



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/515/2023-CBS

आदेश दिनांक/Date of Order: 30.03.2026

CAO No. 159/2025-26/CAC/CC(G)/SJS/Adj-CBS जारी दिनांक/Date of issue: 08.04.2026

संख्या:

DIN:- 20260477N00000722735

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 129 की धाराA(1B)(i) के संबंधमें सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण में स्वीकार्य है, जहाँ शुल्क या शुल्क एवं जुर्माना विवादित हों, या जुर्माना, जहाँ सिर्फ जुर्माना ही विवादित हो। यह अपील इस आदेश के संप्रेषण की तारीख के तीन महीने के अंदर दायर की जाएगी। यह अपील सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण नियमावली (कार्यविधि), 1982, के प्रावधानों के अंतर्गत, यथोत्तखंडपीठ में स्वीकार्य है।

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

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

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

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

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

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

5. यह अपील फॉर्म C.A.-3 में दायर की जानी चाहिए जो कि सीमाशुल्क नियमावली (अपीलस), १९८२ के नियम में उल्लेखित व्यक्ति 2 के उपनियम 3 के तहत निर्धारित है एवं उसी नियमावली के नियम 6 द्वारा हस्ताक्षरित एवं सत्यापित की जाएगी।

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

6. (i) यदि प्रतिवादित आदेश, जिसके विरुद्ध अपील की गई है, में शुल्क एवं मांगे गए ब्याजवलागाएगए जुर्माने की राशि रु-/1000 .पाँच लाख या इस से कम होतो रु ., (ii)यदि यह राशि रुपाँच लाख से अधिक .) एवं -/5000 .हो किंतु पचास लाख से अधिक न होतो रुiii) यदि यह राशि रुपचास लाख से अधिक होतो . के शुल्क -/10000 .रु का भुगतान 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. Muni Cargo Movers Pvt Ltd, CHA No. 11/929 (now CB License No. 11/929) have been granted regular CHA Licence under Regulation 10(1) of the CHALR, 1984 (now regulation 7(2) of the CBLR, 2018). Shri Amar D. Muni and Shri Jayesh D. Muni are the Directors and Regulation 9 qualified persons of the CHA Firm. In the remainder of this document, the term Customs House Agent (CHA) and Customs Broker (CB) are synonymous and shall refer to the same entity or person as defined under the relevant Customs House Agents Licensing Regulations (CHALR)/ Customs Brokers Licensing Regulations (CBLR).

2. An Offence Report was received from SIIB(X) [Special Investigation and Intelligence Branch (Export)], JNCH, Nhava Sheva in the form of Letter dated 05.12.2008 issued vide F. No. INT/SIIB(X)/128/2008 JNCH in a case of fraudulent export of rags/tailor waste by declaring it as Readymade Garments so as to get undue Drawback. Six live consignments of firms, namely M/s. Silver Rock Export Company (four consignments), M/s. Star Trade Linkers (one consignment) and M/s. Mamta International (one consignment) having FOB value of Rs. 2.23 Crores and claiming total drawback of Rs. 21,85,694/- were seized. All these Shipping Bills were filed through CHA M/s. Muni Cargo Movers Pvt Ltd. (CB License No. 11/929). Charges for violation of Regulations 12, 13(a), 13(d) & 13(n) of CHALR, 2004 were levelled against the CB out of which violation of Regulations 12 was held as proved in inquiry report and the rest not proved.

2.1 The aforesaid case was adjudicated vide Order-in-Original CAO No. 39/2011/CAC/CC(G)SLM/CHA(Admn) dated 06.05.2011 resulting in revocation of CB license along with full forfeiture of security deposit. Aggrieved by the said Order, the CB M/s. Muni Cargo Movers Pvt. Ltd. filed an Appeal No. C/399/11-MUM in Hon'ble CESTAT, Mumbai Bench. Hon'ble CESTAT vide Order No. A/996/13/CSTB/C-I dated 23.04.13 set aside the order of revocation of licence and allowed the appeal by way of remanding back to the Commissioner for fresh adjudication after putting the appellant to notice with respect to the disagreements with the findings of the Inquiry Officer.

2.2 The direction of the Hon'ble CESTAT vide Order No. A/996/13/CSTB/C-I dated 23.04.13 were complied with and the case was then adjudicated vide Order-in-Original CAO No. 87/2013/CAC/CC(G)/PKA-CHA(Admn) dated 22.07.2013 resulting in revocation of CB license along with full forfeiture of security deposit. In the said Order-in-Original, two cases involving the CB were adjudicated together, one being the aforesaid case, and another case of improper imports of plastic flowers vide Bill of Entry No. 691317 dated 21.11.2008 in the name of M/s Raviraj Enterprises by misuse of IEC. The aforesaid Order-in-Original was challenged in Hon'ble CESTAT Mumbai vide Appeal No. 95907/2016. The Hon'ble CESTAT vide Final Order No. A/85356/2023 dated 01.03.2023 set aside the Order-in-Original on the grounds of being compromised on account of combining the proceedings of two separate cases, based on entirely different facts, and remanded the cases back to the licensing authority for fresh decisions.

2.3 In pursuance of the aforesaid Order of the Hon'ble CESTAT, Mumbai Bench, I hereby proceed to adjudicate the instant case independently, in the light of facts and circumstances of the case.

3. The Officers of SIIB(X) [Special Investigation and Intelligence Branch (Export)], JNCH, Nhava Sheva vide Offence Report issued vide F. No. INT/SIIB(X)/128/2008 JNCH dated 05.12.2008 reported that they had detected a case of a fraudulent export of rags/ tailor waste by declaring it as Readymade Garments so as to get undue Drawback. Six live consignments of firms, namely M/s. Silver Rock Export Company (four consignments), M/s. Star Trade Linkers (one consignment) and M/s. Mamta International (one consignment) covered under Shipping Bill(s) Nos. 6845956, 6845973, 6845962, 6845960, 6845927 and 6845952 all dated 19.11.2008 having FOB value of Rs. 2.23 Crores and claiming total drawback of Rs. 21,85,694/- were seized. All these Shipping Bills were filed through CHA M/s. Muni Cargo Movers Pvt Ltd. (CB License No. 11/929).

3.1 Investigations revealed that Shri Bala Baburao Jadhav knowingly indulged in the said fraudulent exports. He was neither a representative of the Exporter nor an employee of the CB firm M/s Muni Cargo Movers Pvt. Ltd. However, carting and examination of the

said six Shipping Bills pertaining to the above Exporters, was attended by him for monetary consideration at the rate of 50 paise per piece; that he was aware of the overvaluation/misdeclaration of the goods meant for export under the said six Shipping Bills.

3.2 Investigations further revealed that Shri Bhupendra Shambhulal Joshi alias Maharaj, worked as commission agent for customs clearance of import and export documents. He was neither an employee of the CB nor a representative of the said three exporters. He was using the services of CB M/s. Muni Cargo Movers Pvt. Ltd. by paying Rs. 15,000/- per month to the said CB. He received invoices, IEC details, drawback A/C No., Forex Bank A/c No. and AD code details of the said three Exporters from Shri Arun Laxman Gayake and on the basis of the same, without verifying the correctness of the said details, he prepared Annexures of the aforementioned six Shipping Bills. He had received Rs. 50,000/- as monetary consideration from Shri Arun L. Gayake towards the clearance of the said fraudulent export consignments of the three Exporters, at the instructions of Shri Pravin. He knowingly indulged/ aided the fraudulent exports vide the six Shipping Bills for a monetary consideration. All the above facts had been admitted by Shri Bhupendra Shambhulal Joshi in his various statements dated 27.11.2008, 28.11.2008, 29.11.2008, 30.11.2008 and 4.12.2008 recorded under section 108 of the Customs Act, 1962.

3.3 Shri Bipin Mishra, Manager (Imports) of the CB M/s. Muni Cargo Movers Pvt. Ltd. in his Statement dated 27.11.2008 recorded under Section 108 of the Customs Act, 1962 stated that he was working with M/s. Muni Cargo since the past 22 years; that Shipping Bill(s) Nos. 6845973, 6845962, 6845956 and 6845960 all dated 19.11.2008 of M/s. Silver Rock Export Co, Shipping Bill No. 6845952 dated 19.11.2008 of M/s. Mamta International, Shipping Bill No. 6845927 dated 19.11.2008 of M/s. Star Trade Linkers and the concerned checklists were signed by him after obtaining signature of his boss, Shri Jayesh Muni. Further, he also, stated that Shri Bhupendra S. Joshi alias Maharaj used to bring export business to them for commission. The business of the above mentioned companies were also brought by him and Shri Jayesh D. Muni accepted those jobs; that he had never met or knew anybody from the said three companies and all the documents were brought to

them by Mr. Bhupendra S. Joshi. On being asked about authority letters from exporters, he stated that Shri Bhupendra S. Joshi had promised to provide authority letters of the exporters later but till date he had not provided the same; that he did not check up whether he (Shri Maharaj) was having Customs Pass or not; that all the documents were handed over to him on the instruction of his boss Shri Jayesh Muni; that as per CHA Regulations they were supposed to check the authenticity of the exporter before undertaking their business but they could not comply with the checks in the subject cases; that the cargo from the above companies meant for export was brought by Mr. Bhupendra S. Joshi; that Mr. Bhupendra S. Joshi used to complete all the export procedure till clearance for exports.

3.4 Shri Arun Laxman Gayke was approached by Shri Pravin, through Shri Ravi Thorat, for handling the carting and clearance of the goods for the said six consignments for monetary consideration. He was neither a representative of the said Exporters nor of the CB. He approached Shri Maharaj for handling the Customs clearance and supplied the details of the said Exporters (given to him by Shri Pravin) to Shri Maharaj without verifying the genuineness of the exporters. He was aware that the said goods were overvalued and misdeclared, therefore, he along with Shri Pravin and Shri Bala Baburao Jadhav, were present to manage the carting and examination of the overvalued and misdeclared goods. He had allegedly paid Rs. 50,000/- to Shri Maharaj. Thus, he aided/ abetted the fraudulent export of the said misdeclared and overvalued goods. All these facts had been admitted by Shri Arun Laxman Gayke in his statements dated 27.11.2008, 29.11.2008 and 30.11.2008 recorded under section 108 of the Customs Act, 1962.

