



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

संचिका सं/F. No.-GEN/CB/331/2024-CBS

आदेश दिनांक/Date of Order: 27.01.2026

CAO No. 133/2025-26/CAC/CC(G)/SJS/Adj-CBS जारी दिनांक/Date of issue: 06.02.2026

संख्या:

DIN:- 2026027700000000BBB6

द्वारा जारी : श्रद्धा जोशी शर्मा

Issued By : Shraddha Joshi Sharma

आयुक्त, सीमाशुल्क (सामान्य)

Commissioner of Customs (Gen.)

मुंबई -400 001

Mumbai - 400 001

ORDER-IN-ORIGINAL मूल आदेश**ध्यान दीजिए/ N.B. :**

1. यह प्रति उस व्यक्ति को निजी उपयोग हेतु निःशुल्क प्रदान की जाती है, जिसे यह जारी की जा रही है।
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2. इस आदेश के विरुद्ध अपील माँगे गए राशि के **7.5%** के भुगतान पर सीमाशुल्क अधिनियम, 1962 129 की धारा(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), १९८२, के प्रावधानों के अंतर्गत, यथोत्तराधीन में स्वीकार्य है।

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

3. यह सूचित किया जाता है कि इस आदेश के अमल में आते ही, न्याय निर्णयन अधिकारी का अधिकार क्षेत्र समाप्त होता है और सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण, पश्चिम क्षेत्री यांत्रिक पीठ, 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), १९८२ के नियम में उल्लेखित व्यक्ति 2 के उपनियम 3 के तहत निर्धारित है एवं उसी नियमावली के नियम 6 द्वारा हस्ताक्षरित एवं सत्यापित की जाएगी।

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

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

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

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

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

Brief Facts of the Case: -

M/s. SSS Sai Shipping Services Pvt. Ltd.(CB License No. - 11/999) (EDI License No. AALCS4908DCH001) having address registered at A 304, Classique Centre, Plot No 26, Mahal Indl. Estate, Near Paper Box, Andheri East, Mumbai - 400093 (hereinafter referred as the Customs Broker/ CB) is holder of Customs Broker License No. - 11/999, issued by the Commissioner of Customs, Mumbai under Regulation 8 of CHALR, 1984, [Now regulation 7(2) of CBLR, 2018] and as such they are bound by the regulations and conditions stipulated therein.

2. An Offence report in the form of Order-In-Original No. 27/ADC/MKJ/ADJ/2024-25 dated 17.05.2024 passed by the Additional Commissioner of Customs, Import-I, NCH, Mumbai - I regarding violation of Import policy for the imports of cars by the Importer M/s Precision Cars India Pvt. Ltd. through their Customs Broker M/s SSS Sai Shipping Services Pvt. Ltd. was received in this office. The entire RUDs for the same were received on 09.01.2025. Vide the above said offence report, inter-alia, the following has been stated.

2.1 Intelligence was received at CIU, NCH, Mumbai that Porsche Cayenne S Hybrid Cars had been imported and cleared through Mumbai Port in violation of the policy framed for the import of cars into India. The dealer of said cars was identified to be M/s Shreyans Motors Pvt. Ltd. The premises of the dealer were searched on 23.02.2011 and relevant documents were seized.

2.2 Statement of Shri Ashish Chordia, Director was recorded under Section 108 of the Customs Act, 1962 on 23.02.2011 and 24.02.2011, wherein he inter-alia stated that, he was a majority share-holder in the company M/s Shreyans Motors Pvt. Ltd., which was the distributor of Porsche cars in Mumbai. That he was also a 30% stake holder (remaining stock being held by family members) in M/s Precision Cars India Pvt. Ltd; that the car was imported by M/s Precision Cars India Pvt. Ltd. from M/s Porsche Middle East and Africa FZE, PO Box 341356, Dubai Silicon Oasis, Dubai, UAE and as per his understanding, there was no restriction on the import of hybrid cars; that he had sought clarification from the DGFT, regarding the import of hybrid car and had not received it. He further stated that

he sold the said car to Mr. Uday Shankar and the displacement capacity in CC was not mentioned on the invoice.

2.3 On scrutiny of the seized documents, it was revealed that M/s Shreyans Motors Pvt. Ltd. had sold one Porsche Cayenne S Hybrid car to Mr. Uday Shankar for a consideration of Rs. 87,30,000/- and the said car was earlier sold by the importer M/s Precision Cars India Pvt. Ltd. to the dealer M/s Shreyans Motors Pvt. Ltd. for a consideration of Rs. 79,78,895/. Further, the importer had imported this car vide Bill of Entry No. 2402874 dated 07.12.2010 and declared value was Rs. 28,21,684 and duty paid was Rs. 24,84,174.

2.4 On perusal of the documents seized as well as statements recorded, it appeared that the Porsche Cayenne S Hybrid car was a dual engine car that ran on electric and petrol engine and engine capacity of the petrol engine was 2995 CC. Exemption from compliance of the conditions as per Import licensing Notes to Chapter 87 of ITC (HS) classification of Export & Import was inter-alia available only if the car under import was either a petrol run car or diesel run car and if it was a petrol run car, the engine capacity needed to be more than 3000 CC. In this case, the car is neither a purely petrol run car nor a purely diesel run car. The car is a hybrid car not covered by the exemption. Further, even making allowance for the fact that the hybrid car is partly petrol run car, the engine capacity is 2995 cc, as against the required engine capacity of more than 3000 cc. In this regard, it appeared that the said car was not allowed to be imported without complying with the conditions at SL No. (2) (II) (c) to the Import Licensing notes to Chapter 87 of ITC (HS) classification of Export & Import.

2.5 Statement of Shri Haresh A Dhakan, Director at M/s SSS Sai Shipping Services Pvt. Ltd., was recorded under Section 108 of the Customs Act, 1962 on 01.03.2011 and 15.04.2011, wherein he inter-alia stated that the subject car was cleared vide Bill of Entry No. 2402874 dated 07.12.2010, the subject car is a hybrid car, that they did not have a specific permission or license to import hybrid cars; that the engine capacity of the petrol engine was 2995 CC and the same was not declared in the Bill of Entry as the same was not declared in the invoice; that the said car does not comply with the conditions at SL No.

(2) (II) (C) of the Import Licensing Notes to Chapter 87 of ITC (HS) Classification of Export & Import. Subsequently, an amount of Rs. 6,25,000 was deposited vide HC No. 1001 dated 18.03.2011. In this regard, Shri Haresh A Dhakan stated that this amount was deposited under instructions from Shri Ashish Chordia towards any future liability.

2.6 As the car was sold to Shri Uday Shankar, statement of Ms. Ujwala P Wakhle appearing on behalf of Shri Uday Shankar, was recorded on 12.04.2011, wherein she inter alia stated that they had purchased the car from M/s Shreyans Motors and the car Registration No. was HR26 BG 4554. She further stated that the car was being used till 03.04.2011 and returned to M/s Shreyans Motors on 10.04.2011 in return of credit note 09.04.2011 and the ownership was still with Shri Uday Shankar. In furtherance, statement of Shri Ashish Chordia was recorded under Section 108 of the Customs Act, 1962 on 02.06.2011, wherein he inter alia stated that, Shri Uday Shankar had returned the car in return of credit note. He stated that the car is in his possession and being used in Delhi by his staff. From the Statement of Shri Ashish Chordia, it was evident that the car was being used outside Mumbai where it was not practical to seize the goods liable for confiscation. Shri Ashish Chordia was served with Seizure Memo dated 17.02.2012 to not remove, part with, or otherwise deal with the goods except with the previous permission of such officer. On receipt of seizure memo, M/s Precision Cars India Pvt. Ltd. requested for provisional release of the car. The Commissioner of Customs (Gen) provisionally released the car under Section 110A of the Customs Act, 1962 against a surety bond of Rs. 12,50,000 and provisional bond for the value of Rs. 28,21,684/-.

2.7 The CB M/s SSS Sai Shipping Services Pvt. Ltd. did not ensure that the correct and complete declaration with respect to engine capacity was made on the Bill of Entry especially when they were aware that cars having petrol engine capacity of 2955 CC is allowed to be imported subject to fulfilling certain conditions at SL No. (2) (II) (c) of the Import Licensing Notes to Chapter 87 of ITC. The CB was well aware that hybrid cars were not covered and the exemption was meant for only diesel and petrol cars and not

petrol cum electric (hybrid) cars, in spite of which the CB filled Bill of Entry for clearance of the said car.

