was either 714.7 MTS or 7.8 MTS. The IO submitted that DRI had recorded a statement dated 08.12.2025 of Sh Abdul Wahab Abubakar Surty (Partner in M/s Hind Ship Airways) u/s 108 of Customs Act, 1962 wherein he had inter alia stated that vis a vis DGFT license no. 111021230 the act of importing goods in excess of permissible limit was an unintentional error on their part and that they were ready to pay the applicable fine and penalty in the subject matter; that he was aware that the import of old and used tyre scrap more than the permissible quantity mentioned in DGFT made such goods prohibited in nature and this made the goods liable for confiscation and penalty u/s 112 and 114AA of the Customs Act, 1962.

Hence, the IO submitted that importer has been found complicit in the illegal importation of used tyre scrap in guise of rubber crumb/granules alongwith over debiting of the License issued by DGFT and also the CB facilitated the importer in the same and failed to report the same to the Customs authorities. The IO submitted that in view of the above submissions of the CB as well as allegations made in the SCN dated 18.12.2025

there was violation of Regulation 10(d) of the CBLR, 2018. Accordingly, the IO held article of charge alleging violation of Regulation 10(d) of the CBLR, 2018 as Proved.

**10.5 Article of Charge - V - Regulation 10(e) of CBLR, 2018:**

The IO submitted that he had perused Show Cause Notice No. 37/2025-26 dated 18.12.2025. The IO found that in Table-A of Para 5 of the SCN dated 18.12.2025 the charged CB has been provided with the detailed calculation sheet quantifying the over debiting done by the customs broker firm with details of the BEs. From this it can be concluded that CB was fully aware that the importer was having DGFT License for the import of 10 mesh license category however they were importing used tyre scrap which does not fall under the 10 mesh license category. The IO submitted that it was the duty of the CB to advise the importer about the discrepancies in the declaration made in the BE and the CB should also had intimated the Customs department about the misdeclaration being made by the importer in the concerned B/Es. The IO submitted that from the SCN dated 18.12.2025 it can also be seen that there is an over debiting of 714.7 M Tons with an assessable value of Rs. 67,63,143/-. The IO submitted that during the course of Inquiry proceedings the importer had submitted an SCN dated 15.12.2025 which was issued to them by Principal Commissioner of Customs, NS I, JNCH pursuant to the completion of investigation by the DRI and in the said SCN dated 15.12.2025 it has been alleged by the DRI that a quantity of 7.8 Metric Tons having assessable value of Rs. 87,160/- had been over debited. It is pertinent to mention here that in the SCN dated 18.12.2025 issued by Commissioner of Customs, CB Section, New Custom House, Mumbai a quantity of 714.7 Metric Tons with an assessable value of Rs. 67,63,143/- has been shown as over debited. At this stage it is not clear whether over debiting is for 714.7 or for 7.8 MTS. However, it can be safely concluded that over debiting of License has taken place which was either 714.7 MTS or 7.8 MTS. Also DRI had recorded a statement dated 08.12.2025 of Sh Abdul Wahab Abubakar Surty (Partner in M/s Hind Ship Airways) u/s 108 of Customs Act, 1962 wherein he had inter alia stated that vis a vis DGFT license no. 111021230 the act of importing goods in excess of permissible limit was an unintentional error on their part and

that they are ready to pay the applicable fine and penalty in the subject matter; that he was aware that the import of old and used tyre scrap more than the permissible quantity mentioned in DGFT makes such goods prohibited in nature and this makes goods liable for confiscation and penalty u/s 112 and 114AA of the Customs Act, 1962.

Hence the IO submitted that the importer had been found complicit in the illegal importation of used tyre scrap in guise of rubber crumb/granules and also over debiting of the License issued by DGFT and also the CB facilitated the importer in the same and failed to report the same to the Customs authorities. Hence, it can be concluded that the CB failed to exercise due diligence. In view of the above submissions of the CB as well as allegations made in the SCN dated 18.12.2025 the IO found that there was violation of Regulation 10(e) of the CBLR, 2018. Accordingly, the IO held the article of charge alleging violation of Regulation 10(e) of the CBLR, 2018 as Proved.

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

From the aforesaid discussions as mentioned above, the IO concluded the findings as under:

<b>Sr. No.</b>	<b>Charges against the CB</b>	<b>Findings</b>
1.	Violation of Regulation 1(4) of CBLR, 2018	Proved
2.	Violation of Regulation 10(a) of CBLR, 2018	Not Proved
3.	Violation of Regulation 10(b) of CBLR, 2018	Proved
4.	Violation of Regulation 10(d) of CBLR, 2018	Proved
5.	Violation of Regulation 10(e) of CBLR, 2018	Proved

12. The IO submitted that the CB in their written submission stated that since the allegations are based mainly on the oral statements of the importer Shri Syed Aslam Ali and Shri Amrendra Kumar Amar, they (CB) requested that these two persons may please be examined during the Inquiry and they may be allowed to cross-examine in terms of Regulation 17(4), *ibid*.

The IO placed reliance on the following case laws: -

(i) In the case of Union of India Vs. Rajendra Bajaj [2010(253) E.L.T.165 (Bom.)], Hon'ble Bombay High Court, stated in Para 6, which is reproduced herein below -

*"the Supreme Court held in K.L. Tripathi v. State Bank of India (1984) 1 SCC 43 that where there is no dispute as to the facts, or the weight to be attached on disputed facts but only an explanation of the acts, absence of opportunity to cross-examination does not create any prejudice in such cases and does not vitiate the decision."*

(ii) In the case of Suman Silk Mills Pvt. Ltd. Vs. Commissioner of Customs & C.Ex., Baroda [2002 (142) E.L.T. 640 (Tri. -Mumbai)], Tribunal observed at Para 17 that-

*"Natural Justice - Cross-examination - Confessional statements - No infraction of principles of natural justice where witnesses not cross-examined when statements admitting evasion were confessional."*

(iii) In the case of Liyakat Shah Vs. Commissioner of C.Ex., Indore-II(Bhopal) [2000(120) E.L.T.556(Tribunal)]. Relevant portion of the above judgment contained in Para 12, is reproduced herein below-

*"Natural justice - Cross-examination is not a mandatory procedure to be allowed in all cases - When the adjudicating authority took the view that cross-examination of seizing officer, where goods seized from godown of assessee when no allegation that officers had not followed proper procedure for effecting seizure, was sought only by way of delaying tactics to avoid justice, his order refusing to allow cross-examination not violative of the principles of natural justice..."*

(iv) In the case of Commissioner of Customs, Hyderabad V. Tallaja Impex reported in 2012(279) ELT 433 (Tri.), it was held that-

*"In a quasi-judicial proceeding, strict rules of evidence need not to be followed. Cross examination cannot be claimed as a matter of right."*

(v) In the case of Patel Engg. Ltd. vs UOI reported in 2014 (307) ELT 862 (Bom.)

*Hon'ble Bombay High Court held that "Adjudication - Cross-examination -Denial of, held does not amount to violation of principles of natural justice in every case, instead it depends on the particular facts and circumstances -Thus, right of cross-examination cannot be asserted in all inquiries and which rule or principle of natural justice must be followed depends upon several factors - Further, even if cross-examination is denied, by such denial alone, it cannot be concluded that principles of natural justice had been violated." [Para 23]*

The IO stated that relying on the above-mentioned judicial pronouncements the request for cross examination was denied.

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

13. The Personal Hearing (PH) in the matter was held on 20.05.2026. Shri Hans Raj Garg, Consultant and Shri Abdul Malik Surty, Partner in M/s Hind Ship Airways (CB

License No. 11/672) appeared for the hearing. The CB reiterated their written submission dated 23.04.2026 and further prayed for a favourable order. The oral and written submissions of the CB were taken on record. The CB further made additional submissions dated 21.05.2026 and 05.06.2026.

**WRITTEN SUBMISSIONS OF THE CB: -**

14. The CB submitted that they reply to the said individual violations alleged in the SCN on the following grounds which are taken without prejudice to one another.

14.1 The CB submitted that the SCN made bald allegations, without any cogent evidence against them, about (i) misusing SIL licenses issued specifically for the import of 10 Mesh rubber crumbs, which were instead used to import restricted used tyre scrap in various forms such as pressed, baled, shredded & multi-cut scrap and (ii) over-debiting total quantity of 714.7 M Tons with an assessable value of Rs. 67,63,143/- from the Import Licenses by manipulating manual debit sheets, with our active involvement as CB.

14.2 The CB submitted that the above allegation is factually incorrect and contrary to the allegation by another wing of the department that only a quantity of 07.800 M Tons having assessable value of Rs 87,160/- [and not 714.700 M Tons with an assessable value of Rs. 67,63,143/ as wrongly alleged in the SCN at Exhibit 'A'] of the Tyre Rubber Scrap was debited in excess of the quantity of 1500 M Tons permitted to be imported vide License No. 111021230 dated 20.11.2024. The CB submitted that on this factual ground alone, the SCN dated 18.12.2025 issued by the department merits to be dropped.

14.3 The CB submitted that the SCN does not even mention details of the related Bills of Entry filed by them wherein the above alleged violations have been noticed and has raised the said serious allegations based on mere assumptions & presumptions. The CB stated that the SCN issued based on the factually incorrect premise is vague ambiguous & general and the allegations are based on assumptions & presumptions and hence are arbitrary & unreasonable and violative of the Principles of Natural Justice. The CB submitted that they are therefore prevented from effectively meeting and rebutting the

charges raised in the SCN. The CB submitted that in light of the aforesaid, the SCN does not lay down a clear legal basis for the proposals made therein, is ambiguous and is based on rebuttable assumptions and presumptions.

14.4 The CB submitted that it is well settled in a catena of decisions including the decisions of Hon'ble Supreme Court in the case of Commissioner of C. Ex., Bangalore vs. Brindavan Beverages (P) Ltd. (2007 (213) E.L.T. 487 (S.C.)) that if the allegations in the show cause notice are not specific and are on the contrary vague, lack details and/or are unintelligible, that is sufficient to hold that the Noticee was not given proper opportunity to meet the allegations indicated in the show cause notice. The CB submitted that SCN issued raising serious charges against them based on the said assumptions & presumptions merely using the omnibus language of the statutory provisions is not sustainable and merits to be dropped.

