



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

संचिका सं./F. No.- GEN/CB/61/2024-CBS

आदेश दिनांक/Date of Order: 30.01.2026

CAO No. 134/2025-26/CAC/CC(G)/SJS/Adj-CBS जारी दिनांक/Date of issue: 06.02.2026

संख्या:

DIN:- 2026027700000823598

द्वारा जारी : श्रद्धा जोशी शर्मा

Issued By : Shraddha Joshi Sharma

आयुक्त, सीमाशुल्क (सामान्य)

Commissioner of Customs (Gen.)

मुंबई -400 001

Mumbai - 400 001

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

1. यह प्रति उस व्यक्ति को निजी उपयोग हेतु निःशुल्क प्रदान की जाती है, जिसे यह जारी की जा रही है।
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2. इस आदेश के विरुद्ध अपील माँगे गए राशी के 7.5% के भुगतान पर सीमाशुल्क अधिनियम, 1962 की धारा 129A(1B)(i) के संबंध में सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण में स्वीकार्य है, जहाँ शुल्क या शुल्क एवं जुर्माना विवादित हों, या जुर्माना, जहाँ सिर्फ जुर्माना ही विवादित हो। यह अपील इस आदेश के संप्रेषण की तारीख के तीन महीने के अंदर दायर की जाएगी। यह अपील सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण नियमावली (कार्यविधि), 1982, के प्रावधानों के अंतर्गत, यथोत्खंडपीठ में स्वीकार्य है।

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

3. यह सूचित किया जाता है की इस आदेश के अमल में आते ही, न्याय निर्णयन अधिकारी का अधिकार क्षेत्र समाप्त होता है और सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण, पश्चिम 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 तदो 31.05.2018 प्राप्त 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 ब्याजवत्नगाएगए 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. Mehta and Mehta, having office address at Bhailal Bhavan Room no-21, 2nd floor, 118, Kheshvaji Naik Rd, Chinch Bunder, Masjid-W, Mumbai-400009 (hereinafter referred to as the Customs Broker/CB), bearing PAN based Registration No. AAAFM3065BCH001 are holding a regular Custom Broker License No. 11/938 issued by the Commissioner of Customs, Mumbai under Regulation 10(1) of the Customs House Agents Licensing Regulations (CHALR), 1984 [Now regulation 7(2) of the Customs Brokers Licensing Regulations (CBLR, 2018)) and as such they are bound by the regulation and condition stipulated therein.

2. On the basis of specific information received by the DRI (Directorate of Revenue Intelligence), MZU (Mumbai Zonal Unit), Mumbai investigation was conducted which revealed that various export firms including M/s Mariya Exports (IEC-0305011588) were procuring fake purchase bills against the export consignments from one Mr. Suhel Ansari through fake firms floated by him. Searches were conducted at the premises of Mr. Suhel Ansari, which led to the recovery of copies of bogus bills in the names of several companies issued by him.

2.1 The office premises from where Mr. Suhel Ansari was operating, situated at Room No. 30, 4th Floor, Chunnwala Building, 38-Kolsa Street, Pydhonie, Mumbai-400003 was searched on 14.08.2015. During the course of search of the said premises, certain records/documents, three laptops and one hard disk and various rubber stamps were recovered.

2.2 During the course of investigation, statement of Mr. Suhel Parvez Ansari and Mr. Shaikh Mohammed Arshad, employee of Mr. Suhel Parvez Ansari was recorded on 24.08.2015 by DRI, Mumbai where inter-alia they stated that they supplied fake invoices to various export firms including M/s Mariya Exports. During the investigation by DRI, MZU, Mumbai, summons dated 21.08.2015, 01.09.2015, 18.09.2015, 24.11.2015 and 22.12.2015 were issued to Shri Abdul Aziz Mohd. Zaki, Proprietor, M/s Mariya Exports

for his appearance on 31.08.2015, 02.09.2015, 28.09.2015, 02.12.2015 and 29.12.2015. However, all of them were left un-attended.

2.3 DRI vide its letter F. No. DRI/MZU/D/INT-31/2015/7766 dated 04.10.2016 mentioned that undue drawback was being claimed by the exporters by overvaluing the exports whereas cheaper material was exported and to justify the value of the goods, fake invoices from Mr. Suhel Ansari, were procured showing higher purchase price. DRI further gave a list of exporters and stated that those exporters which included M/s Mariya Exports may have also adopted similar modus operandi.

2.4 During investigation, the details of exports made by the exporter M/s. Mariya Exports were retrieved from the ICES System. During the period from 2012 to 2016, the exporter made total exports of 175 shipping bills with FOB value of Rs. 23.02 crores and availed total drawback of Rs. 6.02 lakhs.

2.5 DRI, MZU, Mumbai forwarded the report to the SIIB(X) (Special Intelligence and Investigation Branch - Export), ACC for carrying out further investigation regarding the details of exporters including M/s. Mariya Exports who had claimed undue drawback by overvaluing the exports and justifying the value of the goods by procuring fake invoices showing higher purchase price from Mr. Suhel Ansari. SIIB(X), ACC issued various summons to Shri Abdul Aziz Mohd. Zaki, Proprietor of M/s Mariya Exports during the period between October, 2017 to January 2020. However, the exporter did not appear for recording of statement before the competent authority. Finally, in response to summons dated 30.01.2020, Shri Abdul Aziz Mohd. Zaki, Proprietor of M/s. Mariya Exports authorised Mr. Shamshuddin Shaikh to act, appear, represent and give statement on behalf of him.