2.8 During the course of adjudication proceedings, it was noticed that the CB M/s SSS Sai Shipping Services Pvt Ltd did not figure in the portion of SCN where the names and addresses of the noticees were mentioned for service of the show cause notice (SCN) dated 26.06.2012 issued under the Customs Act, 1962. This was despite the fact that role of the CB M/s SSS Sai Shipping Services Pvt. Ltd. and their liability towards penalty under section 112 b and 114 AA had been discussed in the main body of the SCN. On noticing this anomaly, a copy of SCN, along with all the RUDs, was issued to the CB. Personal hearings were given to the CB along with other noticees.

2.9 Personal Hearing was attended by Shri Harshal Haresh Dhakan (Director of M/s SSS Sai Shipping Services Pvt. Ltd.) and Shri N.D. George (Advocate of M/s SSS Sai Shipping Services Pvt. Ltd.) on 11.10.2023. They furnished letter dated 11.10.2023 and inter-alia submitted that the SCN dated 26.06.2012 had been served upon them on 27.09.2023 via email; that the SCN was barred by limitation and the same had not been marked to them. They further stated that hybrid cars are a distinct separate category and clearly distinguishable from purely petrol or purely diesel run cars which run on different technologies. That there was no prohibition or restrictions on the import of Hybrid cars and thus it has to be construed that they were freely importable.

3. Vide the Order-In-Original No. 27/ADC/MKJ/ADJ/2024-25 dated 17.05.2024, a penalty of Rs. 4,00,000/- (Rupees Four Lacs only) under section 112 (a) and a penalty of Rs. 6,00,000/- (Rupees Six Lacs only) under section 114AA of the Customs Act 1962, has been imposed on the CB M/ss SSS Sai Shipping Services Pvt. Ltd.

4. Role of the Customs Broker:

The Customs Broker (CB) is an agent authorized by the exporter to work on their behalf. As per Regulations of the CBLR, 2018, it is the obligation of the Customs Broker to exercise due diligence to ascertain the correctness of any information he imparts to a client and to advise the client accordingly to comply with the provisions of the Act, other

allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be. Further, it is the obligation upon CB to maintain records of all papers related to customs clearance and co-operate with customs authorities and join investigations promptly in case of enquiry against them or their employees.

4.1 It was the responsibility of the CHA to check that the import documents are complete in all aspects and to ensure that any information which is necessary is not suppressed. But they turned a blind eye to the non-compliance of the conditions laid down in the SL No. (2) (II) (c) of Import Licencing Notes to Chapter 87 of the ITC classification thereby aiding the Importer. In the statement dated 01.03.2011, the CB admitted of knowing that the policy did not allow import of hybrid vehicles and also admitted of knowing that if the petrol engine capacity was not more than 3000 cc then the conditions laid down in the SL No. (2) (II) (c) of Import Licencing Notes to Chapter 87 were to be complied with. Despite knowing the above the CB filed the Bill of Entry and did not instruct the Importer to comply with the conditions laid. They filed the Bill of entry knowingly and intentionally without mentioning the engine capacity in order to avoid compliances, thereby suppressing crucial relevant information.

5. In view of the above, it appeared that the CB M/s SSS Sai Shipping Services Pvt. Ltd. (CB License No. 11/999), Mumbai, had failed to comply with the following regulations of the Customs Brokers Licensing Regulations, 2018 (previously known as CHALR, 2004).

(i) Regulation 10(d) of the CBLR (earlier known as Regulation 13 (d) of the CHALR, 2004)

“advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be”,

The present matter pertains to import of hybrid cars (petrol plus electrical engines) with petrol engine capacity of 2995 cc by the Importer M/s Precision Cars India Pvt Ltd. Vide statement dated 01.03.2011, Shri Haresh A Dhakan, Director of M/s SSS Sai Shipping Services Pvt Ltd., admitted having knowledge that the policy did not allow import of hybrid vehicles and that if the petrol engine capacity was not more than 3000 cc then the conditions laid down in the SL. No. (2)(II)(c) of Import Licencing Notes to Chapter 87 were to be complied with. Despite knowing the above, the CB filed the Bill of Entry and did not instruct the Importer to comply with the said conditions. They filed the Bill of entry knowingly and intentionally without mentioning the engine capacity in order to avoid compliances, thereby suppressing crucial relevant information. It was the responsibility of the CHA to check that the import documents were complete in all aspects and that any information which was necessary was not suppressed. But they turned a blind eye to the non-compliance of the conditions laid down in the SL. No. (2)(II)(c) of Import Licencing Notes to Chapter 87 of the ITC classification thereby aiding the Importer.

The CB thus failed to advise the Importer to comply with the conditions laid down in the SL. No. (2)(II)(c) of Import Licencing Notes to Chapter 87 of the ITC classification thereby aiding the Importer. The CB also failed to inform the Customs Authorities regarding the non-compliance of the conditions laid down in the SL. No. (2)(II)(c) of Import Licencing Notes to Chapter 87 of the ITC classification, by the Importer. Thus, the CB appeared to have violated the provisions of Regulation 10(d) of the CBLR, 2018 (earlier known as Regulation 13(d) of the CHALR, 2004).

(ii) Regulation 10(e) of the CBLR, 2018 (earlier known as Regulation 13(e) of the CHALR, 2004)

“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;

It was the responsibility of the CB to check that the import documents were complete in all aspects and to ensure that any necessary information was not suppressed. But they turned a blind eye to the non-compliance of the conditions laid down in the SL.

No. (2)(II)(c) of Import Licencing Notes to Chapter 87 of the ITC classification. If they had imparted correct information to the importer, the non-compliance could have been avoided. Instead, they appeared to be working hand in gloves with the Importer. Vide statement dated 01.03.2011, Shri Haresh A. Dhakan, Director of M/s SSS Sai Shipping Services Pvt Ltd. admitted of knowing that the policy did not allow import of hybrid vehicles and also admitted that if the petrol engine capacity was not more than 3000 cc then the conditions laid down in the SL. No. (2)(II)(c) of Import Licencing Notes to Chapter 87 were to be complied with. It seemed that they filed the Bill of Entry knowingly and intentionally without mentioning the engine capacity in order to avoid compliances, thereby suppressing crucial relevant information. The CB further stated that the engine capacity was not declared in the Bill of Entry as the same was not declared in the invoice and the CB behaved in a non-diligent way. They never asked the Importer about the engine capacity, and filed the Bill of Entry with incomplete information and behaved in a non-diligent way. By acting in such a way, they seemed to be involved with the Importer. Thus, in view of the above, the CB appeared to have violated the Regulation 10(e) of the CBLR, 2018 (earlier known as Regulation 13(e) of the CHALR, 2004).

(iii) Regulation 10(m) of the CBLR, 2018 (earlier known as Regulation 13(n) of the CHALR, 2004)

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

The CB did not discharge his duties with utmost efficiency, as it has been brought about in the investigation and statements of the CB that they had knowledge that the policy did not allow import of hybrid vehicles and that if the petrol engine capacity was not more than 3000 cc then the conditions laid down in the SL. No. (2)(II)(c) of Import Licencing Notes to Chapter 87 were to be complied with. The CB failed to work efficiently and did not provide proper information to the Importer, and filed the Bill of Entry knowingly and intentionally without mentioning the engine capacity in order to avoid compliances, thereby suppressing crucial information. Thus in view of the aforesaid facts, the CB

appeared to have violated the Regulation 10(m) of the CBLR, 2018 (earlier known as Regulation 13(n) of the CHALR, 2004).

6. From the investigation, it appeared that the CB M/s SSS Sai Shipping Services Pvt. Ltd. (CB License No. 11/999) was aware about the non-compliance of the conditions laid down in the SL. No. (2)(II)(c) of Import Licencing Notes to Chapter 87 of the ITC classification thereby aiding the Importer. If they had imparted correct information to the importer, the noncompliance could have been avoided. Instead, they appeared to be working hand in gloves with the importer. The CB also failed to inform the Customs authorities regarding the non-compliance of the conditions laid down in the SL No. (2)(II)(c) of Import Licencing Notes to Chapter 87 of the ITC classification, by the Importer. The CB filed the Bill of Entry with incomplete information and behaved in a non-diligent way. By acting in such non-diligent manner, they seemed involved with the Importer and thus, it appeared that the CB M/s SSS Sai Shipping Services Pvt. Ltd. (CB License No. 11/999) aided the Importer. From the aforementioned facts, it appeared that, the CB M/s SSS Sai Shipping Services Pvt Ltd (CB License No. 11/999) had violated Regulations 10(d), 10(e) & 10(m) of the CBLR, 2018 (earlier known as Regulation 13(d), 13(e), and 13(n) of the CHALR-2004).