14.5 The CB submitted that it is settled law that mere suspicion howsoever strong or great cannot take the place of proof a dictum which can always bear repetition. In the case of Gian Mahtani reported as 1971 (7) TMI 55 - SUPREME COURT, Hon'ble Supreme Court has held that *.....according to the system of jurisprudence which we follow, conviction cannot be based on suspicion nor on the conscience of the Court being morally satisfied about the complicity of an accused person. He can be convicted and sentenced only if the prosecution proves its case beyond all reasonable doubt.'*

14.6 The CB submitted that the SCN tacitly requires them to prove the negative that they had not done the acts mentioned and alleged in the SCN without leading any evidence in this regard. The CB submitted that there is a legal embargo on this. The CB submitted that they cannot prove the negative in the absence of any specific allegations supported with cogent evidence regarding the alleged acts of omissions & commission by them. The CB submitted that it is for the department to lead the evidence relating to their role in relation to the alleged mis-declarations which the department had miserably failed to discharge as their burden of proof. In this regard, the CB submitted that they relied upon the following case laws:

- a) M/s Ruchi Soya Industries Ltd reported as 2016 (2) TMI 1142 - CALCUTTA HIGH COURT.
- b) M/s R K Industries reported as 2018 (8) GSTL 110 (MAD).
- c) M/s PSL TEX-Styles Pvt Ltd reported as 2019 (8) TMI 426 - BOMBAY HIGH COURT.

15. Submissions on alleged violation of Regulation 1(4) of the CBLR, 2018:

15.1 The CB stated that the SCN does not marshal any evidence that they had sold or otherwise transferred their CB Licence to Shri Amrendra Kumar Amar. There is no evidence of any exchange of consideration monetary or otherwise. However, whatever is mentioned in the SCN reveals that he has only stated in his statement that for the customs clearance work of M/s. Shabbir and Sons Eco Exim Private Limited, he had used their CB licence. The CB submitted that it is a common practice that a CB receives customs clearance jobs from various sources such as freight brokers or forwarders, shipping agents, associates etc. which does not mean that the CB Licence has been sub-let or sold or transferred.

15.2 In this regard, the CB submitted that the Tribunal in the case of K.S. Sawant & Co. reported as 2013 (12) TMI 119 CESTAT, MUMBAI held that accepting the documents through logistics operator is not barred by the CBLR. The relevant paragraph of the said order is extracted below:

*"5.1 From the records, it is clear that the business in respect of the client M/s. Advanced Micronics Devices Ltd., was brought in by Shri Sunil Chitnis, who claims himself to be a sub-agent of the appellant CHA. The statements of Shri Badrinath and Shri Sunil Chitnis amply proves this fact. The question is, merely because the appellant procured the business through an intermediary who is not his employee, can it be said that he has sub-let or transferred the business to intermediary. The Tribunal in the case of Principal Commissioner of Customs v. Chhaganlal Mohanlal & Co. Ltd. [2006 (203) E.L.T. 435 (Tri. - Mum.)], held that if the Customs clearance has been done through intermediary and business was got through intermediary, the same is not barred by the provisions of CHLR, 2004 and it cannot be stated that the appellant has sub-let or transferred his licence. In the case of Krishan Kumar Sharma v. Principal Commissioner of Customs, New Delhi reported in 2000 (122) E.L.T. 581 (Tri), this Tribunal held that the mere fact of bills raised on the intermediary cannot*

*be held against the CHA firm to prove that the CHA licence was sub-let or transferred. Therefore, in the light of the judgments cited above, the charge of violation of Regulation 12 is not established. As regards the violation of Regulation 13(a), the adjudicating authority himself has observed that the "I have no doubt to say that the CHA might have obtained the authorisation but it is surely not from the importer. Therefore, the authorisation submitted is not a valid one". This finding is based on a presumption. Obtaining an authorisation from the importer does not mean that the same should be obtained directly, so long as the concerned import documents were signed by the importer, it amounts to authorisation by the importer and, therefore, it cannot be said that there has been a violation of Regulation 13(a)..... The question now is whether revocation of licence is warranted for such a violation. In our view, the punishment should be commensurate with the gravity of the offence. Revocation is an extreme step and a harsh punishment, which is not warranted for violation of Regulation 13(b). Accordingly, we are of the view that forfeiture of security tendered by the appellant CHA is sufficient punishment and revocation is not warranted. Accordingly, we set aside the order of the revocation and direct the Principal Commissioner of Customs (General) to restore the CHA licence subject to the forfeiture of entire security amount tendered by the CHA."*

15.3 The CB stated that Shri Amrendra Kumar Amar is their associate and the job of customs clearance of the goods imported by M/s. Shabbir and Sons Eco Exim Private Limited was received through him.

15.4 The CB stated that the finding of the Inquiry Officer in this regard that "From the above it is clear that there was a nexus between M/s. Shabbir and Sons Eco Exim Pvt. Ltd, Sh Amrendra Kumar Amar alias Munna and M/s Hind Ship Airways for clearance of used Rubber tyre scrap in guise of rubber crumb/granules popularly known as 10 mesh license for which they did not possess DGFT License..... " is beyond the scope of the SCN inasmuch as there is no charge either in the SCN dated 18.12.2025 issued by department or in the SCN dated 15.12.2025 issued by the Commissioner of Customs, NS-1, JNCH Nhava Sheva against them that used Rubber tyre scrap in guise of rubber crumb/granules was cleared on DGFT Licences allowing import of the latter (10 mesh licenses) using their CB Licence. The CB submitted that this finding is clearly false and is otherwise also not germane to this charge.

15.5 In view of the above, the CB submitted that there is no violation of the Regulation 1(4) of the CBLR, 2018 by them.

16. Submissions on alleged violation of Regulation 10(b) of the CBLR, 2018:

16.1 The CB submitted that this regulation mandates that the CB has to transact business personally or through his authorized representative. In the present case, the transactions of business in relation to customs station is the idea behind Regulation 10(b). Transaction of business in customs station in case of imports is filing of Bill of Entry along with the invoice, packing list, checklist and all other requisite documents. The CB submitted that in today's era of virtual transactions/online processing, physical presence in custom house for transacting the business is not required, our presence in processing the import documents at the customs station (Nhava Sheva) is not disputed. Thus, the CB stated that the allegation of violation of the provisions of Regulation 10(b) against them is not substantiated.

16.2 The CB submitted that the finding of the Inquiry Officer that "From the above it is clear that there was a nexus between M/s. Shabbir and Sons Eco Exim Pvt. Ltd, Sh Amrendra Kumar Amar alias Munna and M/s Hind Ship Airways for clearance of used Rubber tyre scrap in guise of rubber crumb/granules popularly known as 10 mesh license for which they did not possess DGFT License...." Is a repetition of his findings in relation to charge under Regulation 1(4) of the CBLR, 2018 and is beyond the scope of the SCN inasmuch as there is no charge either in the SCN dated 18.12.2025 issued by the department or in the SCN dated 15.12.2025 issued by the Commissioner of Customs, NS 1, JNCH Nhava Sheva against them that used Rubber tyre scrap in guise of rubber crumb/granules was cleared on DGFT Licences allowing import of the latter [10 mesh licenses] using their CB Licence. The CB submitted that this finding is clearly false and is otherwise also not germane to this charge.

16.3 The CB submitted that in view of the above, there is no violation of the Regulation 10(b) of the CBLR, 2018 by them.

17. Submissions on alleged violation of Regulations 10(d) of the CBLR, 2018:

17.1 The CB submitted that they had always advised their clients, including M/s Shabbir and Sons Eco Exim Private Limited to comply with the provisions of the Customs Act, 1962; other allied Acts and the rules and regulations thereof. The CB submitted that the SCN failed to bring out as to what should have been advised by them to the client but was not advised under Regulation 10(d). The CB submitted that the department had merely resorted to Regulation 10(d) without pointing out as to the lapse on their part. The CB submitted that in this regard, they relied upon the ratio of CESTAT Order in the case of M/s Delta Infralogistics (Worldwide) Pvt Ltd Vs C.C. Bangalore, reported in 2019(11) TMI 621 - CESTAT BANGALORE. Hon'ble CESTAT on the issue of Regulation 10(d) held as under:

*"Further the impugned order says that the appellant has not advised the importer without specifying as to what advice was required to be given by the appellant and the same was not given by the appellant to the importer"*

17.2 The CB further submitted that the quantity of excess debit to import licence is grossly over-stated as mentioned in Para 16 above. The CB submitted that the allegation against them is that only a quantity of 07.800 M Tons having assessable value of Rs 87,160/ [and not 714.700 M Tons with an assessable value of Rs. 67,63,143/ as wrongly alleged in the SCN at Exhibit 'A'] of the Tyre Rubber Scrap was debited in excess of the quantity of 1,500 M Tons permitted to be imported vide License No. 111021230 dated 20.11.2024.

17.3 The CB submitted that it is certainly beyond the stretch of credulity that advice to a client includes explaining all the provisions of the Customs Act, 1962 with the presumption of not having done so because a breach of the Customs Act, 1962 has occurred. Moreover, it does not escape attention that advice does not extend beyond the Customs Act, 1962. It should not be lost sight of that the first part of the obligation is to be discharged to the client and the second to the licencing authority; impliedly, advice should have been sought and responded to which, if the client appeared to be disinclined to comply, triggered obligation to the customs administrator. It would appear that such charge would arise when a client

alleges that the 'custom broker' failed to advise properly and reporting of non-compliance then becomes a ground of defence against the charge.

17.4 The CB submitted that the finding of the Inquiry Officer that "Hence the importer has been found complicit in the illegal importation of used tyre scrap in guise of rubber crumb/granules "is a repetition of his findings in relation to charge under Regulation 1(4) of the CBLR, 2018 and is beyond the scope of the SCN inasmuch as there is no charge either in the SCN dated 18.12.2025 issued by the department or in the SCN dated 15.12.2025 issued by the Commissioner of Customs, NS 1, JNCH Nhava Sheva against them that used Rubber tyre scrap in guise of rubber crumb/granules was cleared on DGFT Licences allowing import of the latter [10 mesh licenses] using their CB Licence. The CB submitted that this finding is clearly false and is otherwise also not germane to this charge.

17.5 The CB submitted that in view of the above submissions, particularly the grossly inflated figures of excess debit to Import Licence, there was no violation of Regulation 10(d) of the CBLR, 2018.

18. Submissions on alleged violation of Regulations 10(e) of the CBLR, 2018:

18.1 The CB submitted that there is no allegation anywhere in the SCN that they had not exercised due diligence as Customs Broker to ascertain the correctness of any information which they had imparted to the client M/s Shabbir and Sons Eco Exim Private Limited with reference to any work related to clearance of the imported consignments.

18.2 The CB submitted that for the violation of this Regulation what is important to be brought on record is that there was certain information imparted by them as the customs broker to the importer and that the said information was incorrect. The CB submitted that they had never imparted any incorrect information to the importer nor it is apparent from the two statements of Shri Syed Aslam Ali and Shri Amrendra Kumar Amar that certain information was imparted to the importer which was later found to be false. The CB submitted that there is nothing on record to show not even in the show cause notice as to what false information was imparted by them to the exporter, the allegation regarding violation of Regulation 10(e) has no meaning. The CB submitted that the SCN does not

bring out any evidence that there was any such information given by them as the CB to the importer which was later found to be false. The CB stated that these submissions are sufficient for their honour to hold that violation of Regulation 10(e) of CBLR, 2018 is not apparent against them. The CB submitted that there is no basis for alleged violation of Regulation 10(e) of the CBLR, 2018.