2.6 Statement of Shri Shamshuddin Shaikh, authorised by Shri Abdul Aziz Mohd. Zaki, Proprietor, M/s Mariya Exports was recorded on 27.02.2020 under Section 108 of the Customs Act, 1962 vide Summon dated 30.01.2020 wherein he inter-alia stated that M/s Mariya Exports was in business of export of imitation jewellery, the proprietor used to purchase the goods from local suppliers and exported the goods mainly Dubai; that he did

not know the name and addresses of the local suppliers or of the foreign buyers; that he did not know about the transaction made by the foreign buyers; that he was briefed about Shri Suhel Ansari but he did not know much in detail; that he did not know any connection between Suhel Ansari and Karan Ashok Ranka.

2.7 Further, Summons dated 03.03.2020, 24.09.2020 and 07.12.2021 were issued to Shri Abdul Aziz Mohd. Zaki, Proprietor, M/s Mariya Exports. However, the exporter did not appear for recording of statement before competent authority. Further, on scrutiny of the shipping bills filed by the exporter M/s. Mariya Exports, it was found that the Customs Broker M/s Mehta and Mehta had cleared the consignments/shipping bills of the said exporter. Summons dated 12.04.2022 were sent to M/s Mehta and Mehta (CB License No. 11/938), however, it was left un-attended. Show Cause Notice dated 22.07.2022 was sent to the CB, however, the CB did not submit any written submission or appear for personal hearing despite being given multiple opportunities for the same.

2.8 Further, BRC details (FOB yet to be realized) in respect of IEC 0305011588 of M/s Mariya Exports were generated from ICES System and on scrutiny of the said details it was found that the FOB amount of USD 1,33,40,809/- had not been realized in respect of 54 shipping bills with drawback amount involved of Rs. 92,188/-. It clearly showed that transaction value was incorrect, inflated, value of goods mis-declared by the exporter M/s. Mariya Exports, hence goods appeared to be liable for confiscation. Also, Drawback Amount of Rs. 6.02 Lakhs/- involved in 175 Shipping bills appeared to be recoverable as per Rules 16 of the Customs, Central Excise Duties and Service Tax Drawback Rule, 1995.

3. From the investigations, scrutiny of various documents retrieved and statements recorded by DRI, MZU, Mumbai, it appeared that Mr. Suhel Parvez Ansari was in the business of raising fictitious bills which involved just printing of bills in the names of the firms/companies which did not exist and no purchase and sale of the goods were effected as per details mentioned in the said bills and he got bills printed in the names of various fake firms; that no purchase of any kind of goods be it in the form of garments/imitation Jewellery had been made by him and that the proprietors/directors of these

firms/companies were all his friends and no sale as shown on the bills had been made to any exporters shown on the bills. The same was admitted by Mr. Suhel Parvez Ansari in his statements recorded by DRI, MZU, Mumbai. From this, it appeared that Mr. Suhel Parvez Ansari had supplied fake bills in the name of a number of companies to the exporters including M/s. Mariya Exports, without supplying any goods.

3.1 It appeared from the investigation that goods were procured from Domestic Tariff Area (DTA) without any invoices so no details of its manufacturing, production, using imported material or excisable material therein were available so it could not be ascertained whether any duties had been paid or otherwise. During investigation, exporter could not produce any such details in respect of manufacturing, production or use of any imported material in impugned export goods, though he was having enough opportunity as he presented himself for recording of his statement but he failed to produce any such details.

3.2 From the foregoing investigation it appeared that there was a well-organized smuggling syndicate operating to claim undue drawback from government exchequer by over valuing the declared value of export goods under the collusion of Mr. Abdul Aziz Mohd. Zaki, Proprietor, M/s Mariya Exports, Mr. Suhel Ansari, Mr. Karan Ranka etc. All of them appeared to be knowingly involved in all these activities and were active members of the fraudulent export without whose abetment the said export fraud could not have been committed. Further, it appeared that the exporter M/s. Mariya Exports had indulged in fraudulent exports of cheaper varieties of export goods by inflating value of export goods using forged/fabricated purchase invoices to avail duty drawback fraudulently.

3.3 During the investigation, DRI enquired with the Consulate General of India, Dubai, UAE who vide letter dated 08.03.2018 reported that from the scrutiny of the documents provided by Federal Customs Authority, Dubai it emerged that goods had been cleared and unit values had been much lower than what had been declared to Indian Customs. As per DRI, the instant exporter had also adopted the similar modus-operandi.

3.4 As stated in the Offence Report, the exports were fictitious as Purchase Bills were fictitious. Actual movements of goods are always under cover of Challan and Invoices.

There are other requirements of local Government which prevent movement of goods without documentation. It is also unlikely that Customs Broker was not aware of the fraudulent exports. Further, the Customs Broker has responsibility to guide exporter and inform about the requirement that only in certain cases, both types of Drawback can be claimed by the exporter. Had the Customs Broker M/s Mehta and Mehta vetted the documents carefully and checked the correctness of relevant declaration, such fraudulent exports could not have been possible. Therefore, under the fact and such circumstances, the Customs Broker M/s Mehta and Mehta (CB License No. 11/938) actively connived with exporters in claiming undue Drawback by over valuing the export goods and mis-declaring in Shipping Bill. Therefore, the CB rendered themselves liable for Penal action under Section 114(i) and/or 114(iii) and 114 AA of the Customs Act, 1962. Also, vide Offence Report (Order-in-Original No. ADC/MKS/81/2023-24 Adj.(X) ACC) dated 25.11.2023) the adjudicating authority has imposed penalty of Rs.1,00,000/- under Section 114(i), Rs.1,00,000/- under Section 114(iii) and Rs. 50,000/- under Section 114AA of the Customs Act, 1962 respectively on the CB M/s. Mehta and Mehta (CB License No. 11/938).