3.5 Statement of Shri Jayesh Dolatrai Muni, Director of M/s. Muni Cargo Movers Pvt Ltd, (CB License No. 11/929) was recorded under Section 108 of the Customs Act, 1962, wherein, he inter-alia, stated that he was the Director in the Firm M/s. Muni Cargo; that his brother was the other Director of the firm, who had left India in 1999 and had settled in the USA; that he was looking after all day to day work and other affairs of the company; that he was holding Regulation 8 Customs Pass bearing No. M-712 and was involved in the clearance of consignments of imports & exports; that he used to charge Rs. 1500/- to Rs.

2000/- for LCL Shipment and Rs. 4000/- to Rs. 4500/- for FCL Shipments; that for every shipment they maintained Job Register and folder till the consignment was cleared; that he knew that the consignments of the three exporters viz. M/s. Silver Rock, M/s. Star Trade Linkers and M/s. Mamta International had been cleared through his agency; that it was the first instance when he had cleared their consignments from JNPT, Nhava Sheva; that Shri Maharaj alias Joshi was marketing agent and was also brought clients to him; that the proprietors of above said firms/ exporters had met him; that Shri Maharaj brought the documents for clearance of the consignments of the said three exporters; that the invoices, packing list and other details such as PAN No., AD Code, Drawback A/c No. were given to him by Shri Maharaj; that IEC Copy for M/s. Mamta International and Authority Letters for all three were awaited and it was assured by Shri Maharaj that the same would be given in due course before Shipment; that he prepared the Annexures for checklist and Shri Maharaj had collected the Annexure copies after getting them signed by Shri Bipin Mishra, his employee and a general category Customs Pass Holder; that he did not know anything about the carting of the consignments covered under the six Shipping Bills; that on 27.11.08, he (Bhupendra S. Joshi) came to his (Jayesh D. Muni) office and told him that the shipment was attended by his man, Shri Arun and subsequently Shri Arun stated that it was Shri Pravin & Balu who, without his (Joshi) knowledge, had effected the export; that he knew Shri Maharaj since 1989-90 and for the last six months Maharaj used to give approximately 20 to 30 Shipping Bills every month; that he had never met any of the exporters whose clearance work was brought by Shri Maharaj; that documents for some export consignments were prepared by Maharaj and some were prepared by him; that calling, clearance and shipping was handled by Shri Maharaj; that he did not know how Maharaj handled those things when he was not having Customs Pass; that he submitted the EP copies of the export consignment cleared by him in the name of M/s. Muni Cargo; that he or Shri Bipin Mishra used to sign the Annexures for the clearance of the export consignments brought by Shri Maharaj; that he only used to sign the Shipping Bills of the parties whose clearance work was undertaken by Shri Maharaj, on behalf of M/s. Muni Cargo; that the real name of Shri Maharaj was Shri Bhupendra Joshi; that the six Shipping

Bills showing CHA as M/s. Muni Cargo and related Invoices were prepared by his staff in his office and later handed over to Shri Maharaj alias Shri Bhupendra Joshi; that clearance was done fraudulently without his knowledge.

3.6 Further statement of Shri Jayesh Dolatrai Muni was recorded on 29.11.08 under Section 108 of the Customs Act, 1962, wherein he inter-alia stated that he used to pay Rs. 400/- to Rs. 500/- per consignment, depending upon the export business; that Shri Maharaj used to hand over the cheques to him for the payments of clearance of the export consignments done by him (Maharaj) on behalf of M/s. Muni Cargo; that for the exports brought by him he would cut his agency charges from the payment of cheques and would return the balance amount in cash to Shri Maharaj; that in case of cash payment received from exporters, Shri Maharaj used to deduct his amount and gave the balance amount to him (Jayesh D. Muni) as commission/ agency charges; that 80% to 90% of the amount Shri Maharaj received from the exporters (whose consignment were cleared by Maharaj) were paid to him (Shri Jayesh D Muni) because Shri Maharaj was using his CHA Licence; that Annexures for six Shipping Bits (6845956, 6845973, 6845962, 6845960, 6845927 and 6845952 all dated 19.11.2008) were prepared and brought by Shri Maharaj and were allotted Job Nos and duly signed by Shri Bipin Mishra and himself; that neither he nor his staff attended the examination of the export consignments brought by Shri Maharaj; that it was his mistake and he confessed that neither he nor anyone from his office attended the clearance; that he trusted Maharaj in good faith and for a little monetary consideration he allowed him (Shri Maharaj) to use his licence; that he did not know anyone from the export firms i.e. M/s. Silver Rock Export Co, M/s. Star Trade Linkers and M/s. Mamta International; that he did not verify the genuineness of these exporters and accepted his mistakes.

3.7 Further statement of Shri Jayesh Dolatrai Muni was recorded on 30.11.2008 under Section 108 of the Customs Act, 1962 wherein he inter-alia stated that he had processed six Shipping Bills and Annexures pertaining M/s. Silver Rock, M/s. Star Trade Linkers and M/s. Mamta International; that the said consignments were called back by the Officers of

SIIB Exports and re-examination was done in presence of his representative Mr. Bipin Mishra on 28.11.08 for 50 packages and on 29.11.08 for 284 packages of the above said consignments; that all the six Shipping Bills Annexures were filed and signed by him; that he handed over those papers to Shri Maharaj for further action; that on being asked, Shri Maharaj told that the same (Shipping Bills) were lying with him and further informed that the Cargo had not arrived so far and he (Maharaj) would hand-over the envelopes containing six Shipping Bills Annexures to him (Jayesh D. Muni) as and when the cargo arrived; that he had not enquired/ verified about the authenticity of exporters of the said consignments; that he was not aware that the goods had arrived, examined, stuffed and transported to port; that it was his first mistake and requested to take lenient view in the matter.

3.8 Further Statement of Shri Jayesh D. Muni was recorded on 04.12.08, wherein, he stated that EP copies of the shipment of such consignments, for which documentation was done by Maharaj, using his licence, must be in his office; that whenever the EP copies were received in his office, Shri Maharaj used to collect it and send to party/exporters; that Shri Bhupendra S. Joshi alias Maharaj kept track of the EP copies and handed over the copies to the party further; that some of the representative of Shri Maharaj used to come to his office and used to hand it over to his staff; that he never kept track of EP copies and it was Shri Maharaj who used to collect EP Copies from his office; that he did not have any role in clearing and processing the Drawback claim of the exporters whose documentation was done by Shri Maharaj using his (M/s Muni Cargo) firm's name.

Considering the above facts, the CHA License No. 11/929 held by M/s. Muni Cargo Movers Pvt. Ltd. was placed under suspension vide Order No. 81/2008 dated 10.12.2008. Further, the said Suspension Order was confirmed vide Order No. 17/2009 dated 18.5.2009.

4. ARTICLES OF CHARGES

- i. Article of Charge – I: As per Regulation 12 of the CHALR, 2004 (now Regulation 1(4) of the CBLR, 2018):

“Every Licence granted or renewed under these Regulations shall be deemed to have been granted or renewed in favour of the licensee and no licence shall be sold or otherwise transferred”.

Shri Bhupendra Shambulal Joshi alias Maharaj, worked as commission agent for customs clearance of import and export documents. He was neither an employee of the CB nor a representative of the said three exporters. He was using the authority of CB M/s. Muni Cargo Movers and for it, he was paying Rs. 15,000/- per month to the said CHA. He received invoices, IEC details, Drawback A/C No., Forex Bank A/c No., AD code details of the said three Exporters from Shri Arun Laxman Gayake and on the basis of the same, without verifying the correctness of the said details, he prepared Annexures of the above-mentioned six Shipping Bills.

Shri Bipin Mishra, Manager (Imports) of M/s. Muni Cargo Movers in his Statement dated 27.11.2008 recorded under Section 108 of the Customs Act, 1962 inter-alia stated that Shipping Bill(s) Nos. 6845973, 6845962, 6845956 and 6845960 of M/s. Silver Rock Export Co, Shipping Bill No. 6845952 of M/s. Mamta International and Shipping Bill No. 6845927 of M/s. Star Trade Linkers (all dated 19.11.2008) and the concerned checklists were signed by him after obtaining signature of his boss, Shri Jayesh Muni. Further, he also stated that Shri Bhupendra S. Joshi alias Maharaj used to bring export business to them for a commission and the business of the above mentioned companies were also brought by him and Shri Jayesh D. Muni accepted this.