18.3 In this regard, the CB submitted that they placed reliance upon the ratio of Hon'ble Delhi High Court Order in the case of M/s Kunal Travels (Cargo) Vs Commissioner of Customs (Import & General) New Customs House, IGI Airport, New Delhi reported in 2017 (3) TMI 1494 - DELHI HIGH COURT wherein it was held that:

*"Regulation 13(e) of the CHALR 2004 requires the CHA to: "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. The CHA's due diligence is for information that he may give to its client and not necessarily to do a background check of either the client or of the consignment. Documents prepared or filed by a CHA are on the basis of instructions/documents received from its client/importer/exporter. Furnishing of wrong or incorrect information cannot be attributed to the CHA if it was innocently filed in the belief and faith that its client has furnished correct information and veritable documents. The mis-declaration would be attributable to the client if wrong information were deliberately supplied to the CHA. Hence there could be no guilt, wrong, fault or penalty on the appellant apropos the contents of the shipping bills."*

18.4 The CB submitted that taking note of the said decision of the Delhi High Court, this Tribunal in Perfect Cargo & Logistics Vs. C.C. (Airport & General), New Delhi - 2021 (276) ELT 649 (T-Del.) analysed the role which is required to be played by the CHA in discharge of his obligations under the Regulations as under:

*"27. It is clear from the aforesaid decision of the Delhi High Court that there is no obligation on the Customs House Agent to look into the information made available by the importer/exporter. The Customs House Agent is merely a processing agent of documents with respect to clearance of goods through Customs House and he is not an inspector to weigh the genuineness of the transaction."*

18.5 The CB submitted that the discussion on the provisions of Regulation 11(e), the Tribunal in *M/s. Trinity International Forwarders Vs. Commissioner of Customs (Preventive)* reported as 2023 (8) TMI 133-CESTAT NEW DELHI held as under:

*"15. This Regulation requires the Customs Broker to not impart any incorrect information to the exporter. After perusing the records and the appeal we find no allegation that the appellant, as the Customs Broker, has imparted incorrect information. The case of the Revenue is that the exporter had over-valued export goods and the appellant did not report it. Therefore, evidently, the appellant did not violate Regulation 11(e)."*

18.6 The CB submitted that the obligation to ascertain the correct procedure and position is also obviously in relation to a client who would have to allege having been misled by 'customs broker' for this charge under Clause (e) to hold. There is no such allegation on record by the client. The CB stated and re-iterated that the quantity of excess debit to import licence is grossly over-stated in the impugned SCN as mentioned in Para 16 above. The CB submitted that the allegation against them is that only a quantity of 07.800 M Tons having assessable value of Rs 87,160/- [and not 714.700 M Tons with an assessable value of Rs. 67,63,143/ as wrongly alleged in the SCN at Exhibit 'A'] of the Tyre Rubber Scrap was debited in excess of the quantity of 1,500 M Tons permitted to be imported vide License No. 111021230 dated 20.11.2024. The CB submitted that the aforesaid observations squarely apply to the facts of the present case and therefore, they cannot be held guilty for violating Regulation 10(e).

18.7 The CB submitted that the finding of the Inquiry Officer that "Hence the importer has been found complicit in the illegal importation of used tyre scrap in guise of rubber crumb/granules " is a repetition of his findings in relation to charge under Regulation 1(4) of the CBLR, 2018 and is beyond the scope of the SCN inasmuch as there is no charge either in the SCN dated 18.12.2025 issued by department or in the SCN dated 15.12.2025 issued by the Commissioner of Customs, NS 1, JNCH Nhava Sheva against them that used Rubber tyre scrap in guise of rubber crumb/granules was cleared on DGFT Licences allowing import of the latter [10 mesh licenses] using their CB Licence. This finding is clearly false and is otherwise also not germane to this charge.

18.8 In view of the above, the CB submitted that the said charges are contrary to the law & practice and factual evidence on record in this regard and there is no violation of the Regulation 10(e) of the CBLR, 2018.

19. The CB submitted that that each of the above four charges are based on the same imputation of misconduct, viz., that the 'customs broker did not ever deal directly with the importer on record & all the activities were undertaken at the behest of another person namely Shri Amrendra Kumar Amar and that there was excess debit to Import Licence. The CB submitted that this is not consistent with the mandate of the CBLR, 2018 which segregates obligations devolving on a 'customs broker' stakeholder-wise.

19.1 The CB submitted that Regulation 10(d) of the CBLR, 2018 pertains to advising client to comply with provisions of Customs Act, 1962. The CB submitted that Regulation 10(e) of the CBLR, 2018 pertains to due diligence in ascertaining correctness of information imparted to a client. The imputation of misconduct, however, does not appear to relate most of these and, considering that the Central Board of Indirect Taxes & Customs (CBIC) has set these out painstakingly, it was incumbent on the licencing authority to have inquired into and to decide upon, the various facts and circumstances from which breach of each of the obligations could be imputed.

19.2 The CB has contended that the licencing authority has presumed that the obligations under the CBLR, 2018 exist solely for the purpose of initiating proceedings for revocation of licence issued to 'customs broker' and, therefore, to be dealt with thus. The CB submitted that the obligations of a 'customs brokers' are manifold. The CB stated that the institution has been established under the authority of the Customs Act, 1962 to act as a bridge between customs houses, or more properly speaking, between 'proper officer' and importers/exporters in making their knowledge and experience available for facilitation of clearance of cargo. There are, therefore, obligations towards the 'proper officer' and, doubtlessly, towards clients. It is not to be presumed, as the licencing authority appears to have, that any misconduct on the part of importer or exporter is, by default, a breach of obligations because there is a litany of obligations in the CBLR, 2018 to all of which a

single offence may not attach. The 'to do' and/or 'not to do', implicit in each obligation, should have been specified and the contrary act highlighted in the SCN issued under the CBLR, 2018. The CB stated that a diligence in the approach to proceedings that jeopardize the livelihood of a 'customs brokers' is warranted.

19.3 The CB submitted that moreover the language of clauses (d) and (e) of Regulation 10 of the CBLR, 2018 suggests that the import of these provisions is that these two Clauses govern the relation between the CB and its client inter se and not between the CB and the Customs department inasmuch as it was for the importer client to complain in terms of the said two Clauses about the deficiency, if any, in the service provided by the CB. The CB submitted that no such complaint against them has been brought on record. Therefore, the CB stated that invocation of these two Clauses appears to be a case of judicial over-reach.

19.4 The CB stated that the entire allegations against them had been made on the basis of oral statements recorded from Shri Syed Aslam Ali and Shri Amrendra Kumar Amar. Otherwise, there is no concrete evidence against them in the offence report. The CB submitted that no evidence had been brought on record by the Department against them to establish that they have violated the provisions of the Regulations 1(4), 10(b), 10(d) and 10(e) of the CBLR, 2018, It is well settled that mere allegation alone is not sufficient to establish their role as CB in the alleged offence. The CB submitted that the threshold insufficiency of verifiable facts in the allegations demands that the impugned SCN be not allowed to sustain. Accordingly, the CB submitted that the allegation of violation of the provisions of the Regulations 1(4), 10(b), 10(d) and 10(e) of the CBLR, 2018 against them remain unsubstantiated. Consequently, the CB submitted that the SCN is not legally sustainable and it merits to be dropped.

20. The CB stated that the department had not conducted any investigation regarding their role in the impugned imported goods and they have been convicted & are proposed to be hanged without trial. The CB submitted that the proceedings are based entirely on assumptions and presumptions. The CB submitted that the offence, if any, committed by the importer was extraneous to their functions as a Customs Broker. The CB submitted that

they had not aided and abetted or connived with the importer in their alleged omissions & commissions relating to the import of the impugned goods without valid import authorisations. The CB stated that mere negligence or carelessness can't be termed as abetment in order to punish the liable, according to the arrangement of penal laws. So as to establish abetment, the abettor must have appeared to "deliberately" support the commission of the wrongdoing. In such a case, the CB stated that just alleging and even proving that the wrongdoing charged couldn't have been done without the association as well as intervention of the supposed abettor isn't sufficient with the prerequisites of Section 107 of the IPC [Section 45 of the BNS]. It basically means that the action of instigating, encouraging or promoting a person into committing an offence. It can also mean aiding the offender while he is committing a crime. The CB submitted that there is no iota of evidence against them having indulged in instigating, encouraging or promoting the importer into commission or committing the offences of import of the impugned goods without proper import authorisations as alleged in the impugned SCN. The CB stated that it is not the case of the department that they had shared the profit in the act of the import of the impugned goods by the importer. No evidence has been led in this regard. Thus, the charge of abetment is a bald charge and in the absence of cogent evidence does not sustain. In view of the above, the SCN wrongly concludes and alleges that it is evident that they knowingly misused the CB license and rented it out for monetary gain without any evidence.

20.1 The CB submitted that though the charges for alleged violations of the CBLR, 2018 have been raised against them, they were never questioned and examined by the CB Section under the Customs Act, 1962 in this regard. It has been held in the case of M/s Perfect Cargo and Logistics Vs Commissioner of Customs (Airport & General) reported as 2020 (12) TMI 649 - CESTAT NEW DELHI as under:

*"40. It also needs to be noted that the statement of the Customs Broker in the present case was not recorded and only the statement of his G-Card holder was recorded by the Investigating Agency. It was necessary to record the statement of the Customs Broker as allegations have been made against the Customs Broker. This fact has also been noticed by the Tribunal in G. M. Enterprises Vs. Commissioner of Cus. (Export), Nhava Sheva [2010 (262) ELT 796 (Tri. Mumbai)]."*

*41. The inevitable conclusion, therefore, that follows is that the Commissioner was not justified in revoking the License of the appellant or forfeiting the security deposit or imposing penalty."*

20.2 The CB submitted that they cannot be penalised in the absence of their complicity and knowledge of the offences on their part. In this regard, they relied upon the ratio of the following reported case laws:

*(a) National Traders and Agencies - 2019 (6) TMI 371 - CESTAT BANGALORE:*

*(b) Poonia & Brothers - 2019 (4) TMI 911 - CESTAT NEW DELHI:*

*(c) Merchant & Sons - 2018 (5) TMI 1067-CESTAT MUMBAI:*

*(d) Millard Logistics Pvt Ltd - 2018 (1) TMI 960-CESTAT ALLAHABAD.*

20.3 The CB stated that without prejudice to the above submissions, it is well settled by now that as per the established Doctrine of Proportionality, punishment/penalty should be commensurate with the offence alleged to have been committed. Assuming but without admitting that they had a role in import of the impugned goods, even then considering their role, punishment should be proportionate to the offence. The CB submitted that the impugned SCN proposing revocation of their CB Licence is therefore extremely harsh and excessive. The CB submitted that the said alleged lapses and violations on their part, in the facts & circumstances of the matter and evidence on record, do not call for such precipitative action. In this regard, the CB submitted that they relied upon the ratio of the following recent case laws:

*a) M/s. HSN Shipping Pvt Ltd Vs Commissioner of Customs, Chennai - 2021 (2) TMI 1149-CESTAT CHENNAI.*

*b) Setwin Shipping Agency Vs Commissioner of Customs (Chennai - VIII) - 2021 (1) TMI 818-CESTAT CHENNAI.*

*c) M/s Jetwing Freight Forwarders Vs C.C Bangalore Cus 2020 (6) TMI 316 -(c) CESTAT, BANGALORE.*

*d) M/s Mallick Clearing Agency Vs CC (Admn & Airport), Kolkata 2020 (1) TMI 489 - CESTAT KOLKATA.*

*e) M/s Tanmay Global Logistics Vs Commissioner of Customs (Airport & General) - 2019 (12) TMI 529 - CESTAT NEW DELHI.*

20.4 The CB further submitted that on the issue of proportionality of punishment they placed reliance upon the ratio of the following judgements:

- i. *Hon'ble Andhra Pradesh High Court in the case of Commr of Cus & C. Ex Hyderabad Vs H. B. Cargo reported as 2011 (3) TMI 816 ANDHRA PRADESH HIGH COURT*
- ii. *Judgement of Hon'ble Delhi High Court in the case of M/s Ashiana Cargo Services Vs Commissioner of Customs (I&G) - 2014 (3) TMI 562*
- iii. *Order of CESTAT Mumbai in the case of M/s R R Shipping Agency reported as 2021 (12) TMI 857 - CESTAT MUMBAI*

20.5 The CB submitted that in view of the above the proposal for revocation of their CB Licence merely citing legal provisions without the support of any cogent evidence is not sustainable and should be held accordingly.

21. The CB submitted that the SCN has been issued on the ground that they had failed to fulfil their obligations as laid down, inter-alia, in Regulations 1(4), 10(b), 10(d) and 10(e) of the CBLR, 2018. Therefore, it appears that the SCN invokes Clause (b) of Regulation 14 of the CBLR, 2018 which states that the license of a Customs Broker may be revoked on the ground, inter-alia, for 'failure to comply with any of the provisions of the regulations. The CB submitted that they had demonstrated above that there was no failure on their part to comply with the provisions of the CBLR, 2018 and that they had not violated the Regulations 1(4), 10(a), 10(b), 10(d) and 10(e) of the CBLR, 2018 as alleged in the SCN in any manner. Therefore, the CB stated that the SCN is without jurisdiction. The CB submitted that according to the system of jurisprudence which we follow, conviction cannot be based on suspicion or on the conscience of the Authority being morally satisfied about the complicity of an accused person who can be convicted and sentenced only if the prosecution proves its case beyond all reasonable doubt.

21.1 The CB respectfully submitted that in all common law jurisdictions judgments play a vital role in setting up precedents for the future and therefore Principle of Judicial Discipline requires that the Orders of the higher appellate authorities unless stayed as quoted before them should have been followed unreservedly by the subordinate Authority. In this regard, the CB relied upon the ratio of the following case laws:

- a) *Kamlakshi Finance Corporation 1991 (9) TMI 72-SUPREME COURT.*

b) *T.V. Sundram Iyengar & Sons Pvt Ltd - 2021 (5) TMI 159 - MADRAS HIGH COURT.*

c) *XL Health Corporation India Pvt Ltd-2018 (10) TMI 1565-Karnataka High Court*

21.2 The CB stated that the case laws cited by them has to be considered and may not be simply brushed aside by terming them as irrelevant. This will be contrary to the well laid out jurisprudence that the Authorities are under obligation to act judiciously. The CB referred to the recent Order of Hon'ble CESTAT in this regard in the case of M/s Vandana Global Ltd reported as 2023 (7) TMI 72 CESTAT MUMBAI. The CB submitted that the Adjudication proceedings are examination of the allegations levelled vis a vis the replies repelling the same and the inquiry purpose is to arrive at a proper conclusion on the allegations levelled. Since the primary aim is to meet out justice, the inquiry proceedings should be a search for the truth and must be conducted in a fair and transparent manner. The CB submitted that the proof of their role in the matter, as alleged, hence would depend upon a proper evaluation of the totality of the evidences brought on record, which is lacking in the instant case.

21.3 The CB stated that the allegations made against them in the SCN are mere bald allegations and are not based on any sound, cogent, tangible & reliable evidences. It is an accepted principle that "he who asserts must prove". The department has failed to discharge the burden cast upon it in a manner known to law. Such serious allegations having criminal overtones have been made on the basis of assumptions & presumptions without proper appreciation of the facts of the case, of the evidences available on record as well as of the legal provisions invoked in the SCN and hence have been made without due and proper application of mind. It may not be out of place to mention that the SCN exhibits casual, mechanical, biased & prejudiced approach and colourable exercise of power. The CB submitted that the proposal to revoke their CB Licence is exceptionable, too harsh and arbitrary considering their role.

21.4 The CB therefore, prayed that all the said charges against them in these proceedings may please be reported as 'Not Proved' inasmuch as the SCN has been issued on assumptions and presumptions based on inadequate, incomplete & inconclusive

investigation without proper application of mind and appreciation of evidence raising wild, baseless, bald and unsubstantiated charges. The CB requested that the facts & the circumstances of the matter may please be appreciated and justice may be rendered. The CB craved leave to add, delete, modify and/ or alter any submissions in the interest of justice if an occasion may arise to do so.

22. The CB submitted that post the hearing, to supplement the submissions already made, they further submitted as under:

22.1 Cross Examination has been denied during the Inquiry and therefore statements cannot be relied upon. The CB submitted that in terms of Regulation 17(4) of the CBLR, 2018, they had requested the Inquiry Officer for cross examination of the following two persons whose oral statements recorded by the DRI Ahmedabad under Section 108 of the Customs Act, 1962 have been relied upon for alleging violation of Regulation 1(4) and Clause (b) of Regulation 10 of the CBLR, 2018:

- a) Sh Syed Aslam Ali, power of attorney holder of M/s Shabbir and Sons Eco Exim Pvt Ltd, the importer [statement dated 16.06.2025] and
- b) Sh Amrendra Kumar Amar alias Munna [statements dated 28.08.2025 and 29.08.2025).

22.2 The CB submitted that the request for cross examination had been denied and therefore the above statements cannot be relied upon in support of the allegations. Sans the said statements, there is nothing to support the allegations regarding violation of Regulation 1(4) and Clause (b) of Regulation 10 of the CBLR, 2018. Therefore, the CB submitted that these two allegations are required to be dropped. In this regard, the CB submitted that they relied upon ratio of the Order of Hon'ble CESTAT Mumbai Bench in the case of M/s A B Paul & Company Versus Principal Commissioner of Customs (General), Mumbai reported as 2023 (6) TMI 322 CESTAT MUMBAI wherein one of the issues was denial of cross examination and its aftermath. Appeal of the department against this Order has been dismissed vide Order dated 04.02.2026 reported as 2026 (2) TMI 406 - Bombay High Court. The CB also placed reliance upon Hon'ble CESTAT Chennai order in the case of

M/s Shalom Forwarders vs Commissioner of Customs, Tuticorin reported as 2026(6) TMI 194 – CESTAT CHENNAI.

22.3 The CB submitted that their CB Licence was suspended by the Hon'ble Commissioner of Customs General Mumbai vide the Suspension Order No 10/25-26 - CBS dated 17.10.2025 issued from File No GEN/CB/365/2025 - CBS under Regulation 16 of the CBLR, 2018. The licence was restored on 10.04.2026 after the said suspension was revoked vide Order dated 09.03.2026 by the Hon'ble CESTAT Mumbai on their Appeal against the Suspension Order. The CB submitted that the Suspension was ordered based on the premise that they had cleared the Tyre Rubber Scrap by over-debiting the Licence(s) by a total quantity of 714.7 M Tons with an assessable value of Rs. 67,63,143/-. The CB submitted that no proof or even computation was given to them. Now it is on record that the over-debiting was only to the extent of 7.8 M Tons having assessable value of Rs 87,160/-. The CB submitted that the above over-debiting of the nominal and trivial quantity in the licence for total 1,500 M Tons was on account of some clerical error and was not intentional. The CB submitted that without prejudice to the above, even if it is presumed that the said over-debit was intentional, the suspension of their CB Licence for the period from 17.10.2025 to 10.04.2026 may please be considered as sufficient punishment.

**DISCUSSIONS AND FINDINGS: -**

23. I have gone through the facts and records of the case; the offence report DRI/AZU/CI-1/ENQ-62(INT-25)/2025 dated 04.07.2025 and 29.09.2025 issued by the Additional Director, DRI, AZU; Show Cause Notice No. 1610/2025-26/Pr. Commissioner of Customs/GR.2H/NS-I/CAC/JNCH dated 15.12.2025 issued by the Principal Commissioner of Customs, NS-I, JNCH; Suspension Order No. 10/2025-26 dated 17.10.2025 and Suspension Continuation Order No. 14/2025-26 dated 13.11.2025 issued under Regulation 16 of CBLR, 2018; Show Cause Notice No. 37/2025-26 dated 18.12.2025 issued under Regulation 17(1) of CBLR, 2018; Inquiry Report dated 17.02.2026, PH records dated 20.05.2026; CB's written submissions dated 23.04.2026, 21.05.2026 and 05.06.2026.

24. Briefly stating, the case against the CB M/s. Hind Ship Airways (CB License No. 11/672) originated from an investigation by the Directorate of Revenue Intelligence (DRI), Ahmedabad Zonal Unit into the import consignments of M/s Shabbir and Sons Eco Exim Pvt. Ltd. which involved the systematic misdeclaration and misuse of Special Import Licenses (SIL) by the importer, M/s. Shabbir and Sons Eco Exim Pvt. Ltd., to circumvent EXIM policy restrictions on restricted goods. Acting on specific intelligence, the DRI intercepted and examined consignments at Nhava Sheva port, revealing that the importer was using licenses specifically intended for “10 Mesh” to instead import restricted “Used Tyre Scrap” in forms such as pressed, baled, shredded, and multi-cut scrap. Further investigation disclosed that the firm manipulated manual debit sheets to over-debit quantities from Special Import Licenses (SIL), importing quantities that far exceeded permitted limits. The investigation revealed that multiple customs brokers had filed such documents for customs clearance for the importer M/s. Shabbir and Sons Eco Exim Pvt. Ltd. A total quantity of 7.8 metric tons, with an assessable value of Rs. 87,160/- was found to have been over-debited using the Customs Broker license of M/s. Hind Ship Airways. Statements recorded during the investigation revealed that the CB had effectively rented out or transferred its license to Shri Amrendra Kumar Amar (alias Munna) of M/s. Harsh Clearing & Forwarding Pvt. Ltd. allowing him to handle the operational work and custom clearance for the importer. Consequently, a show cause notice under Regulation 17(1) of the CBLR, 2018 was issued charging the CB with violation of Regulations 1(4), 10(a), 10(b), 10(d) and 10(e) of the CBLR, 2018.