SUSPENSION OF CB LICENSE AND SHOW CAUSE NOTICE: -

7. In view of the offence report received in the form of Order-In-Original No. 27/ADC/MKJ/ADJ/2024-25 dated 17.05.2024 issued by the Additional Commissioner of Customs, Import-I, NCH, Mumbai - I, action under the CBLR, 2018 was taken against the CB M/s SSS Sai Shipping Services Pvt. Ltd. (CB License No. 11/999). In view of the Board's Instruction No. 24/2023 dated 18.07.2023, the case was not considered appropriate for immediate suspension of the CB license under Regulation 16 of the CBLR, 2018. However, the inquiry under Regulation 17 of CBLR, 2018 was initiated against the CB M/s SSS Sai Shipping Services Pvt. Ltd. and accordingly, based on the Offence Report, the following articles of Charges were framed against the CB:

- (i) Article of Charge-I: Violation of Regulation 10(d) of CBLR, 2018.

(ii) Article of Charge-II: Violation of Regulation 10(e) of CBLR, 2018

(iii) Article of Charge-III: Violation of Regulation 10(m) of CBLR, 2018

7.1 In light of the above, a Show Cause Notice (SCN) No. 02/2025-26 dated 03.04.2025 was issued to the CB under the provisions of Regulation 17(1) of CBLR, 2018 (earlier known as Regulation 22 of the CHALR, 2004) wherein, the CB was called upon to show cause, as to why:

- a. The Customs Broker License bearing no. 11/999 issued to them, should not be revoked;
- b. Security deposited should not be forfeited;
- c. Penalty should not be imposed

upon them under Regulation 14 read with Regulation 17 & 18 of the CBLR, 2018 (earlier known as Regulation 20 read with Regulation 22 of the CHALR, 2004).

7.2 Also, Shri Sanjay Kshirsagar, Deputy Commissioner of Customs, was appointed as Inquiry Officer (IO) to conduct the inquiry proceedings in the matter. The IO concluded the inquiry proceedings and submitted the Inquiry Report dated 25.08.2025, which is discussed below.

INQUIRY REPORT: -

8. The Inquiry Officer (here in after referred to as the 'IO') concluded the inquiry proceedings and submitted the Inquiry Report dated 25.08.2025, wherein amongst the charges levelled against the CB, the charge of violation of Regulation 10(d) was held as 'Partially Proved' and the charges of violation of Regulations 10(e) and 10(m) of the CBLR, 2018 were held as 'Not Proved'.

FINDINGS OF THE INQUIRY OFFICER: -

9. Ongoing through the records of the matter, available evidence and submissions of the CB, the IO came to the below findings:

9.1 The IO submitted that based on the available records, Submissions & deposition of Mr. Krunal Haresh Dhakan, Director and Harshal Haresh Dhakan, Director of the Custom

Broker M/s SSS Sai Shipping Services Pvt. Ltd. (CB-11/999), the Inquiry is concluded and the conclusions of the Inquiry are as follows. The allegations are discussed one by one.

9.2 Violation of Regulation 10(d) of the CBLR, 2018:

- i. The Sub-regulation 10(d) of the CBLR, 2018 reads as: "*advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of noncompliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may*"
- ii. Here it is important to note that there are two aspects of the responsibility cast upon a CB by the Regulation 10(d) of the CBLR 2018. One is advising the client and the other is bringing the matter to the notice of the Deputy/ Assistant Commissioner in case of non-compliance. Regarding connivance with the importer, the IO stated that the case had already been tried under various provisions of the Customs Act, 1962 and the adjudication order is being relied upon as offence report in this case.
- iii. As brought on records, the IO stated that the filing of Bill of Entry was done on the basis of the documents provided by the Importer and the technical details regarding the Engine capacity were not available to the CB while filing the Bill of Entry as the same were not mentioned on the Invoice. After preparing the draft checklist and after it was approved by the Importer, the Bill of Entry was filed. Coming to the question of whether at any point the CB could have told the requirements of the notification to the Importer, one has to consider statement dt. 23.02.2011 of Mr. Ashish Chordia, Director of the Importer firm and specifically answer to the Question 17 wherein inter-alia he specifically stated that the vehicles were powered by a 3.0 Litre turbocharged petrol engine & in addition it has electrical power. Thus, the Importer was fully convinced that the imports were within the ambit of notification benefit. Further, after the case was detected, they had taken up the issue with DGFT. The Bill of Entry is silent about the engine capacity and there is no evidence suggesting that the engine capacity was declared to be more than 3000 cc to claim the notification benefit. This indicates that the issue is more of availability of notification benefit and not mis-statement about the engine capacity. And therefore, the CB

deserves the benefit of the judicial pronouncement in Judgement dt. 18.04.2024 of Hon'ble CESTAT, Chennai in case of Gayaram Sipping Services Vs Comm. of C. Ex. Custom House Tuticorin. Other case laws differ on the facts therefore are not considerable.

iv. Regarding the aspect of bringing the matter to the notice of the Deputy/Assistant Commissioner in case of non-compliance, the IO submitted that it is fact on record that the goods were examined by the Customs staff. Such examination was attended by the representative of CB. He was aware under what circumstances/technical specifications the imported goods were eligible for the notification benefit and bring it to the notice of the Examining staff or the Deputy/ Assistant Commissioner. Had he taken this care, the assessment of the field staff of Customs who examined the goods would have been different and the revenue loss could have been avoided.

v. Thus, the CB had failed to bring the technical aspect i.e. engine capacity of the imported goods and its importance on the eligibility for the notification benefit to the notice of the field staff / Deputy Commissioner of Customs or Assistant Commissioner of Customs in assessment stage or the examination stage and thereby failed to adhere second part of the Regulation 10(d) of the CBLR, 2018. Thus, in view of the IO's observation recorded above, the allegation of charge framed for violation of Regulation 10(d) stands 'Partially Proved'.

9.3 Violation of Regulation 10(e) of the CBLR, 2018:

i. *The sub-regulation requires CB to exercise due diligence to ascertain the correctness of any information which he imparts to a client.* The IO found that there was no specific allegation either in the SCN or the offence report as to which information parted with the Importer was not correct. The IO found that there was no evidence brought out in SCN or the Offence Report that suggested that the undue advantage of the notification was advised by the CB. The IO submitted that the statement dated 23.02.2011 of Mr. Ashish Chordia, Director of the Importer firm and specifically answer to the Question 17 indicated that the Importer was fully convinced that the imports were within the ambit of notification benefit as the vehicles imported by them were powered by a 3.0 Litre turbocharged petrol

engine & in addition it had electrical power. The IO submitted that the firmness of his understanding of technical specifications was out of his dealing in the goods he imported and cannot be due to any advice of the CB. He has also stated that he was aware of the conditions to be fulfilled for the notification benefit. As such the IO submitted that it cannot be said that the CB had erred in imparting the information during clearance of the cargo.

ii. In view of above, the IO submitted that there was no evidence to suggest that the CB has not exercised due diligence to ascertain the correctness of any information which he imparted to a client with reference to any work related to clearance of cargo in this case. Therefore, in view of the IO's observation recorded above, the allegation of charge framed for violation of Regulation 10(e) stands 'Not Proved'.

9.4 Violation of Regulation 10(m) of the CBLR, 2018 (earlier known as Regulation 13(n) of the CHALR, 2004):

i. The IO submitted that the sub-regulation requires CB to discharge their duties as a Customs Broker with utmost speed and efficiency and without any delay. The IO submitted that he had gone through the offence report, statements of the importer on record and there was no allegation in the offence report that the CB did not offer proper service to clear the imported goods in reasonable time and that his service had caused any undue delay or duress to the importer. The IO submitted that in none of the statements the importer had alleged the CB on this issue of delay or efficiency. Thus, in view of the IO's observation recorded above, the allegation of charge framed for violation of Regulation 10(m) stands 'Not Proved'.