Statement of Shri Jayesh Dolatrai Muni, Director of M/s. Muni Cargo Movers Pvt. Ltd. was recorded under Section 108 of the Customs Act, 1962, wherein, he inter-alia stated that he knew that the consignments of three exporters M/s. Silver Rock, M/s. Star Trade Linkers and M/s. Mamta International were cleared through his agency; that Shri Maharaj alias Joshi was marketing agent and was also brought clients to him; that the Proprietors of above said firms/ exporters had never met him; that Shri Maharaj brought the documents for clearance of the consignments of the said three exporters; that the invoices, packing list and other details such as PAN No., AD Code, Drawback A/c No. were given to him by Shri Maharaj; that IEC Copy for M/s. Mamta International and Authority Letters for all the

three exporters were awaited and it was assured by Shri Maharaj that the same would be given in due course before shipment; that he prepared the Annexures for Checklist and Shri Maharaj had collected the Annexures after getting them signed by Shri Bipin Mishra, his employee and a G category Customs Pass Holder; that he did not know anything about the calling of the consignments covered under six Shipping Bills; that after collecting Annexures from his Office he got the checklist on 19.11.08 and later got the final print on 24.11.08; that on 27.11.08, he (Bhupendra S. Joshi) came to his (Jayesh D. Muni) office and told him that the shipment was attended by his man, Shri Arun and subsequently Shri Arun stated that it was Shri Pravin & Balu who without his (Joshi) knowledge had effected the export; that he knew Shri Maharaj since 1989-90 and for the last six months Maharaj used to give approximately 20 to 30 Shipping Bills every month; that he had never met any of the exporters whose clearance work was brought by Shri Maharaj; that documents for some export consignments were prepared by Maharaj and some were prepared by him; that carting, clearance and shipping was handled by Shri Maharaj; that he did not know how Maharaj handled those things when he did not have a Customs Pass; that Shri Maharaj submitted the EP copies of the export consignment cleared by him in the name of M/s. Muni Cargo; that he or Shri Bipin Mishra used to sign the Annexures for the clearance of the export consignments brought by Shri Maharaj; that he only used to sign the Shipping Bills of the parties whose clearance work was undertaken by Shri Maharaj on behalf of M/s. Muni Cargo; that the real name of Shri Maharaj was Shri Bhupendra Joshi; that the six Shipping Bills showing CHA as M/s. Muni Cargo and related Invoices were prepared by his staff in his office and later handed over to Shri Maharaj alias Shri Bhupendra S. Joshi; that clearance was done fraudulently without his knowledge.

Further statement of Shri Jayesh Dolatrai Muni was recorded on 29.11.08 under Section 108 of the Customs Act, 1962, wherein he inter-alia stated that he used to pay Rs. 400/- to Rs. 500/- per consignment, depending upon the export business; that Shri Maharaj used to hand over the cheques to him for the payments of clearance of the export consignments done by him (Maharaj) on behalf of M/s. Muni Cargo; that for the exports brought by him he would cut his agency charges from the payment of cheques and would

return the balance amount in cash to Shri Maharaj; that in case of cash payment received from exporters, Shri Maharaj used to deduct his amount and gave the balance amount to him (Jayesh D. Muni) as commission/ agency charges; that 80% to 90% of the amount Shri Maharaj received from the exporters (whose consignment were cleared by Maharaj) were paid to him (Shri Jayesh D Muni) because Shri Maharaj was using his CHA Licence; that Annexures for six Shipping Bills (6845956, 6845973, 6845962, 6845960, 6845927 and 6845952 all dated 19.11.2008) were prepared and brought by Shri Maharaj and were allotted Job Nos and duly signed by Shri Bipin Mishra and himself; that neither he nor his staff attended the examination of the export consignments brought by Shri Maharaj; that it was his mistake and he confessed that neither he nor anyone from his office attended the clearance; that he trusted Maharaj in good faith and for a little monetary consideration he allowed him (Shri Maharaj) to use his licence; that he did not know anyone from the export firms i.e. M/s. Silver Rock Export Co, M/s. Star Trade Linkers and M/s. Mamta International; that he did not verify the genuineness of these exporters and accepted his mistakes.

Further statement of Shri Jayesh Dolatrai Muni was recorded on 30.11.2008 under Section 108 of the Customs Act, 1962 wherein, he inter-alia stated that all the six Shipping Bills Annexures were filed and signed by him and he handed over those papers to one person named Shri Maharaj for further action; that on being asked, Shri Maharaj told that the Shipping Bills were lying with him and further informed that the Cargo had not arrived so far and he (Maharaj) would hand over the envelopes containing the six Shipping Bills Annexures to him (Jayesh D. Muni) as and when the cargo arrived; that he had not enquired/ verified the authenticity of exporters of the said consignments; that he was not aware that the goods had arrived, examined, stuffed and transported to port.

Further Statement of Shri Jayesh D Muni was recorded on 04.12.08, wherein, he stated that EP copies of the shipment of consignments for which documentation was done by Maharaj, using his licence, must be in his office; that whenever the EP copies were received in his office, Shri Maharaj used to collect it and send to party/ exporters; that only

Shri Bhupendra S Joshi kept track of the EP copies and handed over the copies to the party further; that some of the representative of Shri Maharaj used to come to his office and used to hand over it to his staff; that he never kept track of EP copies and it was Shri Maharaj who used to collect EP Copies from his office; that he did not have any role in clearing and processing the Drawback claim of the exporters whose documentation was done by Shri Maharaj in his (Muni Cargo Movers) firm's name.

From the above facts, it appeared that the CB M/s. Muni Cargo Movers Pvt. Ltd. had allowed Shri Bhupendra Shambulal Joshi alias Maharaj to use their CB Licence for a monetary consideration of Rs. 15000/- per month. This fact was supported by various statements of Shri Jayesh D. Muni, Director of the CB Firm. As per Regulation 12 of the CHALR, 2004, the CB should not sell or transfer their CB Licence. However, in this case, the CB allowed their Licence to be used by Shri Bhupendra S. Joshi in contravention of the provisions of Regulation 12 of the CHALR, 2004 (now Regulation 1(4) of the CBLR, 2018).

ii. Article of Charge – II: As per the provisions of Regulation 13(a) of the CHALR, 2004 (now Regulation 10(a) of the CBLR, 2018):

“A Customs House Agent shall obtain an authorization from each of the companies, firms or individuals by whom he is for the time being employed as Customs House Agent and produce such authorization whenever required by the Deputy Commissioner of Customs or the Assistant Commissioner of Customs”

Various Statements of Shri Jayesh D. Muni, Director of M/s Muni Cargo Movers Pvt Ltd were recorded wherein, he admitted that he had allowed one Shri Bhupendra S. Joshi alias Maharaj to use his licence for some monetary consideration. Further, it had been admitted by Shri Muni that he allowed Shri Bhupendra S. Joshi to use his licence for clearing the consignments in respect of around 20-25 exporters and almost all those Exporters had claimed Drawback benefits. Shri Muni stated that he was not in possession of any authority letters from many of those Exporters. Moreover, he never met any of the exporters. He could not give any details of the exporters. It was evident that no attempt was

made at any stage by Shri Jayesh Muni or his staff to verify the genuineness of those exporters.

Shri Bipin Mishra, Manager (Imports) of M/s. Muni Cargo Movers in his Statement dated 27.11.2008 recorded under Section 108 of the Customs Act, 1962 stated that Shipping Bills Nos. 6845973, 6845962, 6845956 and 6845960 of M/s. Silver Rock Export Co, Shipping Bill No. 6845952 of M/s. Mamta International and Shipping Bill No. 6845927 of M/s. Star Trade Linkers (all dated 19.11.2008) and the concerned checklists were signed by him after obtaining signature of his boss, Shri Jayesh Muni. Further, he inter-alia stated that Shri Bhupendra S. Joshi alias Maharaj used to bring export business to them for a commission and the business of the above-mentioned companies were also brought by him and Shri Jayesh D. Muni accepted these jobs.

Statement of Shri Jayesh D. Muni, Director of M/s. Muni Cargo Movers Pvt Ltd, CHA No. 11/929 was recorded under Section 108 of the Customs Act, 1962. on 28.11.2008 wherein, he inter-alia stated that he knew that the consignments of three exporters M/s. Silver Rock, M/s. Star Trade Linkers and M/s. Mamta International had been cleared through his agency; that Shri Maharaj alias Joshi was marketing agent and also brought clients to him; that the Proprietors of above said firms/exporters had never met him; that Shri Maharaj brought the documents for clearance of the consignments of the said three exporters; that the invoices, packing list and other details such as PAN No., AD Code, Drawback A/c No. were given to him by Shri Maharaj; that IEC Copy for M/s. Mamta International and Authority Letters for all three were awaited and it was assured by Shri Maharaj that the same would be given in due course before shipment; that he prepared the Annexures for Checklist and Shri Maharaj had collected the Annexures copies after getting them signed by Shri Bipin Mishra, his employee and a G category Customs Pass Holder; that he had never met any of the exporters whose clearance work was brought by Shri Maharaj; that documents for some export consignments were prepared by Maharaj and some were prepared by him; that calling, clearance and shipping was handled by Shri Maharaj; that he did not know how Maharaj handled those things when he was not having

Customs Pass; that he submitted the EP copies of the export consignment cleared by him in the name of M/s. Muni Cargo; that he or Shri Bipin Mishra used to sign the Annexures for the clearance of the export consignments brought by Shri Maharaj; that he only used to sign the Shipping Bills of the parties whose clearance work was undertaken by Shri Maharaj, on behalf of M/s. Muni Cargo;

Further statement of Shri Jayesh Dolatrai Muni was recorded on 29.11.08 under Section 108 of the Customs Act, 1962, wherein he inter-alia stated that as Maharaj was using his CHA Licence therefore for this big favour, Maharaj used to part with major portion of the money and passed on to him (Jayesh Muni); that Annexures for six Shipping Bills (6845956, 6845973, 6845962, 6845960, 6845927 and 6845952 all dated 19,11.2008) were prepared by Shri Maharaj and were allotted Job Nos and duly signed by Shri Bipin Mishra and himself; that he did not know anyone from the export firms i.e. M/s, Silver Rock Export Co, M/s. Star Trade Linkers and M/s. Mamta International; that he did not verify the genuineness of the exporters and accepted his mistakes. Further statement of Shri Jayesh Dolatrai Muni was recorded on 30.11.2008 under Section 108 of the Customs Act, 1962 wherein, he inter-alia stated that all the six Shipping Bills Annexures were filed and signed by him and he handed over those papers to one person by the name Shri Maharaj for further action; that he had not enquired/ verified the authenticity of exporters of the said consignments; that he was not aware that the goods had arrived, examined, stuffed and transported to port; that it was his mistake and requested to take lenient view in the matter.