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

4.1 Regulation 10(d) - *"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*

From the investigation, it appeared that the export firm M/s. Mariya Exports is a merchant exporter and was procuring fake purchase bills against the export consignments from one Mr. Suhel Ansari & claimed higher and undue drawback by overvaluing the export. As per Circular No. 16/2009-Customs dated 25.05.2009, the goods available in the market are deemed to be duty paid goods. Thus, the merchant exporters who used to

purchase goods from the local market for export shall be entitled to full rate of duty drawback (including the excise portion), subject to fulfilment of certain conditions as mandated by law. Therefore, admissibility of such duty drawback is dependent upon correct declaration of certain details i.e. the name and address of the trader from whom they have purchased the goods at the time of export, in terms of the prescribed format annexed with the above said Circular.

Further, Shri Shamshuddin Shaikh, the authorised representative of exporter Shri Abdul'Aziz Mohd. Zaki, in his statement. dtd. 27.02.2020 interalia admitted that the proprietor Shri Abdul. Aziz Mohd. Zaki used to purchase the goods from local suppliers but he did not provide the name and address of the same. Moreover, exporter Shri Abdul Aziz Mohd. Zaki evaded the investigation initiated by the department by giving health reasons in respect of every summons issued to him.

From the above, the CB appeared to have not advised the exporter and abetted the exporter by declaring the incorrect value of the goods in Shipping Bills (SB) against the fake invoices to avail undue drawback. Thus, it appeared that the CB had violated Regulation 10(d) of the CBLR 2018 by abetting the exporter and not bringing the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs.

4.2 Regulation 10(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 baggage"*

The CB appeared to have not advised the exporter and abetted the exporter in availing undue drawback by overvaluing the exports, whereas cheaper material was exported, and to justify the value of the goods, fake invoices from Shri Suhel Ansari, were procured showing the higher purchase price. Hence, the CB failed to exercise due diligence and sensitize the exporter to make proper declaration in terms of value & the details of procurement of the goods. The CB failed to inform the provisions of Circular No. 16/2009-Customs dated 25.05.2009 to the exporter.

Thus, it appeared that the CB had violated Regulation 10(e) of the CBLR 2018 by abetting the exporter and not bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs.

4.3 Regulation 10(q) - *"co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees;"*

The CB was issued summons dated 12.04.2022 and Show Cause Notice dated 22.07.2022, however, the CB did not submit any written submission or appeared for personal hearing. Thus, it appeared that the CB had violated regulation 10(q) of the CBLR 2018.

4.4 In view of the above, it was evident that the exporter claimed duty drawback using fake invoices and the CB M/s. Mehta and Mehta (CB License No. 11/938) abetted the exporter in availing non-eligible duty drawback and did not bring the matter to the notice of the Customs authorities. The evidence on record clearly indicated that the CB was working in a serious negligent manner and was in violation of the obligations casted upon them under the CBLR 2018. A Customs Broker occupies a very important position in the customs House and is supposed to safeguard the interests of both the exporters and the Customs department. A lot of trust is kept in CB by the Government Agencies, but by their acts of omission and commission it appeared that the CB M/s. Mehta and Mehta (CB License No. 11/938) violated Regulation 10 (d), 10(e) & 10(q) of the Customs Brokers Licensing Regulations, 2018 and rendered themselves for penal action under Regulations 14, 17 & 18 of the CBLR, 2018 (Regulation 18, 20 & 22 of the CBLR, 2013).

SUSPENSION OF CB LICENSE AND SHOW CAUSE NOTICE: -

5. Further, it was noticed from the records that the CB was not active and was suspended since 21.03.2014. Hence, action under Regulation 16(1) of the CBLR, 2018 was not taken. However, the inquiry under Regulation 17 of CBLR, 2018 was initiated against the CB M/s. Mehta and Mehta (CB License No. 11/938) and accordingly, based on the Offence Report, the following articles of charges were levelled against the CB:

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

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

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

5.1 Accordingly, under the provisions of Regulation 17(1) of CBLR, 2018, the Show Cause Notice No. 34/2024-25 dated 10.07.2024 was issued to the said Customs Broker M/s Mehta and Mehta (CB License No. 11/938) wherein the CB was called upon to show cause, as to why:

- a. The Customs Broker License bearing no. 11/938 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.

5.2 Shri J.K. Barot, Assistant Commissioner was appointed as Inquiry Officer (IO) to conduct the inquiry proceedings in the matter. However, Shri J.K. Barot, Assistant Commissioner vide letter dated 09.01.2025 informed that he was superannuating on 31.03.2025 and that due to heavy workload and time sensitive work allocation of his sections he was unable to attend to the Inquiry matter. Consequently, he requested for changing the Inquiry Officer in this matter. In view of the same, Shri Harishkumar Parmar, Assistant Commissioner was appointed as the Inquiry Officer vide letter dated 29.01.2025. The IO concluded the inquiry proceedings and submitted the Inquiry Report dated 29.04.2025 which is discussed below.

INQUIRY REPORT: -

6. The Inquiry Officer (here in after referred to as the 'IO') concluded the inquiry proceedings and submitted the inquiry report dated 28.04.2025, wherein all the charges levelled against the CB of violation of Regulations 10(d), 10(e) & 10(q) of the CBLR, 2018 were held as "Proved".