9.5 SUMMARY OF THE FINDINGS: -

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

Sr. No	Charges against the CB	Findings
1	Violations of Regulation 10(d) of CBLR, 2018	Partially Proved
2	Violations of Regulation 10(e) of CBLR, 2018	Not Proved
3	Violations of Regulation 10(m) of CBLR, 2018	Not Proved

10. DISAGREEMENT MEMO: -

The Inquiry Officer in his report dated 25.08.2025 held the Charges for violation of Regulations 10(d) as ‘Partially Proved’, 10(e) and 10(m) as “Not Proved”. Commissioner of Customs (Gen.), Mumbai-I disagreed with the Inquiry Officer’s report in light of the available evidences on record. Therefore, a Disagreement Memo dated 27.10.2025 was issued by the Commissioner of Customs (Gen.), Mumbai-I.

11. Under the provisions of Regulation 17(6) of the CBLR, 2018 a copy of the Inquiry Report dated 25.08.2025, Disagreement Memo dated 27.10.2025 was shared with the CB and further, to uphold the Principle of Natural Justice an opportunity of personal hearing was granted to the CB on 26.11.2025.

RECORDS OF PERSONAL HEARING: -

12. The Personal Hearing (PH) in the matter was scheduled to be held on 26.11.2025. However, the CB vide email dated 25.11.2025 sought additional time up to 31.12.2025 to furnish written submission and requested to reschedule the PH on or after receipt of their written submission. Acceding to the CB’s request, the PH was rescheduled to 30.12.2025. The personal hearing in the matter was held on 30.12.2025 before me. The CB’s counsel, Shri Vijai Kumar Singh, consultant (Indirect Taxes) and Shri Harshal Haresh Dhakan, Director appeared for the hearing wherein, they made a written submission dated 29.12.2025 and reiterated the facts of the same which was then taken on record. He did not have anything more to add.

12.1 Further, the CB also made a written submission dated 26.12.2025 against the Disagreement Memo dated 27.10.2025 and the same has been taken on record.

WRITTEN SUBMISSION OF THE CB: -

13. In this case the CB submitted that the Bill of Entry was filed on 07.12.2010 i.e. prior to the introduction of self-assessment (Self-assessment was introduced with effect from 08.04.2011 vide Finance Act, 2011 amending Section 17 of the Customs Act, 1962). Prior to introduction of self-assessment, it was for the proper officer of Customs to assess the

bill of entry. In the present case also, the CB submitted that the bill of entry had been assessed by the officers of Customs and goods had been examined by the officers before clearance.

13.1 The CB submitted that as per-ITC (HS) Classification of Export and Import Items general policy for Import of cars falling under heading 8703 was free. However, this subject to provisions of Import Licensing Note. The CB submitted that one of violation alleged in the SCN is violation of Regulation 10(d) of the CBLR 2018 (earlier Regulation 13(d) of CHALR, 2004). The CB submitted that like Regulation 10(d) of CBLR 2018, Regulation 13(d) of CHALR, 2004 did not cast a specific obligation on the CHA/CB to advise clients regarding provisions of Allied Acts and Rules and Regulations thereof. This provision was made part of CBLR 2018, which was notified on 14.05.2018. The CB submitted that the provisions of Regulation 13(d) of CHALR, 2004 and 10(d) of the CBLR, 2018 are not same.

13.2 **Charge I-** Alleged noncompliance of Regulation 13(d) of CBLR 2018 (Regulation 13(d) of CHALR, 2004).

Regulation 13(d) of CHALR, 2004- "*-- advise his client to comply with the provisions of the Act, and in case of noncompliance, shall bring the matter to the notice of the Deputy Commissioner of customs or Assistant Commissioner of Customs, as the case may be*"

The CB submitted that the IO had given detailed findings in Para 10 of the report and had held that the violation of regulation 10(d) is partially proved. The CB submitted that the Commissioner of Customs (General) had disagreed with the report of IO and had found report of IO not acceptable on the grounds mentioned in para 11 of the Disagreement Note.

i. The CB submitted that the allegation is based on the ground that in the bill of entry the engine capacity of the car was not declared. The CB submitted that bill of entry was filed on 07.12.2010 for clearance of goods declared as "*Porsche Cayenne S Hybrid.*" The declaration regarding the description of imported goods were as given in the invoice and bill of lading. The CB submitted that the Bill of entry had been assessed by the officers of Appraising Group and goods were examined before clearance.

ii. The CB submitted that the Importer had while providing the documents given instructions that the import was as per the law. That during course of investigation Shri Ashish Choradia, 35% stake holder in the importing company M/s Precision Cars India in reply to question No 17 had stated that car being hybrid was freely importable. That declaration given in the bill of entry was accepted by the Assessing officer and bill of entry was assessed without asking the CB/importer to declare the engine capacity of the vehicle. Therefore, assessing officers were also of the view that car being hybrid car declaration of engine capacity was not required.

(iii) The CB submitted that the Hon'ble CESTAT, in the matter of regulation 11(d) of CBLR,2013, which was identical to Regulation 13(d) of CHALR, 2004, had held that said provisions are attracted when a CHA had advised contrary to provisions of Customs Act, 1962. In the present case the CB submitted that there was no allegation nor there was evidence that the CB had given any advice contrary to provisions of Customs Act, 1962. Therefore, the CB had not violated provisions of Regulation 13(d) of CBLR 2004.

(iv) Further, the CB submitted that in present case the bill of entry had been filed on the basis of documents and information provided by the importer. The CB submitted that here was no evidence on records to suggest the CB, at the time of filing of bill of entry was aware of the fact that goods under reference were not freely importable. Therefore, the CB submitted that they had not violated provisions of Regulation 13(d) of CHALR 2013 on this ground also. Further the CB submitted that he had placed reliance on the Judgment/orders

- a) Kunal Travel(Cargo) vs Commissioner of Customs (I&G), IGI Airport New Delhi 217(354) ELT 447(Del).
- b) R.S. Kandalkar & Co. Vs. Commissioner of Central Excise, Mumbai-2014(299) E.L.T. 360 (Tri-Mumbai)
- c) Parvath Shipping Agency vs Commissioner of Customs (Gen) Mumbai 2017(357) ELT 296(Tri-Mum).

(v) The CB submitted that it had been alleged that Late Shri Haresh A. Dhakan, former director of the Noticee, in his statement dated 01.03.2011 had admitted that the import licensing note below Chapter 87, does not allow import of hybrid vehicles and that the if

the petrol engine capacity was not more than 3000 cc than the conditions of laid down in SL. No. (2)(II)(c) will apply; that they did not instruct the importer to comply with the conditions and filed the Bill of entry without mentioning the engine capacity in order to avoid compliances. In this regard the CB submitted that unfortunately, the current proceedings are drawn after a gap of 15 years and the said deponent is dead and could not be examined in inquiry proceedings. However as may be observed from statement dated 01.03.2011 of Shri Haresh Dhakan, this statement was given by him on being shown the above mentioned import licensing Note. The CB submitted that there is nothing on record that CB at the time of filing of bill of entry was aware that goods were not freely importable.

(vi) The CB submitted that the Inquiry officer had held violation of Regulation 10(d) of CBLR 2018 (Regulation 13(d) of CHALR, 2004) partially proved. The CB submitted that the Hon'ble Commissioner of Customs (General), Mumbai had, however disagreed with the findings of the Inquiry Officer holding that by failing to act in accordance with requirements of above Regulation, the CB had violated Regulation 10(d) of CBLR, 2018, which imposes a duty of proactive verification and reporting on every licensed Customs Broker. That it was the duty of CB to ensure that all relevant and proper import documents including the invoice, packing list and Bill of Lading contained accurate and complete declarations, particularly regarding engine capacity and whether the vehicle was petrol-run or diesel-run. These details were not clearly mentioned on the import invoice, even though they were essential for determining the correct classification, notification benefits (if any), valuation, duty applicability and importability under the provisions of the Central Motor Vehicles Act, 1989, too. The CB submitted that they had acted bonafide and had produced the relevant documents relating to the goods before the appraising officer; that the bill of entry was assessed by the officers of Appraising group and even they found the information adequate and did not raise any query; that they came to know that goods were not freely importable only when officers of Customs investigated the case and their director Late Shri Haresh A Dhakan was summoned and his statement recorded on 01.03.2011; that while they were aware that import of petrol driven cars of capacity below 3000 required licence, however this being a hybrid car they went by importer that it is freely importable; that in

the circumstances there was nothing for them to advise the importer to comply with the import policy requirements, and/or to report the matter to the Deputy/Assistant Commissioner of Customs. The CB submitted that therefore they had not violated the provisions of Regulation 10(d) CBLR, 2018 (earlier known as regulation 13(d) of the CHALR, 2004).