It was clear from the above statements that the CB M/s. Muni Cargo Movers Pvt Ltd had not obtained the authority letters at any point of time which was necessary as per Regulation 13(a) of the CHALR, 2004. It was further found that the CHA had not met the exporters at any point of time and they did not verify the genuineness of the exporters. The CB had obtained the documents brought by Shri Maharaj, who was neither the IEC holder nor the authorized representative of the exporters. As per Regulation 13(a) of the CHALR, 2004, the CB should get the clearance work from the Exporters and they should obtain authorization letters directly from the exporters. In case the CB obtains authorization letters

from any third person, the same is invalid. In this case, the CB did not meet the exporters at any point of time and they never tried to verify the genuineness of the exporters. Further, they did not obtain Authorization Letters from the exporters and allowed use of their CB Licence by Shri Bhupendra S. Joshi alias Maharaj in contravention of the provisions of Regulation 13(a) of the CHALR, 2004 (now Regulation 10(a) of the CBLR, 2018).

iii. Article of Charge - III: As per Regulation 13(d) of the CHALR, 2004 (now Regulation 10(d) of the CBLR, 2018):

“Customs House Agent shall advise his client to comply with the provisions of the Act and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or the Assistant Commissioner of Customs”.

Various Statements of Shri Jayesh D. Muni, Director of M/s Muni Cargo Movers Pvt Ltd were recorded wherein, he admitted that he had allowed one Shri Bhupendra S. Joshi alias Maharaj to use his licence for some monetary consideration. Further, it had been admitted by Shri Muni that he allowed Shri Bhupendra S. Joshi to use his licence for clearing the consignments in respect of around 20-25 exporters and almost all those Exporters had claimed Drawback benefits. Shri Muni stated that he was not in possession of any authority letters from many of those Exporters. Moreover, he never met any of the exporters. He could not give any details of the exporters. It was evident that no attempt was made at any stage by Shri Jayesh Muni or his staff to verify the genuineness of those exporters.

Shri Bipin Mishra, Manager (Imports) of M/s. Muni Cargo Movers in his Statement dated 27.11.2008 recorded under Section 108 of the Customs Act, 1962 stated that Shipping Bills Nos. 6845973, 6845962, 6845956 and 6845960 of M/s. Silver Rock Export Co, Shipping Bill No. 6845952 of M/s. Mamta International and Shipping Bill No. 6845927 of M/s. Star Trade Linkers (all dated 19.11.2008) and the concerned checklists were signed by him after obtaining signature of his boss, Shri Jayesh Muni. Further, he inter-alia stated that Shri Bhupendra S. Joshi alias Maharaj used to bring export business

to them for a commission and the business of the above-mentioned companies were also brought by him and Shri Jayesh D. Muni accepted these jobs.

Statement of Shri Jayesh D. Muni, Director of M/s. Muni Cargo Movers Pvt Ltd, CHA No. 11/929 was recorded under Section 108 of the Customs Act, 1962. on 28.11.2008 wherein, he inter-alia stated that he knew that the consignments of three exporters M/s. Silver Rock, M/s. Star Trade Linkers and M/s. Mamta International had been cleared through his agency; that Shri Maharaj alias Joshi was marketing agent and also brought clients to him; that the Proprietors of above said firms/exporters had never met him; that Shri Maharaj brought the documents for clearance of the consignments of the said three exporters; that the invoices, packing list and other details such as PAN No., AD Code, Drawback A/c No. were given to him by Shri Maharaj; that IEC Copy for M/s. Mamta International and Authority Letters for all three were awaited and it was assured by Shri Maharaj that the same would be given in due course before shipment; that he prepared the Annexures for Checklist and Shri Maharaj had collected the Annexures copies after getting them signed by Shri Bipin Mishra, his employee and a G category Customs Pass Holder; that he had never met any of the exporters whose clearance work was brought by Shri Maharaj; that documents for some export consignments were prepared by Maharaj and some were prepared by him; that calling, clearance and shipping was handled by Shri Maharaj; that he did not know how Maharaj handled those things when he was not having Customs Pass; that he submitted the EP copies of the export consignment cleared by him in the name of M/s. Muni Cargo; that he or Shri Bipin Mishra used to sign the Annexures for the clearance of the export consignments brought by Shri Maharaj; that he only used to sign the Shipping Bills of the parties whose clearance work was undertaken by Shri Maharaj, on behalf of M/s. Muni Cargo;

Further statement of Shri Jayesh Dolatrai Muni was recorded on 29.11.08 under Section 108 of the Customs Act, 1962, wherein he inter-alia stated that as Maharaj was using his CHA Licence therefore for this big favour, Maharaj used to part with major portion of the money and passed on to him (Jayesh Muni); that Annexures for six Shipping

Bills (6845956, 6845973, 6845962, 6845960, 6845927 and 6845952 all dated 19.11.2008) were prepared by Shri Maharaj and were allotted Job Nos and duly signed by Shri Bipin Mishra and himself; that he did not know anyone from the export firms i.e. M/s, Silver Rock Export Co, M/s. Star Trade Linkers and M/s. Mamta International; that he did not verify the genuineness of the exporters and accepted his mistakes. Further statement of Shri Jayesh Dolatrai Muni was recorded on 30.11.2008 under Section 108 of the Customs Act, 1962 wherein, he inter-alia stated that all the six Shipping Bills Annexures were filed and signed by him and he handed over those papers to one person by the name Shri Maharaj for further action; that he had not enquired/ verified the authenticity of exporters of the said consignments; that he was not aware that the goods had arrived, examined, stuffed and transported to port; that it was his mistake and requested to take lenient view in the matter.

It was evident from the above statements that the CB M/s. Muni Cargo Movers Pvt Ltd had not met the exporters at any point of time and they did not verify the genuineness of the exporters. The CHA had obtained the documents brought by Shri Maharaj, who was neither the IEC holder nor the authorized representative of the exporters. It was therefore clear that the CB did not meet the exporters at any point of time and hence, the question of advising the exporters/ clients to comply with the provisions of the Act did not arise. The CB was aware of the fact that Shri Maharaj was not the IEC Holder of any of the exporting firms and they did not even doubt Shri Maharaj how he brought the clearance work of different IEC holders. As a licensed CB, they should not have entertained any middle man/commission agent and should have obtained the clearance work from the IEC holders. In this case, the CB accepted the clearance work from an imposter. Although the CB was aware of these facts, they remained silent for monetary consideration and did not inform the Customs Authority, which was in contravention of the provisions of Regulation 13(d) of the CHALR, 2004 (now Regulation 10(d) of the CBLR, 2018).

iv. Article of Charge - IV: As per Regulation 13(n) of the CHALR, 2004 (now Regulation 10(m) of the CBLR, 2018):

“A Customs House Agent shall ensure that he discharge his duties as Customs House Agent with utmost speed and efficiency and without avoidable delay”.

Various Statements of Shri Jayesh D. Muni, Director of M/s. Muni Cargo Movers Pvt. Ltd. were recorded wherein, he admitted allowing use of his CB Licence by one Shri Bhupendra S. Joshi alias Maharaj for monetary consideration. Further, it had been admitted by Shri Jayesh Muni, that he allowed Shri Bhupendra S. Joshi to use his licence for clearing the consignments in respect of around 20-25 exporters and almost all the exporters had claimed Drawback benefits. Shri Jayesh Muni stated that he was not in possession of authority letters of many of those exporters. Moreover, he never met any of the exporters. He could not give any details of those exporters. It has been found that no attempt was made at any stage by Shri Jayesh Muni or his staff to verify the genuineness of those exporters. Shri Bhupendra S. Joshi alias Maharaj also admitted having used licence of the CB M/s. Muni Cargo Movers Pvt Ltd on payment to Shri Jayesh Muni. The CB thus allowed an imposter to attend the Customs work, which was supposed to be done by them.

It appeared from the above that the CB failed to discharge their duties as Customs House Agent efficiently, which was in contravention of the provisions of Regulation 13(n) of the CHALR, 2004 (now Regulation 10(m) of the CBLR, 2018).

5. Thus, in view of the discussions in above paras, it appeared that the Customs Broker had failed to fulfil their obligations under the provisions of Regulations 12, 13(a), 13(d) and 13(n) of the CHALR, 2004 [now Regulations 1(4), 10(a), 10(d) and 10(m) of the CBLR, 2018] and contravened the same. Accordingly, an Inquiry against M/s Muni Cargo Movers Pvt. Ltd. (CB License No. 11/929) was ordered by the Commissioner of Customs (General) under Regulation 22 of the CHALR, 2004 (now Regulation 17 of the CBLR, 2018) to inquire into the Articles of Charges framed as per Notice F.No. S/8-77/2008-Admn/1423 dated 29.01.2010. By Order of even file no. dated 29.01.2010 Shri R.K. Sehgal, Deputy Commissioner of Customs was appointed as the Inquiry Officer.

5.1 The Inquiry Officer (herein after referred to as the ‘IO’) concluded the inquiry proceedings and submitted the Inquiry Report vide letter F.No. RKS/INQ/1/2010 dated

11.02.2011 wherein, amongst the charges levelled against the CB, the charge of violation of Regulation 13(a) was held as "Proved" and the charges of violation of Regulations 12, 13(d) and 13(n) of the CHALR, 2004 were held as "Not Proved".

5.2 The Personal Hearing in the matter was held on 05.04.2011 and an Order-in-Original CAO No. 39/2011/CAC/CC(G)SLM/CHA(Admn) dated 06.05.2011 was passed under Regulation 22(7) of the CHALR, 2004 (now Regulation 17(7) of the CBLR, 2018). Vide the said order, the adjudicating authority ordered revocation of the CB License No. 11/929 and forfeiture of security deposit furnished by the CB M/s Muni Cargo Movers Pvt. Ltd.

5.3 Aggrieved by the said Order, the CB M/s. Muni Cargo Movers Pvt. Ltd. filed an Appeal No. C/399/11-MUM in Hon'ble CESTAT, Mumbai Bench against Order-In-Original No. 39/2011/CAC/CC(G)SLM/CHA(Admn) dated 06.05.11. Hon'ble CESTAT vide Order No. A/996/13/CSTB/C-I dated 23.04.13 set aside the order of revocation of licence and allowed the appeal by way of remanding back to the Commissioner for fresh adjudication after putting the appellant to notice with respect to the disagreements with the findings of the Inquiry Officer with direction to dispose the matter within a period of 60 days from the date of receipt of the Hon'ble Tribunal's order. The said order of the Hon'ble Tribunal was received in this office on 27.05.2013.