24.1 I observe that Show Cause Notice No. 1610/2025-26/Pr. Commissioner of Customs/Gr.2H/NS-I/CAC/JNCH dated 15.12.2025 issued under section 124 of the Customs Act, 1962 mentions that, “M/s. Hind Ship Airways, engaged in the customs clearance of old and used tyre scrap, facilitated M/s. Shabbir and Sons Eco Exim Private Limited in the import of goods in contravention of the License issued by DGFT, by importing quantities in excess of the permissible limit. Consequently, M/s. Hind Ship Airways, by not debiting the bill of entry and by misusing the manual debiting process of Customs, assisted M/s. Shabbir and Sons Eco Exim Private Limited in importing 7.8 MTS

of old and used tyre scrap, having an assessable value of Rs. 87,144/-, in excess of the permissible limit. Shri Abdul Wahab Abubakar Surty, Partner in M/s. Hind Ship Airways, in his statement recorded on 08.12.2025, stated that they handled customs clearance of Rubber tyre scrap on behalf of Shri Amrendra Kumar Amar during the period September 2024 to April 2025 as during that period license of M/s. Hirannya Shipping and Logistics Services was under suspension. Further, he stated that import in excess of permissible limit was an unintentional error on their part. Hence this act of the firm M/s. Hind Ship Airways has rendered them liable for penalty under Section 112 of the Customs Act, 1962 and since the whole work was done on the directions of Shri Amrendra Kumar Amar, this has rendered Shri Amrendra Kumar Amar and M/s. Hind Ship Airways liable for penalty under provisions of Section 112 of the Customs Act, 1962. Shri Abdul Wahab Abubakar Surty, Partner in M/s. Hind Ship Airways, and Shri Amrendra Kumar Amar, have caused submission of incorrect/false declarations to the Customs at the time of import, knowing fully that the items under import were in violation of licences issued by DGFT. Thus, having knowingly and intentionally caused a declaration to be made, signed and used which was false and incorrect, Shri Abdul Wahab Abubakar Surty, Partner in M/s. Hind Ship Airways and Shri Amrendra Kumar Amar have rendered themselves liable for penalty under Section 114AA of the Customs Act, 1962”.

25. I find that 05 articles of charges have been framed against the CB i.e. violation of Regulations 1(4), 10(a), 10(b), 10(d) and 10(e) of the CBLR 2018. Now, I proceed to discuss the charges, sequentially.

#### **25.1 Violation of Regulation 1(4) of the CBLR, 2018:**

(a) I find that the charge of violation of Regulation 1(4) of the CBLR, 2018 has been levelled against the CB on the grounds that, ‘In the present case, it appeared that the Customs Broker M/s. Hind Ship Airways rented out its CB license to Shri Amrendra Kumar Amar in exchange for monetary consideration. Further, as per the statement recorded on 29.08.2025 by the Directorate of Revenue intelligence, Ahmedabad and upon scrutiny of the subject report, it was revealed that Shri Amrendra Kumar Amar had

obtained the CB license from M/s. Hind Ship Airways and used it for the clearance of the subject imported goods. This conduct clearly constituted a violation of Regulation 1(4) of the Customs Broker Licensing Regulations (CBLR), 2018. Such an omission represented a significant breach of the duties and responsibilities prescribed under Regulation 1(4). In light of the foregoing, it appeared that the Customs Broker had contravened the provisions of Regulation 1(4) by unlawfully renting out the Customs Broker license to Shri Amrendra Kumar Amar’.

(b) I find that the inquiry officer, in this regard has observed that from the records of the investigation it is clear that there was a nexus between M/s. Shabbir and Sons Eco Exim Pvt. Ltd, Sh Amrendra Kumar Amar alias Munna and M/s Hind Ship Airways for clearance of used Rubber tyre scrap in guise of rubber crumb/granules popularly known as 10 mesh license for which they did not possess DGFT License and also the CB was complicit in over debiting of the license and that M/s Hind Ship Airways allowed the use of their License by Sh Amrendra Kumar Amar alias Munna for import of the Rubber tyre scrap by the importer for which they did not have the requisite permission/ license by DGFT. The IO submitted that he had taken cognizance of the various submissions made by M/s. Shabbir and Sons Eco Exim Pvt. Ltd, Sh Amrendra Kumar Amar alias Munna and M/s Hind Ship Airways. Accordingly, the IO held the article of Charge alleging violation of Regulation 1(4) of the CBLR, 2018 as Proved.

(c) I have gone through the CB’s submission in this regard and find the CB submitted that the Show Cause Notice (SCN) fails to marshal any evidence showing that they sold, sublet, or transferred their license to Shri Amrendra Kumar Amar, and lacks any evidence of monetary or other exchange of consideration. They stated that Shri Amrendra Kumar Amar is an associate through whom they received the customs clearance job for the importer, M/s. Shabbir and Sons Eco Exim Private Limited, which aligns with the common, permissible industry practice of receiving clearance jobs through intermediaries, freight brokers, or logistics operators. To support their defence that procuring business through an intermediary is not barred and does not equate to subletting or transferring a license, the

CB relied Hon'ble Tribunal's judgement in *K.S. Sawant & Co. reported as 2013 (12) TMI 119 CESTAT, Mumbai*.

(d) Regulation 1(4) states that, “Every license granted or renewed under these regulations shall be deemed to have been granted or renewed in favour of the licensee, and no license shall be sold or otherwise transferred”. I find that the charge under Regulation 1(4) strikes at the very heart of the licensing regime. The Customs Broker license is a personal privilege granted based on the character and qualification of the applicant; it is strictly non-transferable. The SCN alleges that M/s. Hind Ship Airways rented out its license to an independent operator, Shri Amrendra Kumar Amar (alias Munna) of M/s. Harsh Clearing & Forwarding Pvt. Ltd., for monetary consideration, effectively abdicating its regulatory duties. The CB argued against this charge by stating that the SCN does not provide direct evidence of a sale or financial transfer. They claim it is common commercial practice to receive customs clearance work through intermediaries like freight brokers or logistics operators. This argument tries to misrepresent the actual relationship uncovered during the investigation. The evidence at hand does not indicate simple referral but completely ceding control of the license to an unauthorized intermediary. Shri Amrendra Kumar Amar in his statement recorded by DRI, AZU stated that his firm, M/s. Harsh Clearing & Forwarding Pvt. Ltd., used several licenses including that of M/s. Hind Ship Airways to process imports of rubber crumb, granules, and tyre scrap. Most importantly, Shri Abdul Wahab Surty, the partner of the CB firm explicitly stated that they stepped in to handle these clearances specifically because the license of another CB, M/s. Hirannya Shipping & Logistics Services which was being used by Shri Amar was under suspension. He admitted that their filing and clearance work was done “in coordination with the staff of Shri Amrendra Kumar Amar”. This demonstrates that the CB allowed its license to be used by an unapproved third party. I find that the CB in their defence cited the Hon'ble Tribunal's judgement in *K.S. Sawant & Co.* which held that procuring business through an intermediary is not barred and does not equate to subletting or transferring a license. I do not find the ratio of the judgement applicable to the current case because as per the records of the investigation it is observed that the preparation of documents, management of check-

lists, and manual debiting were all handled by Shri Amar's employees and not by the CB. This further affirms the fact that the CB rented out their license in outright violation of Regulation 1(4) of the CBLR, 2018. Considering the facts and evidences on record I uphold the charge of violation of Regulation 1(4) of the CBLR, 2018.

## **25.2 Violation of Regulation 10(a) of the CBLR, 2018:**

(a) I find that the charge of violation of Regulation 10(a) of the CBLR, 2018 has been levelled against the CB on the grounds that, 'In the present case, it appeared that the Customs Broker, M/s. Hind Ship Airways, failed to comply with the mandatory requirement as mandated in regulation 10(a) of CBLR, 2018. The Customs Broker did not obtain the necessary authorization from the importer, as there was no record or indication of any direct meeting or interaction between the Customs Broker and the importer. This was further substantiated by the statement of Mr. Syed Aslam Ali, the authorized representative of M/s Shabbir and Sons Eco Exim Private Limited. He clearly affirmed that he personally managed the procurement of goods from overseas suppliers and their subsequent sale to domestic buyers on behalf of the importer. He further stated that all Customs clearance-related activities were handled by Mr. Amrendra Kumar Amar. In his own statement, Mr. Amrendra Kumar Amar also confirmed that he carried out the Customs clearance work by using the license of the Customs Broker, M/s. Hind Ship Airways. Therefore, it was evident that the Customs Broker neither met with the importer nor obtained the requisite authorization, thereby constituting a clear violation of Regulation 10(a) of CBLR, 2018'.