13.3 Charge II: Alleged non-compliance of Regulation 10(e) of CBLR, 2018 (Regulation 13(e) of CHALR 2004).

Regulation 10(e) of CBLR, 2018:

"(e) 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 luggage".

The CB submitted that the IO had given detailed findings in Para 11 of the report and had held that the violation of regulation 10(e) is not proved. The CB submitted that the Hon'ble Commissioner of Customs (General) had, however, disagreed with the finding of the Inquiry Officer vide Para 12.4 to 12.7 of the disagreement memo.

(i) The CB submitted that disagreement is based on the charge as in Regulation 10(d) above. The submissions made with respect to regulation 10(d) of CBLR 2018 (13(d) of CHALR 2004) supra is re-iterated.

(ii) Regulation 10(e) of the CBLR 2018 [13(e) of the CHALR 2004] requires CB to exercise due diligence regarding correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or luggage. The ground of disagreement that *"As a licensed Customs broker operating under the CBLR, it was expected that SSS Sai Shipping Services Pvt. Ltd. would be fully aware of these regulatory requirements. The absence of engine capacity in the import invoice should have prompted the Customs Broker to seek clarification and complete documentation from the importer, including a properly detailed invoice, packing list and bill of Lading, verify whether the vehicle was petrol-run or diesel run and ensure that such details were clearly reflected in the import documents and provide correct and complete information to the importer to enable compliance with the applicable import policy consulting DGFT"* is not a

requirement of Regulation 10(e)/13(e) supra. The obligation under this regulation is to exercise due diligence regarding correctness of information which CB is imparting to client. The CB submitted that in this case there is no allegation that they had imparted incorrect information to their client. The CB submitted that they had placed reliance upon the Hon'ble Delhi High court in the matter of Kunal Travel(Cargo) vs Commissioner of Customs (I&G), IGI Airport New Delhi 217(354) ELT 447(Del) and in the matter of Regulation 13(e) of the CHALR 2004 has held that:

"Clause (e) of the aforesaid Regulation requires exercise of due diligence by the CHA regarding such information which he may give to his client with reference to any work related to clearance of cargo. Clause (l) requires that all documents submitted, such as bills of entry and shipping bills delivered etc. reflect the name of the importer/ exporter and the name of the CHA prominently at the top of such documents. The aforesaid clauses do not obligate the CHA to look into such information which may be made available to it from the exporter/ importer. The CHA is not an inspector to weigh the genuineness of the transaction. It is a processing agent of documents with respect to clearance of goods through customs house and in that process only such authorized personnel of the CHA can enter the customs house area. ----" (para 12 of the order).

(iii) The CB further submitted that as regards the observation of the Hon'ble Commissioner of Customs (General) that the C.B "*--failed to perform these basic checks and proceeded to file the bill of entry based solely on incomplete and deficient documents provided by the importer*", at the time of filing of bill of entry they were guided by the importer that being Hybrid car it had capacity of more than 3000 cc and freely importable. Otherwise also these allegations, do not constitute violation of Regulation 10(d) of CBLR 2018 (Regulation13(d) of CHALR 2004 as this regulation is regarding correctness of information which a CB part with a client. In view of this, the CB submitted that they had not violated provisions of Regulation 10(e) of CBLR 2018(Regulation 13(e) of CHALR,2004).

13.4 Charge III: Alleged non-compliance of Regulation 10(m) of CBLR, 2018[Regulation 13(n) of CHALR 2004]:

(m) Discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay"

The CB submitted that the IO had given detailed findings in Para 12 of the report and had held that the violation of regulation 10(m) was not proved. The CB submitted that the "Hon'ble Commissioner of Customs (General) had, however, disagreed with the finding of the Inquiry Officer vide Para 13.2 to 13.3 of disagreement memo.

- (i) The CB submitted that the requirement under Regulation 10(m) of CBLR 2018 (10(n) of CHALR 2004) is that a Customs Broker discharge his duties as with utmost speed and efficiency and without any delay. The CB submitted that there was no allegation in imputation that they had not discharge their duty with speed or there had been any delay in clearance of Import consignment.
- (ii) The CB further submitted that Hon'ble CESTAT in the matter of Parvath shipping Agency vs Commissioner of Customs (Gen) Mumbai 2017 (357) ELT 296 Tri(MUM) and in the matter of allegation of charge of violation of Regulation 13(n) of CHLR, 2004, which was similar to Regulation 10(m) of CBLR 2018, has in para 17, held that "*to our mind this Regulation expects the CHA to assist the customs authorities for clearance of the goods*". The CB submitted that there no allegation or finding that they had not assisted the customs authorities in expeditious clearance of goods or there had been a delay in clearance of goods. Therefore, the CB submitted that the Charge of violation of Regulation 10(m) of CBLR 2018, remains unsubstantiated on this ground also.
- (iii) The CB with regard to allegation that "*--customs Broker, m/s. SSS Sai Shipping Services Pvt. Lid. could not fulfil this obligation because the correct and complete documents or information were not available or were willingly hidden either with the importer or with the Customs Broker at the time of filing of Bill of entry. Despite the absence of proper documents, the Customs Broker proceeded to file the Bill of entry, which contained multiple discrepancies. ---*" re-iterated its submission made in reply to Charge-I relating to violation of provisions of Regulation 10(d) of CBLR 2018 (Regulation 13(d) of CHALR 2004). The CB further submitted that otherwise also Regulation 10(m) of the CBLR,2018 only requires CB to perform their duty with utmost speed and efficiency and without any delay. The CB submitted that there was no allegation in SCN that CB had not

performed their duty with utmost speed and efficiency and without any delay. The CB submitted that they, had, therefore not violated the provisions of regulation 10(m) of CBLR, 2018 (earlier known as regulation 13(n) of CHALR, 2004).

13.5 The CB submitted that they had not committed any act of negligence and had not violated the provisions of regulation 10(d), 10(e), and 10(m) of CBLR, 2018 (regulation 13(d), 13(e) and 13(n) of CHALR 2004) and requested to the Adjudicating Authority to drop the Proceeding against them.

13.6 The CB submitted that without prejudice to the submissions made above, the present proceeding is with respect to a bill of entry no. 2402874 dated 07.12.2010. Statement of Late Shri Haresh A. Dhakan, was recorded on 01.03.2011 and thereafter show cause notice dated on 26.06.2012 was issued; that they were made a party to the SCN vide email dated 27.09.2023 and thereafter Order in Original No. 27/ADC/MKJ/ADJ/2024-25 dated 17.05.2024 passed by the Addl. Commissioner of Customs (Import), Mumbai-I was taken as Offence report; that the present Show Cause Notice No. 02/2025-26 was issued on 03.04.2025 received by CB on 09.04.2025. The CB submitted that the inquiry officer submitted his report on 25.08.2025. The CB submitted that it may thus be seen that the department had failed to complete the inquiry proceedings within the specified time and hence the proceeding is required to be dropped on this ground also. In support of this submission the CB had placed reliance upon the following Judgments -

- i. Leo Cargo Services vs CC Airport & General New Delhi 2022(382) ELT 30(Del).
- ii. Manjunatha Cargo Pvt Ltd CC Bangalore -2021 (375) E.L.T.245 (Tri-Bang).

13.7 The CB's contentions vide their submission dated 26.12.2025 has been summarized as below:

(i) The CB argues that the bill of entry was filed in 2010 under the CHALR 2004, which did not include the current obligation to advise clients on allied Acts. They maintain that they acted in good faith by declaring the goods i.e. Porsche Cayenne S Hybrid exactly as described in the importer's documents. Furthermore, they highlighted that the bill of entry underwent assessment and physical examination by Customs officers, who cleared

the goods without raising queries about engine capacity, thereby validating the CB's own understanding at the time.

(ii) The CB contends that the regulation 10(e) specifically concerns the correctness of information imparted to a client, rather than information received from one. They asserted there is no evidence or allegation that they provided any incorrect information to the importer. Relying on judicial precedents, the CB argues that a broker is not required to go beyond the provided commercial documents to verify facts unless there is reason for suspicion, and in this case, the engine capacity was not mentioned in the original invoice provided to them.