The decision of the Hon'ble CESTAT was accepted and accordingly a Disagreement Memorandum dated 11.06.13 was issued to the CB bringing out the grounds for disagreeing with the findings of the Inquiry Officer in respect of his findings with regard to the Articles of charges for violation of Regulations 12, 13(d) & 13(n) of the CHALR, 2004 (now Regulations 1(4), 10(d) and 10(m) of the CBLR, 2018). A personal hearing was granted to the CB on 25.06.13. The CB vide letter dt 24.06.13 sought postponement of PH by three weeks which was acceded to and the PH was re-scheduled on 16.07.13. The CB attended the PH on 16.07.13 and made his oral submission and also submitted written representation dated 15.07.13.

5.4 Meanwhile, a case was reported by SIIB (Import), JNCH, Nhava Sheva vide Show Cause Notice F.No. SG-Misc-285/2009-SIIB(I)-JNCH dated 15.02.10 where the CB, M/s. Muni Cargo Movers Pvt. Ltd (CB License No. 11/929) was a co-noticee in a case of improper imports of plastic flowers vide Bill of Entry No. 691317 dated 21.11.08 in the name of M/s Raviraj Enterprises by misusing the IEC. Articles of Charges supported by Grounds of Imputation were framed in this case for violation of Regulations 13(a), 13(d), 13(e) & 13(n) of CHALR, 2004. Inquiry was initiated vide Notice of Inquiry dated 30.11.2010. The Inquiry Officer submitted the Inquiry Report vide letter dt 30.04.12 holding all four charges as proved. The Inquiry report was served on the CHA after which a personal hearing was given which was attended by the CHA on 01.08.12.

5.5 As the licence was already revoked at the material time in the first case, as discussed above, and the Appeal No. C/399/11-MUM of the CB against the revocation was pending before the Hon'ble Tribunal, it was decided that further action in the case could be taken only after the decision of the Hon'ble Tribunal in the aforementioned appeal and accordingly the adjudication of the case was kept in abeyance.

5.6 Since, the Order No. A/996/13/CSTB/C-I dated 23.04.13 was passed by the Hon'ble CESTAT, Mumbai Bench in the abovementioned Appeal No. C/399/11- MUM and the same was accepted by the competent authority, the adjudicating authority took up the adjudication of both the cases together.

5.7 Order-in-Original CAO No. 87/2013/CAC/CC(G)/PKA-CHA(Admn) dated 22.07.2013 was passed as follows:

“(i) In compliance with the directions of the Hon'ble CESTAT, Mumbai Bench passed vide Order No. A/996/13/CSTB/C-I dated 23.04.13 in the first case (Appeal No. C/399/11- MUM) and in exercise of the powers conferred under Regulations 22(7) and 20(1) of the Custom House Agents Licensing Regulations, 2004, I, Commissioner of Customs (General), Mumbai, hereby order the revocation of the CHA Licence of M/s. Muni Cargo Movers Pvt Ltd, CHA No.11/929 [PAN No. AACCM3602K] with immediate effect and also order the forfeiture of entire amount of Security Deposit of M/s. Muni Cargo Movers Pvt Ltd.”

“(ii) Notwithstanding the revocation of the CHA Licence alongwith full forfeiture of security deposit in the first case, I hold that the failure of the CHA to comply with the impugned provisions of the CHALR, 2004 in the second case makes it a fit case by itself for revocation of licence and accordingly, I order the revocation of the CHA licence alongwith forfeiture of the entire security deposit of M/s. Muni Cargo Movers Pvt Ltd, CHA No.11/929 in the second case also wherein proceedings under Regulation 22 were initiated vide Notice of Inquiry dated 30.11.10.”

5.8 Aggrieved by the said Order, the CB M/s. Muni Cargo Movers Pvt. Ltd. filed an Appeal No. 85907 of 2016 in Hon’ble CESTAT, Mumbai Bench against Order-In-Original No. 87/2013/CAC/CC(G)/PKA-CHA(Admn) dated 22.07.2013. Hon’ble CESTAT vide Final Order No. A/85356/2023 dated 01.03.2023 allowed the appeal by way of remand warranting status quo ante for revisit of each case separately. The Hon’ble Tribunal’s observations were as below:

(i) Para 2 - The licencing authority resorted to disposal of two proceedings, initiated separately and chronologically spanned, by common order after the first, arising from ‘offence report’ of 5th December 2008 and culminating in revocation that was appealed against before the Tribunal with plea of not having been placed on notice of intent of Commissioner of Customs to disagree with inquiry report holding three of the four charges as not proved, was remanded back for adherence to procedural prescriptions by order of 23rd April 2013 and the second, arising from offence report of 15th February 2010, was awaiting decision of Commissioner of Customs upon submission of inquiry report dated 30th March 2012 holding all four charges as proved. Disagreement memo in the former issued on 25th June 2013 had been responded to on 15th July 2013 which sets the time-frame of disposal within reason though the elapse of time after response of ‘customs broker’ in the other matter filed on 17th July 2012 remains untouched in the impugned order.

(ii) Para 5 - It certainly fails in appeal to logic and reason that a licence issued under the Customs House Agents Licensing Regulations, 2004 that has been revoked by competent authority accompanied by forfeiture of security deposit, can, in the same metaphorical breath, be revived by the same authority for being subjected to revocation and forfeiture of deposit once again. Nor can it don the saving grace of rational purpose in such sequential detriment unless, at best, it had occurred to the licensing authority that one of the two erasures lacked sufficient foundation to sustain or, at worst, that ‘customs brokers’ are fair game for whimsical scattering of retribution. The patent non- application of mind in, thus, merging two separate,

and independent, proceedings for reasons not adduced, and incomprehensible, should not pass unnoticed.

(iii) Para 6 & 7 - Disposing off the request for cross examination of the two witnesses viz Shri Bhupendra Shambulal Joshi @ Maharaj and Shri Arun Laxman Gayake in para 18.7 of the impugned order by stating that "it is surprising that the CHA has made such a belated request for cross-examination", and also referring to it as a "dilatatory tactic and does not deserve consideration." Whereas the Statement had been relied upon by the licencing authority to differ with the conclusions of the inquiry authority, as sought for in response to disagreement memo communicated to the 'customs broker' upon direction of the Tribunal in the remand order. In the circumstances in which the appellant approached the Tribunal on the former occasion viz. unanticipated revocation despite favourable findings in inquiry report with no premonition of the justification likely to be appropriated for extinguishment of licence, neither would it have been necessary to visit the statements of the persons till responding to disagreement memo nor to impugn those statements in appeal before the Tribunal then. Hence, such cavalier dismissal of request for cross-examination affects the credibility of the disagreement memo.

(iv) Para 8 - In combining both the proceedings and, that too, of one which had been remanded by the Tribunal, specifically directing that the deficit, in the not so usual circumstances of supplanting of inquiry findings, be bridged, with another that was on entirely different facts and imputation of breach of obligations, the licencing authority has desecrated the sanctity of higher judicial authority, and compromised the impugned order thereby, warranting status quo ante for revisit of each, separately, for shedding the taint of extraneous influence and prejudiced disposal.

(v) Para 9 - We, therefore, do not propose to subject the merit of the submissions to scrutiny and evaluation but, instead, set aside the impugned order and remand both proceedings back to the licencing authority for fresh decisions while adjuring strict compliance with the earlier order of the Tribunal.

5.9 The decision of the Hon'ble CESTAT was accepted by the competent authority.

With regard to the observations made by the Hon'ble CESTAT w.r.t Case-1 i.e. Offence Report dated. 05.12.08 in Para 5 of the Hon'ble CESTAT vide Order No. A/996/13/CSTB/C-I dated 23.04.13 and further in Para 6 and Para 7 of the Hon'ble CESTAT Final Order No. A/85356/2022 dated 01.03.2023, it became imperative to give the CB an opportunity to cross examine the two witnesses viz Shri Bhupendra Shambulal Joshi alias Maharaj and Shri Arun Laxman Gayake. Accordingly, considering that the

subject case is of the year 2008 (15 years had passed) and as per CBLR, 2018 the cross examination can only be given at the inquiry stage, Shri Tikendra Kumar Kripal, Deputy Commissioner was appointed as Inquiry Officer (hereinafter referred to as the 'IO') for conducting a fresh Inquiry into the matter. The same was communicated to the IO vide letter dated 11.12.2023.

INQUIRY REPORT: -

6. The Inquiry Officer (here in after referred to as the 'IO') concluded the inquiry proceedings and submitted the Inquiry Report dated 14.08.2024. However, on perusal of the Inquiry Report some discrepancies were noticed which were communicated to the IO vide letter dated 07.02.2025. Consequently, the IO submitted an amended Inquiry Report dated 31.07.2025, wherein all the charges levelled against the CB of violations of Regulations 12, 13(a), 13(d) and 13(n) of the CHALR, 2004 were held as "Proved". The IO stated that the Sh. Jayesh Muni, Director of M/s. Muni Cargo Movers Pvt. Ltd. (CB License No. 11/929) was given multiple Personal Hearing (PH) opportunities but he failed to appear. Consequently, the inquiry proceedings were affected and the Inquiry Report was delayed beyond the timeline specified under the CBLR, 2018.