FINDINGS OF THE INQUIRY OFFICER: -

7. The IO submitted that he had gone through the records of the case, laws, rules and regulations. The IO found that in response to the personal hearing (PH), nobody appeared

for personal hearing in the matter instead of the PH memos fixing PH on days dated 06.03.2025, 19.03.2025 & 02.04.2025 addressed to the CB M/s. Mehta and Mehta. Since, sufficient opportunities had been given to the CB and it would not serve any fruitful purpose by granting further opportunities to the CB, the IO submitted that he took up the matter to decide ex-parte based on the available records without further intimation to the CB.

7.1 On perusal of the records, the IO noticed that the entire investigation/proceeding of Air Cargo Complex, Mumbai is based on the specific information received by the DRI, MZU. Investigation by DRI officers was conducted which revealed that various export firms including M/s. Mariya Exports (IEC-0305011588) were procuring fake purchase bills against the export consignments from one Mr. Suhel Ansari through fake firms floated by him. The IO found that searches were conducted at the premises of Mr. Suhel Ansari, which led to the recovery of copies of bogus bills issued by him in the names of several companies.

7.2 The IO found that during the course of investigation, statement of Mr. Suhel Parvez Ansari and Mr. Shaikh Mohammed Arshad, employee of Mr. Suhel Parvez Ansari was recorded on 24.08.2015 by DRI, Mumbai wherein inter-alia they stated that they supplied fake invoices to various export firms including M/s. Mariya Exports. The IO also found that the undue drawback was claimed by the exporters, including M/s. Mariya Exports, by overvaluing the exports whereas cheaper material was exported and to justify the value of the goods, fake invoices from Mr. Suhel Ansari, were procured showing the higher purchase price.

7.3 The IO found that the Customs Broker M/s. Mehta and Mehta had cleared the consignments/shipping bills of the exporter M/s Mariya Exports. The IO also found that Summons dated 12.04.2022 were sent to the CB M/s. Mehta and Mehta, but was returned undelivered. Show Cause Notice dated 22.07.2022 was issued to the CB, however, the CB did not submit any written submission or appeared for personal hearing despite being given multiple opportunities for the same.

7.4 The IO found that the evidence on record clearly indicated that the CB was working in a serious negligent manner and was in violation of the obligations casted upon them under the provisions of CBLR 2018. The IO found that the CB M/s. Mehta and Mehta failed to fulfil their responsibilities as per provisions of regulations 10(d), 10(e) & 10(q) of the Customs Brokers Licensing Regulations, 2018.

7.5 In view of the above, the IO submitted that it is amply clear that the exporter had claimed duty drawback using fake invoices and CB M/s. Mehta and Mehta (11/938) had abetted the exporter to avail this non-eligible duty drawback and also did not bring the matter to the notice of the Customs authorities.

7.6 The IO submitted that a Show Cause Notice No. 34/2024-25 dated 10.07.2024 was issued by the Principal Commissioner of Customs (General), NCH, Mumbai to the Customs Broker M/s. Mehta and Mehta (CB NO. 11/938) under Customs Brokers Licensing Regulations, 2018 vide which an inquiry was ordered to be conducted against the said CB. On perusal of the said SCN, it was observed that the CB has been alleged to have violated the provisions of Regulation 10(d), 10(e) and 10(q) of the CBLR, 2018.

8. ANALYSIS OF CHARGES:

8.1 Article of Charge-I: As per Regulation 10(d) of CBLR, 2018, a Customs Broker Shall “*advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be*”

8.2 The IO submitted that in the instant case, the export firm M/s. Mariya Exports is a merchant exporter and was procuring fake purchase bills against the export consignments from one Mr. Suhel Ansari & claimed higher and undue drawback by overvaluing the export. The IO submitted that as per Circular No. 16/2009-Customs dated 25.05.2009, the goods available in the market are deemed to be duty paid goods. Thus, the merchant exporters who purchase goods from the local market for export shall be entitled to full rate of duty drawback (including the excise portion), subject to fulfilment of certain conditions

as mandated by law. Therefore, admissibility of such duty drawback is dependent upon correct declaration of certain details i.e. the name and address of the trader from whom they had purchased the goods at the time of export.

8.3 The IO submitted that the Investigation in the matter revealed that Shri Shamshuddin Shaikh, the authorised representative of exporter Shri Abdul Aziz Mohd. Zaki, in his statement dtd. 27.02.2020 inter-alia admitted that the proprietor Shri Abdul Aziz Mohd. Zaki used to purchase the goods from local suppliers but he did not provide the name and address of the same.

From the above facts, it was amply clear that the CB did not advise the exporter and abetted the exporter by declaring the incorrect value of the goods in SBs against the fake invoices to avail undue drawback. Here, it was pertinent to highlight that the CB not only derelict his duty but was also found to be a conspirator of the syndicate. In a nutshell, the CB failed to bring this matter to the notice of concerned Customs Authorities.

8.4 In view of the facts above, the IO stated that that the charged CB did not fulfil their obligation reposed under Regulation 10(d) of the CBLR, 2018 and thus, the Article of Charge-I for contravention of Regulation 10(d) of CBLR, 2018 framed against the charged CB firm appears to have been PROVED conclusively.

8.5 **Article of Charge-II:** As per Regulation 10(e) of CBLR, 2018, a Customs Broker shall "*exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;*"

8.6 In the instant case, the IO submitted that it is a matter of fact that the CB M/s. Mehta and Mehta failed to exercise the due diligence reposed on them. The IO found that the conspiracy was hatched by exporter Shri Abdul Aziz Mohd. Zaki, Shri Suhel Ansari, Shri Ashok Ranka, Customs Broker firm and others to defraud the Government of India by causing export for availing undue drawback by the exporter by overvaluing the exports, whereas cheaper material was exported, and to justify the value of the goods, fake invoices from Suhel Ansari, were procured showing the higher purchase price. The IO found that the Customs Broker processed the documents even after being aware of the information.