(iii) The CB submitted that the core requirement of the regulation 10(m) is to discharge duties with "utmost speed and efficiency and without any delay," yet the Show Cause Notice (SCN) contains no specific allegation that the clearance was delayed or that they failed to act with speed. The CB disputed the disagreement memo by stating that the alleged documentation discrepancies should not be conflated with a lack of efficiency, and they reiterate that they could not have intentionally hidden information regarding engine capacity because they were not aware the goods were restricted at the time of filing. Further, they highlighted that they were made a party to the SCN vide email dated 27.09.2023 which was after a period of 11 years and thereafter Order in Original No. 27/ADC/MKJ/ADJ/2024-25 dated 17.05.2024 passed by the Addl. Commissioner of Customs (Import), Mumbai-I, and copy of the same was also endorsed to CB Section and was taken up as Offence report. Further, the CB added that the present Show Cause Notice No. 02/2025-26 issued on 03.04.2025 was received by the CB on 09.04.2025; that the inquiry officer submitted his report on 25.08.2025 and it may thus be seen that the department has failed to complete the inquiry proceedings within the specified time and hence the proceeding is required to be dropped on this ground also. The CB placed reliance on the following caselaws:

- (i) Principal Commissioner of Customs (General), Mumbai Vs. Unison Clearing P Ltd. -2018(361) E.L.T. 3211' (Bom).

(ii) Perfect Cargo & Logistics Vs. Commissioner of Customs (Airport & General), New Delhi -2021 (376) E.L. T. 649 (Tri-Del).

(iv) In view of the above facts and circumstances, the C.B. prayed to drop the proceedings initiated vide SCN No. 02/2025-26 dated 03.04.2025.

DISCUSSIONS AND FINDINGS: -

14. I have gone through the facts and records of the case; the Offence Report received in the form of Order-In-Original No. 27/ADC/MKJ/ADJ/2024-25 dated 17.05.2024 passed by the Additional Commissioner of Customs, Import-I, NCH, Mumbai -I; Show Cause Notice No. 02/2025-26 dated 03.04.2025 issued under Regulation 17(1) of the CBLR, 2018; Inquiry Report dated 25.08.2025, Disagreement Memo dated 27.10.2025, PH records dated 30.12.2025 and the CB's written submission dated 26.12.2025 & 29.12.2025.

15. Briefly stated, the case originated from an intelligence report regarding the illegal import of a Porsche Cayenne S Hybrid car by M/s Precision Cars India Pvt. Ltd. through the Mumbai Port. Investigation revealed that the vehicle featured a 2995 CC petrol engine, which failed to meet the mandatory import requirement of having a capacity exceeding 3000 CC for petrol-run cars under the Import Licensing Notes to Chapter 87 of ITC (HS). Furthermore, the car was a hybrid (dual petrol and electric engine), a category not covered by the specific exemptions reserved for purely petrol or diesel vehicles. Despite these restrictions, the car was cleared via Bill of Entry No. 2402874 dated 07.12.2010, leading to a subsequent adjudication order that imposed penalties of Rs. 4,00,000 under Section 112(a) and Rs. 6,00,000 under Section 114AA of the Customs Act, 1962, on the Customs Broker (CB).

15.1 The Customs Broker is alleged to have violated Regulations 10(d), 10(e), and 10(m) of the CBLR, 2018 (earlier known as Regulations 13(d), 13(e) and 13(n) of the CHALR, 2004), by failing to exercise due diligence and suppressing material facts. Although the CB's Director admitted in statements that he was aware that the import policy did not allow hybrid vehicles and that the 2995 CC engine required specific compliance, the CB reportedly turned a blind eye and filed the Bill of Entry without declaring the engine

capacity. The department contends that the CB failed to advise the client on legal compliance, failed to inform Customs authorities of the violations, and acted hand in gloves with the importer. Consequently, the SCN proposed the revocation of the CB license, forfeiture of security deposits, and further penalties.

16. I find that the charge of violation of Regulation 10(d) of the CBLR, 2018 (earlier known as Regulation 13(d) of the CHALR-2004) has been levelled against the CB on the grounds that, 'the present matter pertains to import of hybrid cars (petrol plus electrical engines) with petrol engine capacity of 2995 cc by the Importer M/s Precision Cars India Pvt Ltd. Vide statement dated 01.03.2011, Shri Haresh A. Dhakan, Director of M/s SSS Sai Shipping Services Pvt Ltd., has admitted of knowing that the policy does not allow import of hybrid vehicles and also admitted of knowing that if the petrol engine capacity is not more than 3000 cc then the conditions laid down in the SL No. (2)(II)(c) of Import Licencing Notes to Chapter 87 are to be complied with. Despite knowing the above the CB filed the Bill of Entry and did not instruct, the Importer to comply with the conditions laid. They filed the Bill of entry knowingly and intentionally without mentioning the engine capacity in order to avoid compliances, thereby suppressing crucial relevant information; that it was the responsibility of the CHA to check that the import documents are complete in all aspects and to ensure that any necessary information is not suppressed. But they turned a blind eye to the non-compliance of the conditions laid down in the SL No. (2)(II)(c) of Import Licencing Notes to Chapter 87 of the ITC classification thereby aiding the Importer. The CB thus failed to advise the Importer to comply with the conditions laid down in the SL No. (2)(II)(c) of Import Licencing Notes to Chapter 87 of the ITC classification thereby aiding the Importer. The CB also failed to inform the Customs Authorities regarding the non-compliance of the conditions laid down in the SL No. (2)(II)(c) of Import Licencing Notes to Chapter 87 of the ITC classification, by the Importer'.

16.1 I find that the Inquiry Officer, in this regard, has observed that, 'Here it is important to note that there are two aspects of the responsibility cast upon a CB by the Regulation

10(d) of the CBLR 2018. One is advising the client and the other is bringing the matter to the notice of the Deputy/ Assistant Commissioner in case of non-compliance. Regarding connivance with the importer, the IO stated that the case had already been tried under various provisions of the Customs Act, 1962 and the adjudication order is being relied upon as offence report in this case. As brought on records, the IO stated that the filing of B/E was done on the basis of the documents provided by the Importer and the technical details regarding the Engine capacity were not available to the CB while filing the Bill of Entry as the same were not mentioned on the Invoice. After preparing the draft checklist and it was approved by the Importer the Bill of Entry was filed. Coming to the question of whether at any point the CB could have told the requirements of the notification to the Importer, one has to consider statement dt. 23.02.2011 of Mr. Ashish Chordia, Director of the Importer firm and specifically answer to the Question 17 wherein inter-alia he specifically stated that the vehicles were powered by a 3.0 Litre turbocharged petrol engine & in addition it has electrical power. Thus, the Importer was fully convinced that the imports were within the ambit of notification benefit. Further, after the case was detected, they have taken up the issue with DGFT. The Bill of Entry is silent about the engine capacity and there is no evidence suggesting that the engine capacity was declared to be more than 3000 cc to claim the notification benefit. This indicates that the issue is more of availability of notification benefit and not mis-statement about the engine capacity. And therefore, the CB deserves the benefit of the judicial pronouncement in Judgement dt. 18.04.2024 of Hon'ble CESTAT, Chennai in case of Gayaram Shipping Services Vs Comm. of C. Ex. Custom House Tuticorin. Other case laws differ on the facts therefore are not considerable. Regarding the aspect of bringing the matter to the notice of the Deputy/Assistant Commissioner in case of non-compliance, the IO submitted that it is fact on record that the goods were examined by the Customs staff. Such examination was attended by the representative of CB. He was aware under what circumstances/technical specifications the imported goods were eligible for the notification benefit and bring it to the notice of the Examining staff or the Deputy/ Assistant Commissioner. Had he taken this care, the assessment of the field staff of Customs who examined the goods would have

been different and the revenue loss could have been avoided. Thus, the CB had failed to bring the technical aspect i.e. engine capacity of the imported goods and its importance on the eligibility for the notification benefit to the notice of the field staff / Deputy Commissioner of Customs or Assistant Commissioner of Customs in assessment stage or the examination stage and thereby failed to adhere second part of the Regulation 10(d) of the CBLR, 2018. Thus, in view of the IO's observation recorded above, the allegation of charge framed for violation of Regulation 10(d) stands "Partially Proved".