FINDINGS OF THE INQUIRY OFFICER: -

7. The IO submitted that from the facts and statements recorded, it was evident that M/s. Muni Cargo Movers Pvt. Ltd. wilfully allowed Shri Bhupendra Shambhulal Joshi alias Maharaj, a non-employee and unauthorized person, to use their CB licence for monetary consideration, in contravention of Regulation 12 of the CHALR, 2004. The IO submitted that the CB failed to verify the credentials of the exporters and allowed preparation and submission of export documents without due diligence. The IO submitted that the clearance of six export consignments was carried out without the involvement of authorized CB staff, and sensitive documents were handled by Shri Maharaj and his associates. The IO stated that the misuse of licence and failure to exercise control over export operations reflected gross negligence and lack of regulatory compliance by the CB. Hence, the role of the CB in facilitating unauthorized clearance activities was clearly

established. The IO submitted that it was proved beyond doubt that M/s. Muni Cargo Movers Pvt. Ltd., the CB, violated Regulation 12 of the CHALR, 2004.

7.1 The IO further submitted that the CB did not obtain any authorization letters from the exporters concerned, nor did they ever meet or verify the genuineness of the exporters. Instead, all documents, including invoices, IEC details and shipping documents were received through Shri Bhupendra S. Joshi alias Maharaj who was neither the IEC holder nor the authorized representative of the exporters. The IO submitted that this violation was proved from the statements of Shri Jayesh D. Muni recorded under Section 108 of the Customs Act, 1962, wherein he admitted that he had no contact with the exporters and had not obtained authorization letters from them. It was clearly established and proved that the CB M/s. Muni Cargo Movers Pvt. Ltd. had violated Regulation 13(a) of the CHALR, 2004.

7.2 The IO submitted that it was conclusively established from the facts and voluntary statements recorded under Section 108 of the Customs Act, 1962 that M/s. Muni Cargo Movers Pvt. Ltd. through their Director Shri Jayesh D. Muni, had violated Regulation 13(d) of the CHALR, 2004. The IO submitted that as per the said regulation, a CB is obligated to advise their clients (i.e., the actual IEC holders/exporters) to comply with the provisions of the Customs Act and allied laws. However, in this case, the CB never interacted with the actual exporters, nor did they verify their genuineness. Instead, the CB knowingly accepted clearance work from Shri Bhupendra S. Joshi alias Maharaj who was neither the IEC holder nor an authorized representative of the exporters. Despite being aware that Shri Maharaj was not the legitimate party, the CB did not raise any concern or inform Customs authorities. The IO submitted that it was clearly established that M/s. Muni Cargo Movers Pvt. Ltd. had violated Regulation 13(d) of the CHALR, 2004.

7.3 The IO submitted that from the facts on record and from the statements of Shri Jayesh D. Muni and Shri Bhupendra S. Joshi alias Maharaj, it was clearly established that M/s. Muni Cargo Movers Pvt. Ltd. had violated Regulation 13(n) of the CHALR, 2004 which mandates that a Customs House Agent shall discharge its functions with utmost efficiency, professionalism, and integrity. The IO submitted that in this case, the CB

knowingly allowed an unauthorized person Shri Maharaj to use their CB licence for monetary consideration to clear consignments of 20–25 exporters without verifying the identity or genuineness of the exporters and without obtaining the mandatory authority letters. The IO submitted that the CB admitted to having no knowledge of these exporters and permitted an imposter to carry out clearance work on their behalf, without supervision or proper authorization. The IO submitted that it was clearly established and proved that M/s. Muni Cargo Movers Pvt. Ltd. had violated Regulation 13(n) of the CHALR, 2004.

7.4 The IO submitted that from the facts on record and the statements recorded under Section 108 of the Customs Act, 1962, it was conclusively established that M/s. Muni Cargo Movers Pvt. Ltd., through their Director Shri Jayesh D. Muni, had committed multiple violations of the CHALR, 2004. The IO submitted that the CB wilfully allowed Shri Bhupendra S. Joshi alias Maharaj, a non-employee and unauthorized person to use their CB licence for monetary consideration in clear violation of Regulation 12. The IO submitted that the CB failed to obtain authorization letters or verify the identity of the exporters, instead accepting documents from Shri Maharaj, who was neither the IEC holder nor an authorized representative, thereby violating Regulation 13(a). The IO stated that the CB never interacted with the exporters and made no attempt to advise them on compliance with Customs laws, in breach of Regulation 13(d). Furthermore, by allowing an imposter to carry out customs clearance work without supervision and failing to discharge their responsibilities diligently, the CB acted in contravention of Regulation 13(n).

7.5 The IO concluded that he was of the considered opinion that the allegations against the Customs Broker of violations of Regulations 12, 13(a), 13(d) and 13(n) of the CHALR, 2004 (now Regulations 1(4), 10(a), 10(d) and 10(m) of the CBLR, 2018) were clearly established and proved during the inquiry. The summary of the findings is as below:

SI. No.	Charges Against the CB	Findings
1.	Violation of Regulation 12 of the CHALR, 2004	Proved
2.	Violation of Regulation 13(a) of the CHALR, 2004	Proved
3.	Violation of Regulation 13(d) of the CHALR, 2004	Proved
4.	Violation of Regulation 13(n) of the CHALR, 2004	Proved

RECORDS OF PERSONAL HEARING: -

8. Under the provisions of Regulation 22(6) of the CHALR, 2004 (now Regulation 17(6) of the CBLR, 2018) a copy of the Inquiry Report dated 31.07.2025 was shared with the CB vide letter dated 28.08.2025 and further, to uphold the Principle of Natural Justice an opportunity of personal hearing (PH) was granted to the CB on 23.09.2026. The PH was later rescheduled to 26.09.2025 due to administrative reasons. However, the CB failed to appear for the PH on the scheduled date and also did not send any communication regarding their absence. Further, 04 more PH opportunities were granted to the CB on 15.10.2025, 24.11.2025, 09.02.2026 and 26.02.2026. However, the CB failed to appear on any of the scheduled dates.

DISCUSSIONS AND FINDINGS: -

9. I have gone through the facts and records of the case; the offence report received in the form of Letter F.No. INT/SIIB(X)/128/2008-JNCH dated 05.12.2008 received on 08.12.2008 from the Commissioner of Customs (Export), JNCH, Mumbai Zone – II; Show Cause Notice dated 24.11.2009 issued vide F.No. INT/SIIB(X)-128/08-09-JNCH by the Commissioner of Customs (Export), JNCH, Mumbai Zone – II; the Inquiry Order dated 29.01.2010 issued under Regulation 22(1) of the CHALR, 2004; Order-in-Original CAO No. 39/2011/CAC/CC(G)SLM/CHA(Admn) dated 06.05.2011 passed under Regulation 22(7) of the CHALR, 2004; Hon'ble CESTAT, Mumbai Bench Order No. A/996/13/CSTB/C-I dated 23.04.13; Disagreement Memorandum dated 11.06.13 issued to the CB; Order-in-Original CAO No. 87/2013/CAC/CC(G)/PKA-CHA(Admn) dated 22.07.2013 passed under Regulation 22(7) of the CHALR, 2004; Hon'ble CESTAT Mumbai Bench Final Order No. A/85356/2023 dated 01.03.2023 and the Inquiry Report dated 31.07.2025. I find that the CB was granted multiple opportunities for Personal Hearing as elaborated in the foregoing paras but failed to appear. I, therefore proceed with the adjudication of the case on the basis of facts and evidences available on record.

9.1 I find that initially information was received from the Special Investigation and Intelligence Branch (Export), JNCH, Nhava Sheva vide Letter F.No.

INT/SIIB(X)/128/2008-JNCH dated 05.12.08 which reported regarding the role of M/s. Muni Cargo Movers Pvt. Ltd. (CB License No. 11/929), in a case of fraudulent export of "rags/ tailor waste" by declaring it as "Readymade Garments" so as to get undue Duty Drawback benefit. Pursuant to receipt of offence report the CB Licence was placed under suspension vide Order No. 81/2008 dated 10.12.08 and the suspension was further continued vide Order No. 17/2009 dated 18.05.09. Articles of Charges supported by Grounds of Imputation were framed against the CB for violation of Regulations 12, 13(a), 13(d) & 13(n) of CHALR, 2004 and Inquiry proceedings were initiated against the CB under Regulation 22 of CHALR, 2004 vide Notice of Inquiry dated 29.01.2010. The Inquiry Officer submitted his Inquiry Report vide letter dated 11.02.2011 wherein, he held violation of Regulation 13(a) as "proved" and those of Regulations 12, 13(d) & 13(n) as "not proved". The inquiry report was served on the CB and a personal hearing granted after which the case was decided vide Order No. 39/2011/CAC/CC(G)SLM/CHA(Admn) dated 06.05.2011 wherein, the CB licence was revoked and the entire security deposit was forfeited.

Aggrieved by this decision the CB filed an appeal No. C/399/2011 before the Hon'ble CESTAT, West Zonal Bench, Mumbai. The Hon'ble Tribunal vide Order No. A/996/13/CSTB/C-I dated 23.04.13 set aside the order of revocation of licence and allowed the appeal by way of remanding back to the Commissioner for fresh adjudication after putting the appellant to notice with respect to the disagreements with the findings of the Inquiry Officer with direction to dispose of the matter within a period of 60 days from date of receipt of the Hon'ble Tribunal's order. This order of the Hon Tribunal was received in this office on 27.05.13. The decision of the Hon'ble CESTAT was accepted and accordingly a Disagreement Memorandum dated 11.06.13 was issued to the CB bringing out the grounds for disagreeing with the findings of the Inquiry Officer in respect of his findings with regard to the Articles of charges for violation of Regulations 12, 13(d) & 13(n) of CHALR, 2004. A personal hearing was granted on 25.06.13. The CB vide letter dt 24.06.13 sought postponement of PH by three weeks which was acceded to and the PH

was re-scheduled on 16.07.13. The CB attended the PH on 16.07.13 and made his oral submission and also submitted written representation dated 15.07.13.