(b) I find that the inquiry officer, in this regard has observed that the CB in their defence submission stated they had obtained the mandatory statutory Authorization from the importer. The IO stated that the CB had submitted copy of the Authorisation dated 18.07.2024 along with KYC documents like IEC, PAN, GST Regn. Aadhaar Card etc. of the importer. The IO submitted that he had perused copy of authorization letter dated 18.07.2024 from the importer M/s Shabbir and Sons Eco Exim Private Limited, which was produced by the charged customs broker during the inquiry proceedings. The IO found that

the authorization was duly signed by the authorised signatory of the importer and that there was no allegation to effect that there was no authorization or the authorization produced by the Charged CB was not genuine or that CB did not produce the authorization. Thus, the IO submitted that it is apparent that the CB had obtained an authorization as laid down in Regulation 10(a) of CBLR, 2018. The IO found that the CB had complied with the both the provisions of Regulation 10(a) of CBLR, 2018. The IO placed reliance upon the following:

- (i) Seaswan Shipping and Logistics Vs. Commissioner of Cus., Chennai-II, reported in 2022 (380) E.L.T. 358 (Tri. – Chennai) wherein, the Hon’ble Tribunal which held as under:

*“8. The relevant provisions have already been reproduced above. Under Regulation 11(a), the Customs Broker has to obtain authorization from the firm/individual by whom he is being employed as a Customs Broker. In the present case, there is no dispute with the address of the importer or his IE Code. The only allegation put forward under Regulation 11(a) is that the appellant had not obtained the KYC documents from the importer directly but through a middleman, be it Shri Ramadhurai or Shri Karthi. When the necessary authorization and KYC documents have been obtained and when these documents are proper, merely because the said documents were not obtained directly from the importer, the appellant cannot be said to have violated provisions of Regulation 11(a). It may not always be practical for a Customs Broker to obtain the documents directly from the importer. In the case of K.S. Sawant & Co. (supra) in para 5.1, the Tribunal has discussed that "obtaining authorization from the importer does not mean that the same should be obtained directly; so long as the concerned import documents were signed by the importer, it amounts to authorization by the importer and therefore it cannot be said that there has been violation of Regulation 13(a)". The above decision was under CHALR, 2004 wherein the provisions of Regulation 13(a) are similar to Regulation 11(a) of CBLR, 2013.”*

- (ii) Perfect cargo & Logistics Vs. Commissioner of Customs (Airport & General), New Delhi, reported in 2021 (376) E.L.T. 649 (Tri. - Del) wherein, the Hon’ble Tribunal which held as under:

*“18. This conclusion drawn by the Commissioner is clearly erroneous. The Regulation requires the Customs Broker to obtain an authorisation, which the Appellant did. It is not the case of the Department that the signatures on the authorisation letter were forged or that the persons authorising the Appellant denied having given the authority letters. This apart, the Appellant also claims that due*

*diligence was carried out for ascertaining the functioning of the clients at the address declared by the clients and in this connection the partnership deed as well as service tax registration, PAN card, Import Export Code, voter card, electricity bill, bank details and mobile number of the partners with email id were also examined. The Commissioner, therefore, committed an illegality in holding that Regulation 10(a) of the Licensing Regulations had been violated.”*

(iii) Trans Asia Shipping Services Vs. Commissioner of Customs, Bangalore, reported in 2024 18 Centax 230 (Tri. Bang) wherein, the Hon’ble Tribunal which held as under: “6. Regarding violation of Regulations 10(a) and (n) of CBLR, 2018 the regulation casts responsibility on the Customs Broker to obtain authorization and in the present case they have obtained the authorization and produced the same during investigation. The issue regarding revocation of Customs Broker license was considered by Principal Bench in the matter of Perfect Cargo & Logistics v. CC (Airport & General), New Delhi reported in 2021 (376) E.L.T. 649 (Tri.-Del.) and categorically held that there is no binding on the Customs Broker to verify the address of the importer/exporter by physically visiting the premises as per the document furnished by the importer and such verification can be done by verifying the details at declared address by using reliable, independent, authentic documents, data or information. Similarly Hon’ble Tribunal in the matter of Seaswan Shipping and Logistics v. CC, Chennai-II reported in 2022 (380) E.L.T. 358 (Tri.-Chennai) considered the issue whether failure of the CHA to obtain KYC from importer directly amount to violation of Regulation 11(a) of the CBLR 2013 and categorically held that in the absence of any finding regarding genuineness of the documents produced by the Customs Broker, proceedings under 10(a) and (n) cannot be taken against the Customs Broker.”

The IO found that the authorization had been signed by the importer and that there is no allegation to effect that there was no authorization or the authorization produced by the charged CB was not genuine or that CB did not produce the Authorization. The IO found that in the article of charge it has not been alleged that CB such authorization was demanded by the Department and charged CB failed to produce the same. The IO found that the charged CB had produced Authorization duly signed by M/s Shabbir and Sons Eco Exim Private Limited during the inquiry proceedings. Hence charges levelled against the charged CB are unsustainable. The IO submitted that he had taken cognizance of the various case laws. The IO found that the ratio of the judgement relied upon by the Charged CB is applicable in the instant case. The IO submitted that there nothing on record that the

Customs Broker had failed in obtaining Authorization from M/s Shabbir and Sons Eco Exim Private Limited or the Charged CB had failed to produce such authorization to Customs Department. Accordingly, the IO hold that article of Charge alleging violation of Regulation 10(a) of the CBLR, 2018 as Not Proved.

(c) I find that the CB did not make any submissions against this charge since the Inquiry Officer held the charge of violation of Regulation 10(a) as not proved.

(d) I have perused the facts and records of the case and gone through the IO's findings in detail. The IO observed that the CB obtained a valid, statutory authorization dated 18.07.2024 from the importer, M/s Shabbir and Sons Eco Exim Private Limited, alongside essential KYC documents including the IEC, PAN, GST Registration, and Aadhaar card. The IO further observed that the authorization was duly signed by the authorized signatory of the importer. I find the ratio of the judgements (i) *Seaswan Shipping and Logistics Vs. Commissioner of Cus., Chennai-II* [2022 (380) E.L.T. 358 (Tri. – Chennai)]; (ii) *Perfect Cargo & Logistics Vs. Commissioner of Customs, New Delhi* [2021 (376) E.L.T. 649 (Tri. - Del)]; (iii) *Trans Asia Shipping Services Vs. Commissioner of Customs, Bangalore* [2024 18 Centax 230 (Tri. Bang)] cited by the IO squarely applicable to the current case. In light of the aforementioned facts, I concur with the IO's findings and drop the charge of violation of Regulation 10(a).

### **25.3 Violation of Regulation 10(b) of the CBLR, 2018:**

(a) I find that the charge of violation of Regulation 10(b) of the CBLR, 2018 has been levelled against the CB on the grounds that, 'Based on the subject report and the statement of Mr Amrendra Kumar Amar, dated 29.08.2025, recorded by the Directorate of Revenue Intelligence, Ahmedabad, it was evident that he conducted customs clearance-related activities on behalf of the Customs Broker M/s. Hind Ship Airways with respect to imports made by M/s Shabbir and Sons Eco Exim Private Limited. However, as per Regulation 10(b), a Customs Broker is required to carry out business either personally or through an authorized employee who has been duly approved by the Deputy Commissioner of Customs or Assistant Commissioner of Customs. In the instant case, it appeared that the

Customs Broker was not transacting business either personally or through an authorised employee, as required under regulation 10(b) of CBLR, 2018. This was further substantiated by the statement of Mr. Amrendra Kumar Amar, who confirmed that he independently carried out the Customs clearance work by using the license of the Customs Broker, Hind Ship Airways. This constituted a clear violation of Regulation 10(b) of CBLR, 2018’.

(b) I find that the inquiry officer, in this regard, has observed that on perusal of para 9.13 of the SCN dated 15.12.2025 issued under the Customs Act, 1962 it is seen that DRI had recorded a statement dated 08.12.2025 of Sh Abdul Wahab Abubakar Surty (Partner in M/s Hind Ship Airways) u/s 108 of Customs Act, 1962 wherein he had inter alia stated that they took up customs clearance of used rubber tyre scrap on behalf of Sh Amrendra Kumar Amar when the license of M/s Hirannya Shipping was under suspension; that they carried out the clearance of used rubber tyre scrap during the period September 2024 to April 2025 and undertook the filing and clearance work in co-ordination with the staff of Sh Amrendra Kumar Amar; that he was involved in the import related work in respect of tyre scrap including filing of B/Es and managing of debiting of license along with the help of staff of Sh Amrendra Kumar Amar; that he did not know Sh Syed Aslam Ali personally but he was aware that Sh Syed Aslam Ali was the de facto owner of M/s. Shabbir and Sons Eco Exim Pvt. Ltd.; that vis a vis DGFT license no. 111021230 the act of importing goods in excess of permissible limit was an unintentional error on their part and that they are ready to pay the applicable fine and penalty in the subject matter; that he was aware that the import of old and used tyre scrap more than the permissible quantity mentioned in DGFT license makes such goods prohibited in nature and this makes goods liable for confiscation and penalty u/s 112 and 114AA of the Customs Act, 1962. The IO noted that it is clear from the investigation that there was a nexus between M/s. Shabbir and Sons Eco Exim Pvt. Ltd, Sh Amrendra Kumar Amar alias Munna and M/s Hind Ship Airways for clearance of used Rubber tyre scrap in guise of rubber crumb/granules popularly known as 10 mesh license for which they did not possess DGFT License and also the CB was complicit in over debiting of the license and that M/s Hind Ship Airways allowed the use

of their License by Sh Amrendra Kumar Amar alias Munna for import of the Rubber tyre scrap by the importer for which they did not have the requisite permission/ license by DGFT. The IO submitted that from the submissions made it is also seen that Sh Amrendra Kumar Amar alias Munna was not an authorised employee of M/s Hind Ship Airways and that he was just using their license for illegal importation of used Rubber tyre scrap. The IO submitted that he had taken cognizance of the various submissions made by M/s. Shabbir and Sons Eco Exim Pvt. Ltd, Sh Amrendra Kumar Amar alias Munna and M/s Hind Ship Airways. Accordingly, the IO held that article of charge alleging violation of Regulation 10(b) of the CBLR, 2018 as Proved.

(c) I find that the CB argued that Regulation 10(b) mandates transacting business personally or through an authorized representative, which in the case of imports involves filing the Bill of Entry along with invoices, packing lists, and checklists. They assert that in the current era of virtual transactions and online processing, physical presence in the custom house is not required, and their presence in processing the import documents at the Nhava Sheva customs station is completely undisputed.

(d) I have gone through the facts and records of the case in detail. Regulation 10(b) requires a Customs Broker to transact business at a Customs Station either personally or through an authorized employee approved by the Deputy or Assistant Commissioner of Customs. The SCN charges that the CB allowed Shri Amrendra Kumar Amar and his unapproved staff to conduct customs clearance work under their license. The CB defends against this by arguing that in the modern era of online processing and digital transactions, physical presence at the custom house is no longer required. They assert that because the Bills of Entry were submitted electronically under their digital signatures at Nhava Sheva, the requirement to transact business is met, making the charge unsubstantiated. This argument ignores the clear wording and purpose of Regulation 10(b). While the physical submission of documents has largely been replaced by electronic filing, the requirement that the person performing these tasks must be an authorized employee remains absolute. The facts of the case show that the CB surrendered control of their license to Shri Amrendra

Kumar Amar. The data entry, checking of cargo summaries, tracking of vessels, and coordination with the importer were performed by employees of M/s. Harsh Clearing. None of these individuals were approved employees of M/s. Hind Ship Airways under the CBLR. Furthermore, Shri Abdul Wahab Surty admitted that the fieldwork, container examinations, and manual license debits at the port were handled alongside Shri Amar's staff. This further establishes that unapproved individuals were conducting customs work on the license of M/s. Hind Ship Airways defeating the purpose of the licensing regulations. Consequently, I hold the CB guilty of violation of Regulation 10(b) of the CBLR, 2018.