8.7 The IO submitted that he relied on the Judgement of the Hon'ble Madras High Court in the case of M/s. Cappithan Agencies versus Commissioner of Customs, Chennai-VIII [2015(10) LCX 0061] wherein the following observations were made:

“The very purpose of granting a license 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 license 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 license 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 custom 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 advantage of his access to the Department. The grant of license 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 for 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 respondent in treating the action of the

Petitioner Applicant as detrimental to the interest of the nation and accordingly, final order of revoking his license been passed”

8.8 The IO submitted that in a regime of trade facilitation, a lot of trust is placed on the Customs Broker who directly deals with the importers/exporters as the department does not have interface with importers/exporters. The IO submitted that the CB failed to bring the malpractices adopted by their client to the notice of the Customs Authorities. The IO submitted that all the persons including the CB involved, knowingly abetted/supported the illegal activity of unscrupulous persons in order to earn money by unfair means. Thus, the IO stated that there is clear malafide intent exhibited by the CB who participated in the fraud. As brought out in discussion above, the IO submitted that there is all round failure of the CB. The IO submitted that the facts on record proved that CB violated various provisions of CBLR, 2018.

8.9 In view of the above, the IO submitted that it appeared that the charged CB did not accomplish his obligation reposed under Regulation 10(e) of the CBLR, 2018 and thus, the Article of Charge-II for contravention of Regulation 10(e) of CBLR, 2018 framed against the CB firm appeared to have been PROVED conclusively.

8.10 Article of Charge-III: As per Regulation 10(q) of CBLR, 2018. a Customs Broker Shall "*co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees,*"

The IO submitted that in the instant case, the CB was issued summons dated 12.04.2022 and Show Cause Notice dated 22.07.2022, however, the CB did not submit any written submission or appeared for personal hearing. Hence, it appeared that the charged CB firm did not fulfil its obligation reposed under Regulation 10(q) of the CBLR, 2018 and thus, the Article of Charge-III for contravention of Regulation 10(q) of CBLR, 2018 framed against the charged CB firm appeared to have been PROVED conclusively.

9. In view of above discussion and findings, the IO found that the charged CB firm contravened the provisions of Regulations 10d), 10(e) and 10(q) of the CBLR 2018 and consciously aided and abetted the wrong-doings.

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

Sr. No	Charges against the CB	Findings
1.	Violation of Regulation 10(d) of the CBLR, 2018	Proved
2.	Violation of Regulation 10(e) of the CBLR, 2018	Proved
3.	Violation of Regulation 10(q) of the CBLR, 2018	Proved

9.2 Under the provisions of Regulation 17(6) of the CBLR, 2018, a copy of the Inquiry Report dated 28.04.2025 was shared with the CB vide letter dated 02.06.2025 and further, to uphold the Principle of Natural Justice an opportunity of personal hearing was granted to the CB on 03.07.2025.

RECORDS OF PERSONAL HEARING: -

10. An opportunity of Personal Hearing was granted to the CB on 03.07.2025 and a letter intimating the same was sent through speed post at the address mentioned in the Offence Report. However, the letter was returned undelivered. It is pertinent to mention that the CB had not attended to the Summons issued in the past by the investigating agency as well. A 2nd PH opportunity was granted to the CB on 19.08.2025 vide letter dated 23.07.2025. The PH intimation was served in accordance with Section 153(1)(e) of the Customs Act, 1962 by affixing at the main entrance of the society wherein the CB's address was located. The CB did not attend the PH on 19.08.2025 nor any communication was received in this regard. Consequently, a 3rd PH opportunity was granted to the CB on 10.09.2025 vide letter dated 28.08.2025. The PH intimation was served in accordance with Section 153(1)(e) of the Customs Act, 1962 by affixing on the notice board of this office. The CB failed to appear in the 03rd PH and hence a 04th and final PH opportunity was granted to the CB on 16.01.2026. Since, the CB was not responsive/ locatable at the address mentioned in the records the PH intimation was served in accordance with Section 153(1)(e) of the Customs Act, 1962 by affixing on the notice board of this office. However, the CB failed to appear at the last PH opportunity as well.

DISCUSSIONS AND FINDINGS: -

11. I have gone through the facts and records of the case; the offence report received in the form of Order-in-Original No. ADC/MKS/81/2023-24 Adj.(X) ACC dated 25.11.2023 issued by the Additional Commissioner of Customs, ACC (Export), Mumbai – III; the Show Cause Notice No. 34/2024-25 dated 10.07.2024 issued under Regulation 17(1) of the CBLR, 2018 and the Inquiry Report dated 29.04.2025. I find that the CB was granted multiple opportunities for Personal Hearing as elaborated in the foregoing paras but he failed to appear and neither made any written submissions. I, therefore proceed with the adjudication of the case on the basis of available facts and evidences on record.