9.2 Further, a case was reported by SIIB (Import), JNCH, Nhava Sheva vide SCN F.No. SG-Misc-285/2009-SIIB(I)-JNCH dated 15.02.10 where the CB, M/s. Muni Cargo Movers Pvt. Ltd. (CB License No. 11/929) was a co-noticee in a case of improper imports of plastic flowers vide Bill of Entry No. 691317 dated 21.11.08 filed in the name of M/s Raviraj Enterprises by misusing the IEC. Articles of Charges supported by Grounds of Imputation were framed in this case for violation of Regulations 13(a), 13(d), 13(e) & 13(n) of CHALR, 2004. Inquiry was initiated vide Notice of Inquiry dated 30.11.2010. The Inquiry Officer submitted the Inquiry Report vide letter dt 30.04.12 holding all four charges as Proved. The Inquiry report was served on the CB after which a personal hearing was given which was attended by the CB on 01.08.12.

As the licence was already revoked at the material time in the first case, as discussed above, and the Appeal No. C/399/11-MUM of the CB against the revocation was pending before the Hon'ble Tribunal, it was decided that further action in the case could be taken only after the decision of the Hon'ble Tribunal in the aforementioned appeal and accordingly the adjudication of the case was kept in abeyance. Since, the Order No. A/996/13/CSTB/C-I dated 23.04.13 was passed by the Hon'ble CESTAT, Mumbai Bench in the above-mentioned Appeal No. C/399/11- MUM and the same was accepted by the competent authority, the adjudicating authority took up the adjudication of both the cases together.

9.3 Order-in-Original CAO No. 87/2013/CAC/CC(G)/PKA-CHA(Admn) dated 22.07.2013 was passed under Regulation 22(7) of the CHALR, 2004 ordering revocation of the license and forfeiture of security deposit furnished by the CB. Aggrieved by the said Order the CB M/s. Muni Cargo Movers Pvt. Ltd. filed an Appeal No. 85907 of 2016 in the Hon'ble CESTAT, Mumbai Bench. Hon'ble CESTAT vide Final Order No. A/85356/2023 dated 01.03.2023 allowed the appeal by way of remand warranting status quo ante for revisit of each case separately. The decision of the Hon'ble CESTAT was accepted by the

competent authority. With regard to the observations made by the Hon'ble CESTAT w.r.t Case-1 i.e. Offence Report dated 05.12.08 in Para 5 of the Hon'ble CESTAT vide Order No. A/996/13/CSTB/C-I dated 23.04.13 and further in Para 6 and Para 7 of the Hon'ble CESTAT Final Order No. A/85356/2022 dated 01.03.2023, Shri Tikendra Kumar Kripal, Deputy Commissioner was appointed as Inquiry Officer for conducting a fresh inquiry into the matter. The IO submitted the Inquiry Report dated 31.07.2025 wherein he upheld the charges of violation of Regulations 12, 13(a), 13(d) and 13(n) of the CHALR, 2004 (now Regulations 1(4), 10(a), 10(d) and 10(m) of the CBLR, 2018).

9.4 I have analysed the conduct and role of the CB in juxtaposition with responsibilities of the CB and now proceed to record my findings on the same in the light of the materials and evidence on record. The Articles of Charges in this case has been issued under the provisions of Regulation 22(1) of the Custom House Agents Licensing Regulations (CHALR), 2004. The CHALR, 2004 was superseded by the Customs Brokers Licensing Regulations (CBLR), 2013 vide Central Board of Excise & Customs Notification No. 65/2013-Customs (N.T.) dated 21.06.2013 which was then superseded by the Customs Brokers Licensing Regulations (CBLR), 2018 vide Central Board of Indirect Taxes & Customs Notification No. 41/2018-Customs (N.T.) dated 14.05.2018. However, such supersession is subject to the saving clause in CBLR, 2018 which provides for things done or omitted to be done before such supersession. Hence, in view of the fact that the Articles of Charges had been issued before the coming into force of CBLR, 2013 and CBLR, 2018, I take up the present case for adjudication under the provisions of the erstwhile CHALR, 2004.

10. I find that 04 articles of charges have been framed against the CB viz. violation of Regulations 12, 13(a), 13(d) and 13(n) of the CHALR, 2004 (now Regulations 1(4), 10(a), 10(d) and 10(m) of the CBLR, 2018) which have been held as 'Proved' by the Inquiry Officer. Now, I proceed to discuss the articles of charges, sequentially.

10.1 Violation of Regulation 12 of the CHALR, 2004 (now Regulation 1(4) of the CBLR, 2018):

(a) I find that the charge of violation of Regulation 12 of the CHALR, 2004 has been levelled against the CB on the grounds that, Shri Bhupendra Shambulal Joshi alias Maharaj, worked as commission agent for Customs clearance of import and export documents. He was neither an employee of the CB nor a representative of the said three exporters but was using the authority of CB, M/s. Muni Cargo Movers by paying Rs. 15,000/- per month to the said CB. Shri Joshi received invoices, IEC details, Drawback A/C No., Forex Bank A/c No. and AD code details of the said three Exporters from Shri Arun Laxman Gayake and on the basis of the same, without verifying the correctness of the said details, he prepared Annexures of the above said six Shipping Bills. Further, Shri Bipin Mishra, Manager (Imports) of M/s. Muni Cargo Movers in his Statement dated 27.11.2008 recorded under Section 108 of the Customs Act, 1962 inter-alia stated that Shipping Bill(s) Nos. 6845973, 6845962, 6845956 and 6845960 of M/s. Silver Rock Export Co, Shipping Bill No. 6845952 of M/s. Mamta International and Shipping Bill No. 6845927 of M/s. Star Trade Linkers (all dated 19.11.2008) and the concerned checklists were signed by him after obtaining signature of his boss, Shri Jayesh Muni. Further, he stated that Shri Bhupendra S Joshi alias Maharaj used to bring export business to them for a commission and the business of the above-mentioned companies were also brought by him to Shri Jayesh D. Muni.

Statement of Shri Jayesh Dolatrai Muni, Director of M/s. Muni Cargo Movers Pvt Ltd, CHA No. 11/929 was recorded under Section 108 of the Customs Act, 1962, wherein, he inter-alia stated that he knew that the consignments of three exporters M/s. Silver Rock, M/s. Star Trade Linkers and M/s. Mamta International were cleared through his agency; that Shri Maharaj alias Joshi was marketing agent and also brought clients to him; that the proprietors of above said firms/ exporters had met him; that Shri Maharaj brought the documents for clearance of the consignments of the said three exporters; that the invoices, packing list and other details such as PAN No. ADC Code, Drawback A/c No. were given to him by Shri Maharaj; that IEC Copy for M/s. Mamta International and Authority Letters

for all three were awaited and it was assured by Shri Maharaj that the same would be given in due course before shipment; that he prepared the Annexures for Checklist and Shri Maharaj had collected the Annexures after getting them signed by Shri Bipin Mishra, his employee and a G category customs pass holder; that he did not know anything about the calling of the consignments covered under the six Shipping Bills; that on 27.11.08, he (Bhupendra Shambhulal Joshi) came to his (Jayesh D. Muni) office and told him that the shipment was attended by his man, Shri Arun and subsequently Shri Arun stated that it was Shri Pravin & Balu who without his (Joshi) knowledge effected the export; that he knew Shri Maharaj since 1989-90 and for the last six months Maharaj used to give approximately 20 to 30 Shipping Bills every month; that he had never met any of the exporters whose clearance work was brought by Shri Maharaj; that documents for some export consignments were prepared by Maharaj and some were prepared by him; that carting, clearance and shipping was handled by Shri Maharaj; that he did not know how Maharaj handled those things when he was not having Customs Pass; that Shri Maharaj submitted the EP copies of the export consignment cleared by him in the name of M/s. Muni Cargo; that he or Shri Bipin Mishra used to sign the Annexures for the clearance of the export consignments brought by Shri Maharaj; that he only used to sign the Shipping Bills of the parties whose clearance work was undertaken by Shri Maharaj on behalf of M/s Muni Cargo; that the real name of Shri Maharaj was Shri Bhupendra Joshi; that the six Shipping Bills showing CHA as M/s. Muni Cargo and related Invoices were prepared by his staff in his office and later handed over to Shri Maharaj alias Bhupendra Joshi; that clearance was done fraudulently without his knowledge.

Further statement of Shri Jayesh Dolatrai Muni was recorded on 29.11.08 under Section 108 of the Customs Act, 1962, wherein, he inter alia stated that he used to pay Rs. 400/- to Rs. 500/- per consignment to Shri Maharaj, depending upon the export business; that Shri Maharaj used to hand-over the cheques to him for the payments of clearance of the export consignments done by him (Maharaj) on behalf of M/s. Muni Cargo; that for the exports brought by him he would cut his agency charges from that payment of cheques and would return the balance amount in cash to Shri Maharaj; that in case of cash payment

received from exporters, Shri Maharaj used to deduct his amount and gave the balance amount to him (Jayesh D. Muni) as commission/ agency charges; that 80-90% of the amount which Shri Maharaj received from the exporters (whose consignment were cleared by Maharaj) were paid to him (Shri Jayesh D Muni); that since Maharaj was using his CHA Licence therefore for this big favour Maharaj used to part with major portion of the money and passed on to him (Muni); that Annexures for six Shipping Bills (6845956, 6845973, 6845962, 6845960, 6845927 and 6845952 all dated 19.11.2008) were prepared and brought by Shri Maharaj and were allotted Job Nos and duly signed by Shri Bipin Mishra and himself; that neither he nor his staff attended the examination of the export consignments brought by Shri Maharaj; that it was his mistake and he confessed that neither he nor anyone from his office attended the clearance; that he trusted Maharaj in good faith and for a little money he allowed him to use his licence; that he did not know any of the exporters i.e. M/s Silver Rock Export Co, M/s. Star Trade Linkers and M/s. Mamta International and that he did not verify the genuineness of these exporters and accepted his mistakes.