16.2 I have perused the defence submission of the CB wherein, the CB contends that at the time of filing the Bill of Entry on December 7, 2010, the prevailing CHALR, 2004 did not cast an obligation to advise clients on "allied acts," a requirement only introduced later in the CBLR, 2018. They argue that the description "Porsche Cayenne S Hybrid" was declared exactly as per the importer's invoice and bill of lading, and since the matter was processed under the pre-self-assessment regime, the responsibility for final assessment and technical verification rested with the Customs officers who cleared the vehicle without query. The CB further states that the statement of their late Director, Shri Haresh Dhakan, was recorded only after being shown the licensing notes during investigation, and there is no evidence that they were aware of the car's restricted importability at the actual time of filing.

16.3 Having gone through the facts of the case, relevant documents and the CB's submission I find that Regulation 10(d) requires a CB to advise clients on compliance with the Customs Act and allied laws, and in case of non-compliance, to report the matter to the Deputy/Assistant Commissioner. The Director of the CB, Shri Haresh Dhakan, admitted in his statement dated 01.03.2011 that he was aware the import policy for petrol-run cars required an engine capacity exceeding 3000 CC and that hybrid vehicles were not exempt from these licensing notes. Despite this specific knowledge, the CB filed Bill of Entry No. 2402874 on 07.12.2010 for a "Porsche Cayenne S Hybrid" car with a 2995 CC engine. I find that the CB intentionally omitted the engine capacity in the Bill of Entry to circumvent the mandatory import licensing conditions. The CB's defense that they were a mere

"processing agent" is rejected. When the engine capacity was missing from the invoice, the CB was duty-bound to query the client. By proceeding with the filing, the CB failed to advise the client against non-compliance and failed to report the violation to the Department. I find the actions of the CB deficient in fulfilling the obligation bestowed upon the CB under Regulation 10(d) and therefore uphold the charge of violation of Regulation 10(d) of the CBLR, 2018 (earlier known as Regulation 13(d) of the CHALR, 2004).

17. I find that the charge of violation of Regulation 10(e) of the CBLR, 2018 (earlier known as Regulation 13(e) of the CHALR-2004) has been levelled against the CB on the grounds that, 'It was the responsibility of the CB to check the import documents are complete in all aspects and to ensure that any information which is necessary is not suppressed. But they turned a blind eye to the non-compliance of the conditions laid down in the SL No. (2)(II)(c) of Import Licencing Notes to Chapter 87 of the ITC classification thereby aiding the Importer. If they had imparted correct information to the importer, the noncompliance could have been avoided. Instead, they appear to be working hand in gloves with the Importer. Vide statement dated 01.03.2011, Shri Haresh A Dhakan, Director of M/s SSS Sai Shipping Services Pvt Ltd., has admitted of knowing that the policy does not allow import of hybrid vehicles and also admitted that of knowing that if the petrol engine capacity is not more than 3000 cc than the conditions laid down in the SL No. (2)(II)(c) of Import Licencing Notes to Chapter 87 are to be complied with. They filed the Bill of entry knowingly and intentionally without mentioning the engine capacity in order to avoid compliances, thereby suppressing crucial relevant information. The CB further stated that the engine capacity was not declared in the Bill of Entry as the same was not declared in the invoice and the CB behaved in a non-diligent way. They never asked the Importer about the engine capacity, and filed the B/e with incomplete information and behaved in a non-diligent way. By acting in such non-diligent way they seem to be involved with the Importer'.

17.1 I find that the Inquiry Officer, in this regard, has observed that, '*The sub-regulation requires CB to exercise due diligence to ascertain the correctness of any information which*

he imparts to a client. However, the IO found that there was no specific allegation either in the SCN or the offence report as to which information parted with the Importer was not correct. The IO found that there was no evidence brought out in SCN or the Offence Report that suggested that the undue advantage of the notification was advised by the CB. The IO submitted that the statement dt. 23.02.2011 of Mr. Ashish Chordia, Director of the Importer firm and specifically answer to the Question 17 indicate the Importer was fully convinced that the imports were within the ambit of notification benefit as the vehicles imported by them were powered by a 3.0 Litre turbocharged petrol engine & in addition it has electrical power. The IO submitted that the firmness of his understanding of technical specifications was out of his dealing in the goods he imported and cannot be due to any advice of the CB. He has also stated that he was aware of the conditions to be fulfilled for the notification benefit. As such the IO submitted that it cannot be said that the CB had erred in imparting the information during clearance of the cargo. In view of this, the IO submitted that there was no evidence to suggest that the CB had not exercised due diligence to ascertain the correctness of any information which he imparted to a client with reference to any work related to clearance of cargo in this case. Therefore, in view of the IO's observation recorded above, the allegation of charge framed for violation of Regulation 10(e) stands "Not Proved".

17.2 I have perused the defence submission of the CB wherein regarding the charge of failing to exercise due diligence, the CB maintains that their role is that of a processing agent, not an "inspector" tasked with weighing the technical genuineness of a transaction. Relying on judicial precedent (e.g., *Kunal Travels*), they argue that Regulation 10(e) specifically concerns the correctness of information the CB imparts to the client, and there is no allegation that they provided any false or incorrect advice to the importer. They assert they acted in good faith based on the documents provided, and the absence of engine capacity on the invoice which the department claims should have prompted a query does not legally constitute a lack of due diligence under this specific regulation.

17.3 Having gone through the facts and records of the case, the CB's submission I find that this regulation mandates that a CB exercise due diligence to ascertain the correctness of information imparted to a client. The IO's finding that the CB is "not technically equipped" to verify engine specifications is factually incorrect given the Director's own admission of knowing the policy. The absence of engine capacity on the commercial invoice was a clear indicator that further documentation (like a technical certificate) was required. The CB failed to perform these basic checks and relied on deficient documents, thereby imparting tacit approval to the importer's illegal clearance strategy. The CB argues no incorrect information was given to the client. I find that by not correcting the client's understanding that the car was "freely importable," the CB failed in exercising due diligence. Failure to verify critical technical data and ensuring its declaration in the Bill of Entry constitutes a gross violation of Regulation 10(e) and consequently I uphold the charge of violation of Regulation 10(e) of the CBLR, 2018 (earlier known as Regulation 13(e) of the CHALR-2004).

18. I find that the charge of violation of Regulation 10(m) of the CBLR, 2018 (earlier known as Regulation 13(n) of the CHALR-2004) has been levelled against the CB on the grounds that, 'The CB did not discharge his duties with utmost efficiency, as it has been brought about in the investigation and statements of the CB that they had knowledge that the policy does not allow import of hybrid vehicles and that if the petrol engine capacity is not more than 3000 cc than the conditions laid down in the SL No. (2)(II)(c) of Import Licencing Notes to Chapter 87 are to be complied with. The CB failed to work efficiently and did not provide proper information to the Importer, and filed the Bill of entry knowingly and intentionally without mentioning the engine capacity in order to avoid compliances, thereby suppressing crucial relevant information.'

18.1 I find that the Inquiry Officer, in this regard, has observed that, 'the sub-regulation requires CB to discharge their duties as a Customs Broker with utmost speed and efficiency and without any delay. The IO submitted that he had gone through the offence report, statements of the importer on record. There was no allegation in the offence report that the

CB did not offer proper service to clear the imported goods in reasonable time and that his service had caused any undue delay or duress to the importer. The IO submitted that in none of the statements the importer had alleged the CB on this issue of delay or efficiency. Thus, in view of the IO's observation recorded above, the allegation of charge framed for violation of Regulation 10(n) stands "Not Proved".

18.2 I have perused the defence submission of the CB wherein the CB contends that the allegation of failing to discharge duties with "speed and efficiency" is entirely unsubstantiated, as the department has produced no evidence of undue delay in the clearance of the consignment. They highlight that the Inquiry Officer (IO) found no complaints from the importer regarding their service or efficiency, nor did the Offence Report allege any duress caused by the CB's actions. Furthermore, they contend that the department's attempt to link this regulation to the "suppression" of engine capacity is a misinterpretation, as Regulation 10(m) is primarily intended to ensure the expeditious assistance of Customs authorities in the clearance process.

18.3 Having gone through the facts of the case and the available records I find that the Inquiry Officer has held the charge of violation of Regulation 10(m) as 'Not Proved'. Keeping in view all the aspects of the Offence Report and the Inquiry Report, I am inclined to observe that the CB is not found to be in violation of Regulation 10(m). Accordingly, I hold the charge of violation of Regulation 10(m) of the CBLR, 2018 (earlier known as Regulation 13(n) of the CBLR, 2018) as Not Proved and drop the said charge levelled against the CB.