#### **25.4 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, 'It appeared that the Customs Broker failed to advise their client to declare the correct description of goods, specifically "Used Tyre Scrap (pressed baled/multi-cut)" which does not fall under the 10 Mesh license category. Licenses issued for imports under Customs Tariff Item (CTI) 40040000 pertaining to tyre scrap are restricted both in terms of quantity and validity period. These licenses authorize the import of only one specific type of rubber tyre scrap within the stipulated timeframe, either "Used Tyre Scrap (pressed baled/multi-cut)" or "Rubber/granules finer than 10 Mesh to 20 Mesh, devoid of iron, steel, and most fibers." Both types fall under the broader category of waste, parings and scrap of rubber (other than hard rubber), including powders and granules obtained therefrom. Therefore, a valid license permit is required for the import of a specified quantity of a particular type of tyre scrap as detailed in the DGFT license within the prescribed period. By misdeclaring the goods, the importer circumvented the conditions imposed by the DGFT import policy. Further, the Customs Broker has been found complicit in the over-debiting of the SIL issued by the Directorate General of Foreign Trade (DGFT). The investigation revealed that the SIL was misappropriated to the extent of 7.8 metric tonnes. As per Regulation 10(d) of the CBLR, 2018, it is the responsibility of the Customs Broker to advise the importer to declare the correct description of goods and ensure the proper utilization of the SIL license issued by the

DGFT, rather than allowing or facilitating its over-debiting. Furthermore, the Customs Broker failed to report this non-compliance to the Deputy Commissioner or Assistant Commissioner of Customs, as required under the said regulation. This omission represented a clear deviation from the responsibilities outlined in Regulation 10(d) of CBLR, 2018. In view of the above, it appeared that the Customs Broker had contravened the provisions of Regulation 10(d) by not ensuring compliance with the relevant statutory requirements and by neglecting to inform the Deputy/Assistant Commissioner of the irregularities’.

(b) I find that the inquiry officer, in this regard stated that DRI had recorded a statement dated 08.12.2025 of Sh Abdul Wahab Abubakar Surty (Partner in M/s Hind Ship Airways) u/s 108 of Customs Act, 1962 wherein he had inter alia stated that vis a vis DGFT license no. 111021230 the act of importing goods in excess of permissible limit was an unintentional error on their part and that they were ready to pay the applicable fine and penalty in the subject matter; that he was aware that the import of old and used tyre scrap more than the permissible quantity mentioned in DGFT made such goods prohibited in nature and this made the goods liable for confiscation and penalty u/s 112 and 114AA of the Customs Act, 1962. Hence, the IO submitted that importer has been found complicit in the illegal importation of used tyre scrap in guise of rubber crumb/granules alongwith over debiting of the License issued by DGFT and also the CB facilitated the importer in the same and failed to report the same to the Customs authorities. The IO submitted that in view of the above submissions of the CB as well as allegations made in the SCN dated 18.12.2025 there was violation of Regulation 10(d) of the CBLR, 2018. Accordingly, the IO held article of charge alleging violation of Regulation 10(d) of the CBLR, 2018 as Proved.

(c) I have gone through the CB’s submission wherein, the CB contended that they have always advised their clients to comply with the provisions of the Customs Act, 1962, and other allied acts, stating that the SCN arbitrarily fails to point out any specific lapse or specify what advice should have been given but was omitted. They emphasize that the

advice expected of a custom broker does not extend beyond the Customs Act, 1962, nor does it require explaining every statutory provision under the automatic presumption of a breach whenever an importer commits a violation. They point out that the charge is based on grossly overstated figures, as the alleged excess debit to the import licence was actually a trivial, unintentional clerical error of only 7.800 M Tons (assessable value of Rs. 87,160/-) rather than the 714.700 M Tons (assessable value of Rs. 67,63,143/-) wrongly alleged in the SCN. Furthermore, they state that clauses (d) and (e) govern the relationship between the CB and the client *inter se*, meaning a charge would only arise if the client complained of a deficiency in service, whereas no such complaint exists on record. To support their defence, the CB relies on the ratio of the Hon'ble CESTAT's Order in *M/s Delta Infralogistics (Worldwide) Pvt Ltd Vs C.C. Bangalore*.

(d) I have gone through the facts of the case and evidences on record. I observe that Regulation 10(d) places a clear statutory duty on the Customs Broker to advise their clients to comply with the provisions of the Customs Act, 1962, and allied regulations. In cases of non-compliance, the broker is strictly required to bring the matter to the attention of the Deputy or Assistant Commissioner of Customs. The SCN asserts that the CB failed to advise the importer against improper imports and further failing to report the over-debiting of the import licenses. The CB seeks to counter this charge by arguing that they always advised their clients to follow the law, and that the SCN fails to specify exactly what advice was omitted. They cited *M/s Delta Infralogistics (Worldwide) Pvt Ltd Vs C.C. Bangalore* to argue that a general allegation of failing to advise is legally insufficient. They also contended that a broker's duty to advise does not mean they are responsible for every subsequent violation committed by an importer. This defence is flatly contradicted by the partner's own admissions. Shri Abdul Wahab Surty admitted under Section 108 that he knew used tyre scrap under CTH 4004 was a restricted item requiring specific import licenses issued by the DGFT. He stated that they discovered the over-debiting on the SIL but described it as an unintentional error that they were ready to pay fines for. A customs broker cannot claim they provided proper advice while simultaneously admitting they processed clearances that exceeded the limits of the license. I observe that the CB failed to

tender requisite advice leading to over-debit of the SIL which rendered the goods prohibited and furthermore the CB failed to inform the concerned customs authorities of the irregularities. In view of the foregoing discussions, I uphold the charge of violation of Regulation 10(d) of the CBLR, 2018.

### **25.5 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, 'It appeared that the Customs Broker failed to exercise due diligence and merely relied upon the incorrect declaration submitted by the importer without verifying or ensuring the correct declaration of the goods under Customs Tariff Heading (CTH) 40040000, which pertained specifically to tyre scrap. Given that the goods in question were categorized as restricted under the DGFT Policy, such a lapse represented a serious breach of regulatory obligations and a clear violation of the applicable policy conditions governing restricted imports. Moreover, the Customs Broker was also found complicit in the over-debiting of the SIL issued by the Directorate General of Foreign Trade (DGFT). The investigation revealed that the SIL was misused to the extent of 7.8 metric tonnes. As per Regulation 10(e) of the CBLR, 2018, it is the responsibility of the Customs Broker to exercise due diligence and ensure the proper utilization of the SIL license issued by the DGFT rather than allowing or facilitating its over-debiting. Accordingly, it appeared that the Customs Broker failed to adhere to the prescribed procedures and responsibilities outlined under Regulation 10(e) of the Customs Broker Licensing Regulations (CBLR), 2018'.

(b) I find that the inquiry officer, in this regard, stated that he had perused Show Cause Notice No. 37/2025-26 dated 18.12.2025. The IO found that in Table-A of Para 5 of the SCN dated 18.12.2025 the charged CB has been provided with the detailed calculation sheet quantifying the over debiting done by the customs broker firm with details of the B/Es. From this it can be concluded that CB was fully aware that the importer was having DGFT License for the import of 10 mesh license category however they were importing used tyre scrap which does not fall under the 10 mesh license category. It was the duty of

the CB to advise the importer about the discrepancies in the declaration made in the BE and the CB should also had intimated the Customs department about the misdeclaration being made by the importer in the concerned B/Es. Also DRI had recorded a statement dated 08.12.2025 of Sh Abdul Wahab Abubakar Surty (Partner in M/s Hind Ship Airways) u/s 108 of Customs Act, 1962 wherein he had inter alia stated that vis a vis DGFT license no. 111021230 the act of importing goods in excess of permissible limit was an unintentional error on their part and that they are ready to pay the applicable fine and penalty in the subject matter; that he was aware that the import of old and used tyre scrap more than the permissible quantity mentioned in DGFT makes such goods prohibited in nature and this makes goods liable for confiscation and penalty u/s 112 and 114AA of the Customs Act, 1962. Hence the IO submitted that the importer had been found complicit in the illegal importation of used tyre scrap in guise of rubber crumb/granules and also over debiting of the License issued by DGFT and also the CB facilitated the importer in the same and failed to report the same to the Customs authorities. Hence, it can be concluded that the CB failed to exercise due diligence. In view of the above submissions of the CB as well as allegations made in the SCN dated 18.12.2025 the IO found that there was violation of Regulation 10(e) of the CBLR, 2018. Accordingly, the IO held the article of charge alleging violation of Regulation 10(e) of the CBLR, 2018 as Proved.

(c) I have gone through the CB's submission and find that the CB submitted that Regulation 10(e) requires a broker to exercise due diligence regarding information they impart to a client, and the SCN contains absolutely no evidence showing that the CB ever imparted any false or incorrect information to the importer. They argued that the obligation is meant to protect the client from being misled, and that the importer has raised no such grievance or allegation. They reiterate that they cannot be held liable for mis-declarations done by a client when the CB had no knowledge of the same, as the CB's role is that of a processing agent for documents rather than an inspector tasked with conducting background checks or weighing the commercial genuineness of transactions. They point out that the charge is based on grossly overstated figures, as the alleged excess debit to the import licence was actually a trivial, unintentional clerical error of only 7.800 M Tons

(assessable value of Rs. 87,160/-) rather than the 714.700 M Tons (assessable value of Rs. 67,63,143/-) wrongly alleged in the SCN. To defend against this charge, the CB relied upon judicial precedents in *M/s Kunal Travels (Cargo) Vs Commissioner of Customs (Import & General), New Delhi*; *Perfect Cargo & Logistics Vs. C.C. (Airport & General), New Delhi* and *M/s. Trinity International Forwarders Vs. Commissioner of Customs (Preventive), New Delhi*.

(d) I have perused the facts and records of the case, the findings of the inquiry officer and the defence arguments of the CB. I observe the SCN states that the CB failed to verify the accuracy of the import declarations and allowed restricted used tyre scrap to be cleared in excess of the limits available to the importer under the Special Import License (SIL) issued to them. The CB defends against this charge by citing *M/s Kunal Travels (Cargo) Vs Commissioner of Customs (Import & General), New Delhi* and *Perfect Cargo & Logistics Vs. C.C. (Airport & General)* arguing that a customs broker is merely a processing agent for documents. They assert that they are not required to carry out background checks on their clients or act as inspectors to verify the physical nature of the cargo. They claim they relied in good faith on the documents provided by the importer, and cannot be held responsible if the client supplied false information. While I accept that the judgement in the case of *Kunal Travels* limits a broker's duty to inspect cargo physically, it does not excuse a total failure to review the documents in their possession. The due diligence required by Regulation 10(e) applies directly to the handling of import licenses and declarations. The case records demonstrate that separate import licenses are issued by the DGFT based on specific parameters, including environmental clearances from the Ministry of Environment, Forest and Climate Change (MoEF&CC). The quantities under different licenses cannot be mixed or combined. The partner of the CB, Shri Abdul Wahab Surty admitted they were fully aware of the strict conditions imposed by the SIL yet did not prevent the over-debiting of the license. Managing license balances while handling restricted imports is one of the primary responsibilities of a customs broker and constitutes diligence as mandated under Regulation 10(e). Relying on manual debit sheets without verifying the actual remaining balances on the original license shows a complete lack of

due diligence. The CB failed to perform basic checks on the license limits, which directly allowed restricted cargo to be imported without the requisite license. Therefore, the charge of failing to exercise due diligence under Regulation 10(e) of the CBLR, 2018 is fully proved.