12. I find that the DRI, MZU booked a case of fraudulent export by a syndicate involving M/s Mariya Exports, which allegedly overvalued export goods to claim undue duty drawback. Investigations by the DRI and SIIB revealed that the exporter procured fake purchase bills from one Mr. Suhel Ansari, who operated a business of printing fictitious invoices without any actual movement of goods. Between 2012 and 2016, the exporter filed 175 shipping bills with a declared FOB value of Rs. 23.02 crores, obtaining Rs. 6.02 lakhs in drawback. However, the Consulate General of India in Dubai reported that the actual unit values of these goods upon arrival in the UAE were significantly lower than those declared to Indian Customs. The Customs Broker, M/s. Mehta and Mehta, is charged with active connivance and abetment in this fraud for failing to fulfill their statutory obligations under the CBLR, 2013 (now CBLR, 2018). The department contends that the CB failed to advise the exporter on legal compliance and failed to verify the correctness of procurement documents which would have exposed the fictitious nature of the purchases. Additionally, the CB demonstrated a total lack of cooperation by failing to attend summons or join the investigation, leading to charges under Regulations 10(d), 10(e), and 10(q). Consequently, the SCN proposed the revocation of their license, forfeiture of their security deposit, and the imposition of penalties, following a previous penalty already imposed under the Customs Act.

13. I find that the charge of violation of Regulation 10(d) of the CBLR, 2018 has been levelled against the CB on the grounds that, “from the investigation, it appears that the export firm M/s. Mariya Exports is a merchant exporter and was procuring fake purchase bills against the export consignments from one Mr. Suhel Ansari & claimed higher and undue drawback by overvaluing the export. As per Circular No. 16/2009-Customs dated 25.05.2009, the goods available in the market are deemed to be duty paid goods. Thus, the merchant exporters who purchase goods from the local market for export shall be entitled to full rate of duty drawback (including the excise portion), subject to fulfilment of certain conditions as mandated by law. Therefore, admissibility of such duty drawback is dependent upon correct declaration of certain details i.e. the name and address of the trader from whom they have purchased the goods at the time of export, in terms of the prescribed format annexed with the above said Circular. Further, Shri Shamshuddin Shaikh, the authorised representative of exporter Shri Abdul Aziz Mohd. Zaki, in his statement. dtd. 27.02.2020 interalia admitted that the proprietor Shri Abdul. Aziz Mohd. Zaki used to purchase the goods from local suppliers but he has not provided the name and address of the same. Moreover, exporter Shri Abdul Aziz Mohd. Zaki himself avoided to join the investigation by this department by giving health reasons in respect of every summons issued to him. From the foregoing, the CB appears to have not advised the exporter and abetted the exporter by declaring the incorrect value of the goods in SBs against the fake invoices to avail undue drawback. Thus, it appears that the CB has violated regulation 10(d) of CBLR 2018 by abetting the exporter and not bringing the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs.”

13.1 I find that the Inquiry Officer, in this regard observed that, the export firm M/s. Mariya Exports is a merchant exporter and was procuring fake purchase bills against the export consignments from one Mr. Suhel Ansari & claimed higher and undue drawback by overvaluing the export. The IO submitted that as per Circular No. 16/2009-Customs dated 25.05.2009, the goods available in the market are deemed to be duty paid goods. Thus, the merchant exporters who purchase goods from the local market for export shall be entitled to full rate of duty drawback (including the excise portion), subject to fulfilment of certain

conditions as mandated by law. Therefore, admissibility of such duty drawback is dependent upon correct declaration of certain details i.e. the name and address of the trader from whom they had purchased the goods at the time of export. The IO submitted that the Investigation in the matter revealed that Shri Shamshuddin Shaikh, the authorised representative of exporter Shri Abdul Aziz Mohd. Zaki, in his statement dtd. 27.02.2020 inter-alia admitted that the proprietor Shri Abdul Aziz Mohd. Zaki used to purchase the goods from local suppliers but he did not provide the name and address of the same.

From the above facts, it was amply clear that the CB did not advise the exporter and abetted the exporter by declaring the incorrect value of the goods in SBs against the fake invoices to avail undue drawback. Here, it was pertinent to highlight that the CB not only derelict his duty but was also found to be a conspirator of the syndicate. In a nutshell, the CB failed to bring this matter to the notice of concerned Customs Authorities. In view of the facts above, the IO stated that that the charged CB did not fulfil their obligation reposed under Regulation 10(d) of the CBLR, 2018 and thus, the Article of Charge-I for contravention of Regulation 10(d) of CBLR, 2018 framed against the charged CB firm appears to have been proved conclusively.

13.2 Having taken into cognizance, the facts of the case and the inquiry report, I find that the investigation revealed a well-organized syndicate where the exporter, M/s Mariya Exports, procured fake purchase bills from one Mr. Suhel Ansari to grossly overvalue export goods. Merchant exporters purchasing from the local market must declare the name and address of the trader to be eligible for duty drawback. The investigation found that the CB filed the Shipping Bills without ensuring necessary compliance in accordance with Circular No. 16/2009-Customs dated 25.05.2009. The CB failed to tender prudent advice to the client on compliance and failed to report the suspected overvaluation and fake invoicing to the Assistant/Deputy Commissioner. By processing declarations against fictitious invoices to avail undue drawback, the CB failed in their duty and acted as a conspirator in the syndicate. I find that the IO has correctly upheld the charge of violation

of Regulation 11(d) of the CBLR, 2013 (now Regulation 10(d) of the CBLR, 2018) as proved.

14. 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, "The CB appears to have not advised the exporter and abetted the exporter for availing undue drawback by the exporters by overvaluing the exports, whereas cheaper material was exported, and to justify the value of the goods, fake invoices from Suhel Ansari, were procured showing the higher purchase price. Hence, the CB failed to exercise due diligence and to sensitized the exporter to make proper declaration in terms of value & the details of procurement of the goods. The CB failed to inform the provisions of Circular No. 16/2009-Customs dated 25.05.2009 to the exporter. Thus, it appears that the CB has violated regulation 10(e) of CBLR 2018 by abetting the exporter and not bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs."