19. Further, I find that the CB has argued that the proceedings are barred by limitation due to the delay in the Offence Report i.e. the Order-in-Original No. 27/ADC/MKJ/ADJ/2024-25 dated 17.05.2024. The SCN under CBLR, 2018 was issued on 03.04.2025, which is within the 90-day window from the receipt of the full RUDs on 09.01.2025. Administrative delays in the original investigation do not grant the CB immunity from disciplinary action under CBLR when a specific contravention of the duties of a license holder is established.

20. 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. SSS Sai Shipping Services Pvt. Ltd. (CB License No. 11/999) has violated Regulations 10(d) and 10(e) of the Customs Brokers Licensing Regulations (CBLR), 2018 (earlier known as Regulations 13(d) and 13(e) of the CHALR-2004). I find that for the violation of obligations provided under CBLR, 2018 and for their act of omission and commission, the Customs Broker M/s. SSS Sai Shipping Services Pvt. Ltd. (CB License No. 11/999) has rendered itself liable for penal action under the CBLR, 2018 (earlier known as CHALR, 2004). Hence, while deciding the matter, I rely on the following case laws:

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

"the 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 advise 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."

21. As discussed above, I conclude that the CB is guilty of violation of Regulations 10(d) and 10(e) of the CBLR, 2018 (earlier known as Regulations 13(d) and 13(e) of the CHALR, 2004). However, having taken cognizance of defence submissions of the CB while I find that the Customs Broker (CB) failed to adhere to the high standards of proactive verification required under the CBLR, 2018, I must also consider the specific context of this case. The CB has pointed out that the transaction occurred in 2010, prior to the introduction of the self-assessment regime, and the CB declared the goods as a "Porsche Cayenne S Hybrid" exactly as described in the commercial invoice and bill of lading provided by the importer. Although the CB should have been more diligent in flagging the missing engine capacity, there is no conclusive evidence of a deliberate, long-term conspiracy to defraud the revenue. Therefore, I am of the view that the extreme penalty of revocation which would lead to the permanent closure of the firm is disproportionate to the nature of the lapse. Further, I find that the Offence pertains to the year 2010 when the Customs House Agents Licensing Regulations, 2004 (CHALR, 2004) was in force. On going through the same I observe that the CHALR, 2004 provided for revocation of license or forfeiture of part or whole of the security deposit under Regulation 20 of the CHALR, 2004 and did not contain provision for imposition of penalty on the CHA (Customs House Agent)/ CB (Customs Broker). Hence, under the factual matrix of the case and considering the defence arguments of the CB and findings of the Inquiry Officer, to some extent and applying the principle of proportionate punishment I am not inclined to revoke the License of the CB as the punishment of revocation of license is much harsher and disproportionate to the offences committed. However, I am of the considered view that the ends of justice

will be met by forfeiture of security deposit under Regulation 14 of the CBLR, 2018 (earlier known as Regulation 20 of the CHALR, 2004) which suffices both as a punishment for the infraction and as a deterrent to future violations. In this regard, I place reliance on the following caselaws:

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

"13. By order dated 15-7-2000, licence was revoked. It is not clear how there could be revocation when the licence itself was not functional after 13-1-2000. Licence can be suspended or revoked on any of the grounds as mentioned in Regulation 21. It is, therefore, clear that if any of the grounds enumerated existed, two courses are open to the Commissioner. One is to suspend the licence and the other is to revoke it. Suspension would obviously mean that licence would be for a particular period inoperative. An order of revocation would mean that licence is totally inoperative in future, it loses its currency irretrievably. Obviously, suspension/revocation, as the case may be, has to be directed looking to the gravity of the situation in the background of facts. For minor infraction or infraction which are not of very serious nature order of suspension may suffice. On the contrary, when revocation is directed it has to be only in cases where infraction is of a very serious nature warranting exemplary action on the part of the authorities, otherwise two types of actions would not have been provided for. Primarily it is for the Commissioner/Tribunal to decide as to which of the actions would be appropriate but while choosing any of the two modes, the Commissioner/Tribunal has to consider all relevant aspects and has to draw a balance sheet of gravity of infraction and mitigating circumstances. The difference in approach for consideration of cases warranting revocation or suspension or non-renewal has to be borne in mind while dealing with individual cases. In a given case the authorities may be of the view that non-renewal of licence for a period of time would be sufficient. That would be in a somewhat similar position to that of suspension of licence though it may not be so in all cases. On the other hand, there may be cases where the authorities may be of the view that licensee does not deserve a renewal either. Position would be different there. Though we have not dealt with the question of proportionality, it is to be noted that the authorities while dealing with the consequences of any action which may give rise to action for suspension, revocation or nonrenewal have to keep several aspects in mind. Primarily, the effect of the action vis-a-vis right to carry on trade or profession in the background of Article 19(l)(g) of the Constitution has to be noted. It has also to be borne in mind that the proportionality question is of great

significance as action is under a fiscal statute and may ultimately lead to a civil death."

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

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

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

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

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

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

22. I find that the Inquiry Report in the present case was received on 25.08.2025.

However, the then Principal Commissioner of Customs (Gen) retired on superannuation on

31.08.2025. As the new Adjudicating Authority, after perusal of the facts and records of the case, a Disagreement Memo dated 27.10.2025 was issued against the Inquiry Report dated 25.08.2025 and the opportunity of Personal Hearing was granted to the CB on 26.11.2025. However, the CB vide email dated 25.11.2025 sought additional time up to 31.12.2025 to furnish written submission and requested to reschedule the PH on or after receipt of their written submission. Acceding to the CB's request, the PH was rescheduled to 30.12.2025. The personal hearing in the matter was held on 30.12.2025 before me. Owing to the aforementioned administrative reasons and the adjournment sought by the CB, the adjudication order could not be passed within the said time frame. In this regard, with respect to the timelines prescribed under Regulation 17 of CBLR, 2018, relying on the following case laws, I observe that the timelines under CHALR/CBLR are directory in nature and not mandatory:

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

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

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

“42. Therefore, if the tests laid down in Dattatreya Moreshwar, which have so far held the field, are applied, it would be clear (i) that the time limit prescribed in Regulation 20 (7) is for the performance of a public duty and not for the exercise of a private right; (ii) that the consequences of failure to comply with the requirement are not spelt out in Regulation 20(7) (iii) that no prejudicial consequences flow to the aggrieved parties due to the non-adherence to the time limit; and (iii) that the object of the Regulations, the nature of the power and the language employed do not give scope to conclude that the time limit prescribed is mandatory. Hence, we hold that the time limit prescribed in Regulation 20 (7) is not mandatory but only directory.”

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

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

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

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

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

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

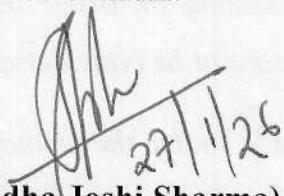
23. In view of the above-discussed facts and for their acts of omission and commission, the CB M/s. SSS Sai Shipping Services Pvt. Ltd. (CB License No. 11/999) is held liable and guilty for violating the provisions of the CBLR, 2018 as mentioned above. I hold that the CB has failed to discharge their duties cast upon them with respect to Regulations 10(d) and 10(e) of the CBLR, 2018 (earlier known as Regulation 13(d) and 13(e) of the CHALR, 2004) and is liable for penal action. Accordingly, I pass the following order:

ORDER

24. I, Commissioner of Customs (General), in exercise of the power conferred upon me under Regulation 17(7) of the CBLR, 2018 (earlier known as Regulation 22(7) of the CHALR 2004), pass the following order:

(i) I hereby order for forfeiture of the entire amount of the security deposit furnished by the CB M/s. SSS Sai Shipping Services (CB License No. 11/999) under Regulation 14 of the CBLR, 2018 (earlier known as Regulation 20 of the CHALR 2004).

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.



27/1/26
(Shraddha Joshi Sharma)
 Commissioner of Customs (Gen.)
 NCH, Mumbai-I

To,

M/s. SSS Sai Shipping Services (CB License No. 11/999)

A 304, Classique Centre, Plot No. 26,
Mahal Indl Estate, Near Paper Box,
Andheri East, Mumbai – 400093.

Copy to:

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