25.6 I find that the CB in their submission mentioned that in terms of Regulation 17(4) of the CBLR, 2018, they had requested the Inquiry Officer for cross examination of Shri Syed Aslam Ali & Shri Amrendra Kumar Amar whose oral statements recorded by the DRI Ahmedabad under Section 108 of the Customs Act, 1962 have been relied upon for alleging violation of Regulation 1(4) and Clause (b) of Regulation 10 of the CBLR, 2018. The CB submitted that the request for cross examination had been denied and therefore the above statements cannot be relied upon in support of the allegations. Therefore, the CB submitted that these two allegations are required to be dropped. In this regard, the CB placed reliance on the Order of Hon'ble CESTAT Mumbai Bench in the case of M/s A B Paul & Company Versus Principal Commissioner of Customs (General), Mumbai reported as 2023 (6) TMI 322 CESTAT MUMBAI and Hon'ble CESTAT Chennai order in the case of M/s Shalom Forwarders vs Commissioner of Customs, Tuticorin reported as 2026(6) TMI 194 – CESTAT CHENNAI.

I find that the IO denied the cross-examination placing reliance on the following caselaws: -

(i) In the case of Union of India Vs. Rajendra Bajaj [2010(253) E.L.T.165 (Bom.)], Hon'ble Bombay High Court, stated in Para 6, which is reproduced herein below -

*"the Supreme Court held in K.L. Tripathi v. State Bank of India (1984) 1 SCC 43 that where there is no dispute as to the facts, or the weight to be attached on disputed facts but only an explanation of the acts, absence of opportunity to cross-examination does not create any prejudice in such cases and does not vitiate the decision."*

(ii) In the case of Suman Silk Mills Pvt. Ltd. Vs. Commissioner of Customs & C.Ex., Baroda [2002 (142) E.L.T. 640 (Tri. -Mumbai)], Tribunal observed at Para 17 that-

*"Natural Justice - Cross-examination - Confessional statements - No infraction of principles of natural justice where witnesses not cross-examined when statements admitting evasion were confessional."*

(iii) In the case of Liyakat Shah Vs. Commissioner of C.Ex., Indore-II(Bhopal) [2000(120) E.L.T.556(Tribunal)]. Relevant portion of the above judgment contained in Para 12, is reproduced herein below-

*"Natural justice - Cross-examination is not a mandatory procedure to be allowed in all cases - When the adjudicating authority took the view that cross-examination of seizing officer, where goods seized from godown of assessee when no allegation that officers had not followed proper procedure for effecting seizure, was sought only by way of delaying tactics to avoid justice, his order refusing to allow cross-examination not violative of the principles of natural justice..."*

(iv) In the case of Commissioner of Customs, Hyderabad V. Tallaja Impex reported in 2012(279) ELT 433 (Tri.), it was held that-

*"In a quasi-judicial proceeding, strict rules of evidence need not to be followed. Cross examination cannot be claimed as a matter of right."*

(v) In the case of Patel Engg. Ltd. vs UOI reported in 2014 (307) ELT 862 (Bom.)

*Hon'ble Bombay High Court held that "Adjudication - Cross-examination -Denial of, held does not amount to violation of principles of natural justice in every case, instead it depends on the particular facts and circumstances -Thus, right of cross-examination cannot be asserted in all inquiries and which rule or principle of natural justice must be followed depends upon several factors - Further, even if cross-examination is denied, by such denial alone, it cannot be concluded that principles of natural justice had been violated." [Para 23]*

I concur with the IO's decision to deny this request. I find the ratio of the above judgements squarely applicable to the case at hand. Following the principles laid down in the caselaws cited by the IO, cross-examination is not a mandatory right in quasi-judicial proceedings when facts are not in dispute. I find that the CB has not produced any retraction of the statements, and the violation is evident by the lack of due diligence in the clearance of restricted tyre scrap resulting in imports of the same in excess of the permitted quantity. Further, under the facts and circumstance of the case, I observe that the denial of cross-examination does not cause any prejudice.

26. I find that a Customs Broker occupies a very important position in the Custom House and is supposed to safeguard the interests of both the importers/exporters and the Customs Department. A lot of trust is kept in CB by the Government Agencies; however, by their acts of omission and commission, the Customs Broker M/s. Hind Ship Airways (CB License No. 11/672) has violated Regulations 1(4), 10(b), 10(d) and 10(e) 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. Hind Ship Airways have rendered themselves 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."*

**(c) In case of M/s Cappithan Agencies Versus Commissioner Of Customs, Chennai-Viii, (2015(10) LCX 0061),** the Hon'ble Madras High Court had opined that :-

*“(i) The very purpose of granting a licence to a person to act as a Customs House Agent is for transacting any business relating to the entry or departure of conveyance or the import or export of goods in any customs station. For that purpose, under Regulation 9 necessary examination is conducted to test the capability of the person in the matter of preparation of various documents determination of value procedures for assessment and payment of duty, the extent to which he is conversant with the provisions of certain enactments, etc. Therefore, the grant of licence to act as a Custom House Agent has got a definite purpose and intent. On a reading of the Regulations relating to the grant of licence to act as CHA, it is seen that while CHA should be in a position to act as agent for the transaction of any business relating to the entry or departure of conveyance or the import or export of goods at any customs station, he should also ensure that he does not act as an Agent for carrying on certain illegal activities of any of the persons who avail his services as CHA. In such circumstances, the person playing the role of CHA has got greater responsibility. The very description that one should be conversant with the various procedures including the offences under the Customs Act to act as a Custom House Agent would show that while acting as CHA, he should not be a cause for violation of those provisions. A CHA cannot be permitted to misuse his position as CHA by taking advantage of his access to the Department. The grant of licence to a person to act as CHA is to some extent to assist the Department with the various procedures such as scrutinizing the various documents to be presented in the course of transaction of business for entry and exit of conveyances or the import or export of the goods. In such circumstances, great confidence is reposed in a CHA. Any misuse of such position by the CHA will have far reaching consequences in the transaction of business by the customs house officials. Therefore, when, by such malpractices, there is loss of revenue to the custom house, there is every justification for the Respondent in treating the action of the Petitioner Applicant as detrimental to the interest of the nation and accordingly, final order of revoking his licence has been passed.*

*(ii) In view of the above discussions and reasons and the finding that the petitioner has not fulfilled their obligations under above said provisions of the Act, Rules and Regulations, the impugned order, confirming the order for continuation of*

*prohibition of the licence of the petitioner is sustainable in law, which warrants no interference by this Court. Accordingly, this writ petition is dismissed.”*

**(d) In the case of Pundole Shahrukh & Co. V/s. Commissioner (General), Mumbai [2012 TIOL 925 CESTAT-MUM]** the Hon’ble Tribunal observed that the maximum punishment prescribed in the CHALR is attracted in cases of major involvement in aiding and abetting fraudulent exports leading to substantial loss of revenue to the exchequer.

27. As discussed above, I conclude that the CB M/s. Hind Ship Airways (CB License No. 11/672) is guilty of violating Regulations 1(4), 10(b), 10(d) and 10(e) of the CBLR, 2018. In view of the foregoing detailed discussion and findings, it is irrefutably established that the CB has not merely committed a procedural lapse but has displayed a profound and systemic disregard for the statutory responsibilities mandated under the CBLR, 2018 by completely surrendering its operational and administrative control to an unauthorized third party, Shri Amrendra Kumar Amar of M/s. Harsh Clearing and Forwarding Pvt. Ltd. This absolute abdication of regulatory responsibility directly facilitated fraudulent imports of restricted used tyre scrap which were rendered prohibited in the absence of the requisite authorization. The complete absence of direct professional engagement with the importer, the processing of fraudulent documentation and the failure to report these severe non-compliances to the Customs authorities collectively confirm an extreme lack of due diligence on part of the CB. Such grave misconduct has rendered the Customs Broker entirely unfit to transact any further business within the Customs stations. Hence, under the factual matrix of the case I am inclined to revoke the CB license, forfeit the security deposit and impose a penalty on the CB M/s Hind Ship Airways (CB License No. 11/672) under the CBLR, 2018.

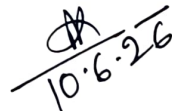
28. In view of the above-discussed facts and for their acts of omission and commission, the Customs Broker M/s. Hind Ship Airways (CB License No. 11/672) is held liable and guilty for violating the provisions of the CBLR, 2018. I hold that the CB has failed to discharge the duties cast upon them with respect to Regulations 1(4), 10(b), 10(d) and 10(e) of the CBLR, 2018 and is liable for penal action. Accordingly, I pass the following order:

**ORDER**

29. I, Principal 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 revocation of the CB license held by M/s. Hind Ship Airways (CB License No. 11/672) under Regulation 14 of the CBLR, 2018.
- (ii) I hereby order for forfeiture of the entire amount of the security deposit furnished by the CB M/s. Hind Ship Airways (CB License No. 11/672) under Regulation 14 of the CBLR, 2018.
- (iii) I hereby impose a penalty of Rs. 50,000/- (Rupees Fifty Thousand Only) on the CB M/s. Hind Ship Airways (CB License No. 11/672) under Regulation 18(1) of the CBLR, 2018.
- (iv) I hereby order that the CB immediately surrender the original License as well as all the F, G & H cards issued thereunder.

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.

  
10.6.26

(Ajay Kumar Pandey)  
Pr. Commissioner of Customs (Gen.)  
NCH, Mumbai-I

To,

**M/s. Hind Ship Airways (License No. 11/672)**  
Office 4, Floor 1, Plot 89,  
Shri Krishna Bhuvan, P. D'mello Road,  
Carnac Bunder, Chinch Bunder,  
Mumbai 400009.

**Copy to:**

1. The Pr. Chief Commissioner/ Chief Commissioner of Customs, Mumbai - I, II, III Zone.
2. The Pr. Commissioner of Customs, NS-I, Mumbai - II.
3. The Additional Director, DRI, Ahmedabad Zonal Unit.
4. EDI of NCH, ACC & JNCH.

5. ACC (Admn), Mumbai with a request to circulate among all departments.
6. JNCH (Admn) with a request circulate among all the concerned.
7. Cash Section, NCH.
8. Office copy.