14.1 I find that the inquiry officer, in this regard observed that, it is a matter of fact that the CB M/s. Mehta and Mehta failed to exercise the due diligence reposed on them. The IO found that the conspiracy was hatched by exporter Shri Abdul Aziz Mohd. Zaki, Shri Suhel Ansari, Shri Ashok Ranka, Customs Broker firm and others to defraud the Government of India by causing export for availing undue drawback by the exporter by overvaluing the exports, whereas cheaper material was exported, and to justify the value of the goods, fake invoices from Suhel Ansari, were procured showing the higher purchase price. The IO found that the Customs Broker processed the documents even after being aware of the information. The IO submitted that he relied on the Judgement of the Hon'ble Madras High Court in the case of *M/s. Cappithan Agencies versus Commissioner of Customs, Chennai-VIII [2015(10) LCX 0061]* which took a strong observation of the role of CB in upholding the interests of revenue. The IO submitted that in a regime of trade facilitation, a lot of trust is placed on the Customs Broker who directly deals with the importers/exporters as the department does not have interface with importers/exporters. The IO submitted that the CB failed to bring the malpractices adopted by their client to the

notice of the Customs Authorities. The IO submitted that all the persons including the CB involved, knowingly abetted/supported the illegal activity of unscrupulous persons in order to earn money by unfair means. Thus, the IO stated that there is clear malafide intent exhibited by the CB who participated in the fraud. As brought out in discussion above, the IO submitted that there is all round failure of the CB and the facts on record proved that CB violated various provisions of CBLR, 2018. In view of the above, the IO submitted that it appeared that the charged CB did not accomplish his obligation reposed under Regulation 10(e) of the CBLR, 2018 and thus, the Article of Charge-II for contravention of Regulation 10(e) of CBLR, 2018 framed against the CB firm appeared to have been proved conclusively.

14.2 Having thoroughly perused the offence report, the show cause notice and the inquiry report, I find that, The CB processed shipping bills even after being aware that the procurement information was fraudulent. Mr. Suhel Ansari admitted to supplying fake invoices that involved only the printing of bills without any actual sale or movement of goods. Scrutiny revealed that USD 1,33,40,809 (approx. USD 13.3 million) remained unrealized for 54 shipping bills, confirming that transaction values were grossly inflated. The CB failed to sensitize the exporter to make proper declarations regarding value and procurement details. The CB's active participation in a fraud designed to earn money through unfair means demonstrates a clear malafide intent. In light of these findings, I am inclined to uphold the charge of violation of Regulation 11(e) of the CBLR, 2013 (now Regulation 10(e) of the CBLR, 2018) levelled against the CB.

15. I find that the charge of violation of Regulation 10(q) of the CBLR, 2018 has been levelled against the CB on the grounds that, The CB was issued summons dated 12.04.2022 and Show Cause Notice dated 22.07.2022, however, the CB did not submit any written submission or appeared for personal hearing. Thus, it appears that the CB has violated regulation 10(q) of CBLR 2018.

15.1 I find that the inquiry officer, in this regard observed that, the CB was issued summons dated 12.04.2022 and Show Cause Notice dated 22.07.2022, however, the CB

did not submit any written submission or appeared for personal hearing. Hence, it appeared that the charged CB firm did not fulfil its obligation reposed under Regulation 10(q) of the CBLR, 2018 and thus, the Article of Charge-III for contravention of Regulation 10(q) of CBLR, 2018 framed against the charged CB firm appeared to have been proved conclusively.

15.2 I have perused the obligation of the Customs Broker stipulated under Regulation 10(q) of CBLR, 2018 which says that, a Customs Broker shall “*co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees,*”. I have gone through the available records and facts of the case and find that the CB has never appeared before the investigation officer for recording of statement under Section 108 of Customs Act, 1962 neither the CB has participated actively and sincerely during the inquiry proceedings conducted by the Inquiry officer under Regulation 17 of the CBLR, 2018. Summons dated 12.04.2022 sent to the CB remained unattended and were returned undelivered. The CB failed to submit any written representation or appear for any Personal Hearings (PH). I note with gravity that the CB also failed to appear before me against any of the Personal Hearing opportunity granted to them. This total lack of cooperation demonstrates a disregard for the statutory process and confirms an intent to evade accountability. The CB’s absolute failure to join the inquiry or provide a defence is a direct breach of their licensing obligations. Consequently, I hold the CB guilty of violation of Regulation 10(q) of the CBLR, 2018.

16. Further, I find that the offence report in the present case is Order-in-Original CAO No. ADC/MKS/81/2023-24 Adj.(X) ACC dated 25.11.2023 issued by the Additional Commissioner of Customs, ACC (Export), Mumbai - III against the exporter M/s. Mariya Exports and others including the CB M/s. Mehta and Mehta (CB License No. 11/938), vide which a total penalty of Rs. 2,50,000/- (Rupees Two Lakh Fifty Thousand only) was imposed on the CB M/s. Mehta and Mehta under Section 114(i), 114(iii) & 114AA of the Customs Act, 1962. However, it is pertinent to mention here that the proceedings under

CBLR, 2013 (now CBLR, 2018) are independent, separate and distinct from that under Custom Act, 1962.

17. I find that a Customs Broker occupies a very important position in the Custom House and is supposed to safeguard the interests of both the importers/exporters and the Customs Department. A lot of trust is kept in CB by the Government Agencies; however, by their acts of omission and commission, it appeared that the CB M/s. Mehta and Mehta (CB License No. 11/938) has violated Regulations 10(d), 10(e), and 10(q) of the CBLR, 2018. I find that for the violation of obligations provided under the CBLR, 2013 (now CBLR, 2018) and for their acts of omission and commission, the CB M/s. M/s. Mehta and Mehta (CB No. 11/938) has rendered itself liable for penal action under CBLR, 2013 (now CBLR, 2018). Hence, while deciding the matter, I rely on the following case laws:

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

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

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

"6.1 These provisions require the Customs Broker to exercise due diligence to ascertain the correctness of any information and to advise the client accordingly. Though the CHA was accepted as having no mensrea of the noticed mis-declaration /under- valuation or mis-quantification but from his own statement acknowledging

the negligence on his part to properly ensure the same, we are of the opinion that CH definitely has committed violation of the above mentioned Regulations. These Regulations caused a mandatory duty upon the CHA, who is an important link between the Customs Authorities and the importer/exporter. Any dereliction/lack of due diligence since has caused the Exchequer loss in terms of evasion of Customs Duty, the original adjudicating authority has rightly imposed the penalty upon the appellant herein."

(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.

18. As discussed above, I conclude that the CB is guilty of violation of Regulations 10(d), 10(e) and 10(q) of the CBLR, 2018. The evidence establishes that the CB actively connived in a fraudulent export scheme to claim undue drawback and facilitate the non-realization of millions in foreign exchange. A competent adjudicating authority has already imposed penalties on the CB under the Customs Act, 1962 for this very fraud (Order-in-Original No. ADC/MKS/81/2023-24 Adj.(X) ACC dated 25.11.2023). Furthermore, the CB's persistent refusal to attend any of the summons or appear for personal hearings during the inquiry and adjudication stages demonstrates a blatant contempt for the legal process and a total breach of Regulation 10(q). This sustained pattern of active connivance in fraud, coupled with an absolute lack of cooperation with the authorities, renders the CB entirely unfit to continue as a licensed intermediary. Hence, under the factual matrix of the case and taking into cognisance the CB’s blatant non-cooperation, I am inclined to revoke the license of the CB, forfeit the security deposit and impose a penalty on the CB M/s. Mehta and Mehta (CB License No. 11/938) under the CBLR, 2013 (now CBLR, 2018).

19. Further, I find that in the present case, the Offence Report dated 25.11.2023 was received without the RUDs and hence, the same was requested from the issuing office. On receipt of the RUDs, the SCN No. 34/2024-25 dated 10.07.2024 was issued and Shri J.K. Barot, Assistant Commissioner was appointed as the Inquiry Officer (IO) to conduct the inquiry proceedings in the matter. However, for reasons elaborated in Para 5.2 above, the IO had to be changed and Shri Harishkumar Parmar, Assistant Commissioner was

appointed as the new Inquiry Officer vide letter dated 29.01.2025. The IO concluded the inquiry proceedings and submitted the Inquiry Report dated 29.04.2025. Further, I find that the CB was granted multiple Personal Hearing opportunities, the last being on 16.01.2026 but they failed to appear. Finally, the matter was taken up for adjudication on the basis of available facts and evidences on record. Further, with respect to the timelines prescribed under Regulation 17 of the CBLR, 2018, relying on the following caselaws, 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 (Born.), which stipulates that:

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

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

"42. Therefore, if the tests laid down in Dattatreya Moreshwar, which have so far held the field, are applied, it would be clear (i) that the time limit prescribed in Regulation 20 (7) is for the performance of a public duty and not for the exercise of a private right; (ii) that the consequences of failure to comply with the requirement are not spelt out in Regulation 20(7) (iii) that no prejudicial consequences flow to the aggrieved parties due to the non-adherence to the time limit; and

(iii) that the object of the Regulations, the nature of the power and the language employed do not give scope to conclude that the time limit prescribed is mandatory. Hence, we hold that the time limit prescribed in Regulation 20 (7) is not mandatory but only directory.”

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

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

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

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

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

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

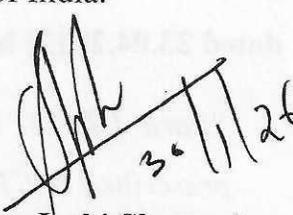
20. In view of the above-discussed facts and for their acts of omission and commission, the CB M/s. Mehta and Mehta (CB License No. 11/938) is held liable and guilty for violating the provisions of the CBLR, 2013 (now CBLR, 2018), as mentioned above. I hold that the CB has failed to discharge his duties cast upon him with respect to Regulations 10(d), 10(e), and 10(q) of the CBLR, 2018 and is liable for penal action. Accordingly, I pass the following order:

ORDER

21. I, Commissioner of Customs (General), in exercise of the power conferred upon me under Regulation 20(7) of the CBLR, 2013 (now 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. Mehta and Mehta (CB License No. 11/938) under Regulation 18 of the CBLR, 2013 (now 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. Mehta and Mehta (CB License No. 11/938) under Regulation 18 of the CBLR, 2013 (now 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. Mehta and Mehta (CB License No. 11/938) under Regulation 22 of the CBLR, 2013 (now 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 immediately.

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


(Shraddha Joshi Sharma)
 Commissioner of Customs (G)
 NCH, Mumbai-I

To,

M/s. Mehta and Mehta (CB License No. 11/938)

Bhailal Bhavan Room no-21, 2nd floor,
118, Kheshvaji Naik Rd, Chinch Bunder,
Masjid-W, Mumbai-400009.

Copy to:

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