Further statement of Shri Jayesh Muni was recorded on 30.11.2008 under Section 108 of the Customs Act, 1962 wherein, he inter-alia stated that all the six Shipping Bills Annexures were filed and signed by him and he handed over those papers to one person by the name Shri Maharaj for further action; that on being asked, Shri Maharaj told that the same (Shipping Bills) were lying with him and further informed that the Cargo had not arrived so far and he (Maharaj) would hand-over the envelopes containing six Shipping Bills Annexures to him (Jayesh D. Muni) as and when the cargo arrived; that he had not enquired/ verified the authenticity of exporters of the said consignments; that he was not aware that the goods had arrived, examined, stuffed and transported to port; that it was his first mistake and requested for lenient view in the matter.

Further statement of Shri Jayesh D Muni was recorded on 04.12.08, wherein he stated that EP copies of the shipment of consignments for which documentation was done by Maharaj, using his licence, must be in his office; that whenever the EP copies were received in his office, Shri Maharaj used to collect it and send to party/ exporters; that only

Shri Bhupendra S Joshi kept track of the EP copies and handed over the copies to the party further; that some of the representative of Shri Maharaj used to come to his office and used to hand over it to his staff; that he never kept track of EP copies and it was Shri Maharaj who used to collect EP Copies from his office; that he did not have any role in clearing and processing the Drawback claim of the exporters whose documentation was done by Shri Maharaj in his (Muni Cargo Movers) firm's name.

From the above facts, it appeared that the CB M/s. Muni Cargo Movers Pvt. Ltd. had allowed Shri Bhupendra Shambhulal Joshi alias Maharaj to use their CB Licence for a monetary consideration of Rs. 15000/- per month. This fact was supported by various statements of Shri Jayesh D. Muni, Director of the CB Firm. As per Regulation 12 of the CHALR, 2004, the CB should not sell or transfer their CB Licence. However, in this case, the CB allowed Shri Bhupendra S Joshi to use their CB License, which is in contravention of the provisions of Regulation 12 of the CHALR, 2004.

(b) I find that the inquiry officer, in this regard, has observed that, it is evident that M/s. Muni Cargo Movers Pvt. Ltd. wilfully allowed Shri Bhupendra Shambhulal Joshi alias Maharaj, a non-employee and unauthorized person to use their CB licence for monetary consideration, in contravention of Regulation 12 of the CHALR, 2004. The IO submitted that the CB failed to verify the credentials of the exporters and allowed preparation and submission of export documents without due diligence. The IO submitted that the clearance of six export consignments was carried out without the involvement of authorized CB staff, and sensitive documents were handled by Shri Maharaj and his associates. The IO stated that the misuse of licence and failure to exercise control over export operations reflected gross negligence and lack of regulatory compliance by the CB. Hence, the role of the CB in facilitating unauthorized clearance activities is clearly established. The IO submitted that it is clearly proved that the CB M/s. Muni Cargo Movers Pvt. Ltd. violated Regulation 12 of the CHALR, 2004.

(c) Regulation 12 states that, *"Every license granted or renewed under these regulations shall be deemed to have been granted or renewed in favour of the licensee, and*

no license shall be sold or otherwise transferred". Regulation 12 thus strikes at the very heart of the licensing regime. The Customs Broker license is a personal privilege granted based on the character and qualification of the applicant; it is strictly non-transferable. Having gone through the facts and records of the case as well as various voluntary statements recorded under Section 108 of the Customs Act during the investigation, I find that the three exporters M/s. Silver Rock Export Co, M/s. Mamta International and M/s. Star Trade Linkers had never met or spoken to the CB and neither the CB nor any of his employee including Shri Bipin Mishra had ever met any of the exporters. All of them were completely ignorant about who the exporters were and there was no communication between the exporters and the CB, neither was any verification of the exporters done by the CB. Besides signing the Annexures, the CB had not done anything in respect of clearance of the consignments. From the facts of the case, it is observed that the documents were given by Shri Pravin to Shri Arun Gayake who in turn gave it to Shri Bhupendra Shambhulal Joshi alias Maharaj who prepared the Annexure and obtained the Job Nos. and signatures of the CB and got the checklist issued. Shri Maharaj then handed over the documents to Shri Arun Gayake who then got the packages unloaded and carted and got it registered and examined by Customs in the presence of Balu (his friend) & Shri Pravin. The Annexures and documents were handed over to Maharaj by the CB with his (CB's) explicit consent. The CB was also aware that the Customs clearance including carting, examination etc. was being done by Maharaj and Shri Arun and the CB had no intention of carrying out the clearance themselves. Shri Jayesh Muni in his statements recorded during the investigation has directly and explicitly accepted that Maharaj was using his CB licence due to which Maharaj was giving a large portion of the money he got from Shri Arun to the CB. The CB admitted to receiving a fixed monthly payment of Rs. 15,000/- from Shri Maharaj for the use of the license. Furthermore, the Director admitted that 80% to 90% of the amounts received from exporters were paid to him by Shri Maharaj as a "commission" for this "big favour".

Shri Jayesh Muni admitted his mistake and explicitly stated that neither he nor anyone from his staff attended the clearance of the impugned consignments and it was his

mistake and that he trusted Maharaj and allowed him to use his licence. This confirms that the CB has knowingly, intentionally and with full awareness allowed Shri Bhupendra S. Joshi alias Maharaj to use his CB licence for monetary consideration which is nothing but illegal, unauthorized subletting of licence without any written contract and without intimating to Customs. The grave lapse on the part of the CB by subletting their license for monetary gains to a middleman Shri Maharaj directly led to the attempted fraudulent export of rags/ tailoring waste declared as readymade garments claiming huge amount of undue drawback. I observe that the Inquiry Officer (IO) has correctly held this charge as Proved. By allowing a non-employee to operate under their license for a fee, the CB has effectively transferred the privilege of the license to an unauthorized middleman, which is a grave violation of the trust reposed in the CB by the Department. In light of the discussed facts and evidences I find the CB in outright violation of Regulation 12 of CHALR, 2004 (now Regulation 1(4) of the CBLR, 2018).

10.2 Violation of Regulation 13(a) of the CHALR, 2004 (now Regulation 10(a) of the CBLR, 2018):

(a) I find that the charge of violation of Regulation 13(a) of the CHALR, 2004 has been levelled against the CB on the grounds that various statements of Shri Jayesh D. Muni, Director of M/s Muni Cargo Movers Pvt Ltd were recorded wherein, he admitted that he had allowed one Shri Bhupendra S Joshi alias Shri Maharaj to use his licence for some monetary consideration. Further, it has been admitted by Shri Jayesh Muni that he allowed Shri Bhupendra S Joshi to use his licence for clearing the consignments in respect of around 20-25 exporters. Shri Muni stated that he was not in possession of any authority letters from many of the Exporters. Moreover, he never met any of those exporters. He could not give any details about those exporters. It was evident that no attempt was made at any stage by Shri Jayesh Muni or his staff to verify the genuineness of the exporters.

Shri Bipin Mishra, Manager (Imports) of M/s. Muni Cargo Movers in his Statement dated 27.11.2008 recorded under Section 108 of the Customs Act, 1962 stated that Shipping Bill(s) Nos. 6845973, 6845962, 6845956 and 6845960 of M/s. Silver Rock

Export Co, Shipping Bill No. 6845952 of M/s. Mamta International and Shipping Bill No. 6845927 of M/s. Star Trade Linkers (all dated 19.11.2008) and the concerned checklists were signed by him after obtaining signature of his boss, Shri Jayesh Muni. Further, he stated that Shri Bhupendra S. Joshi alias Maharaj used to bring export business to them for a commission and the business of the above-mentioned companies were also brought by him and Shri Jayesh D. Muni accepted those jobs.

Statement of Shri Jayesh D. Muni, Director of M/s. Muni Cargo Movers Pvt Ltd was recorded under Section 108 of the Customs Act, 1962 on 28.11.2008 wherein, he inter-alia stated that he knew that the consignments of three exporters M/s. Silver Rock, M/s. Star Trade Linkers and M/s. Mamta International had been cleared through his agency; that Shri Maharaj alias Joshi was a marketing agent and also brought clients to him; that the proprietors of above said firms/ exporters had never met him; that Shri Maharaj brought the documents for clearance of the consignments of the said three exporters; that the invoices, packing list and other details such as PAN No., AD Code, Drawback A/c No. were given to him by Shri Maharaj; that IEC Copy for M/s. Mamta International and Authority Letters for all the three exporters were awaited and it was assured by Shri Maharaj that the same would be given in due course before shipment; that he prepared the Annexures for Checklist and Shri Maharaj had collected the Annexures copies after getting them signed by Shri Bipin Mishra, his employee and a G category Customs Pass holder; that he had never met any of the exporters whose clearance work was brought by Shri Maharaj; that documents for some export consignments were prepared by Maharaj and some were prepared by him; that calling, clearance and shipping was handled by Shri Maharaj; that he did not know how Maharaj handled those things when he was not having Customs Pass; that he submitted the EP copies of the export consignment cleared by him in the name of M/s. Muni Cargo; that he or Shri Bipin Mishra used to sign the Annexures for the clearance of the export consignments brought by Shri Maharaj; that he only used to sign the Shipping Bills of the parties whose clearance work was undertaken by Shri Maharaj on behalf of M/s. Muni Cargo Movers Pvt. Ltd.

It was clear from the above statements that the CB M/s. Muni Cargo Movers Pvt Ltd had not obtained the authority letters at any point of time, which was necessary as per Regulation 13(a) of the CHALR, 2004. It was further found that the CB had not met the exporters at any point of time and also did not verify the genuineness of the exporters. The CB had obtained the documents brought by Shri Maharaj who was neither the IEC Holder nor the authorized representative of the exporters. As per Regulation 13(a) of the CHALR, 2004, the CB should get the clearance work from the exporters and they should obtain Authorization Letters directly from the exporters. In this case, the CB did not meet the exporters at any point of time and never tried to verify the genuineness of the exporters. Further, they did not obtain Authorization Letters from the exporters and allowed use of the CB Licence by Shri Bhupendra S Joshi, which was in contravention of the provisions of Regulation 13(a) of the CHALR, 2004.

(b) I find that the inquiry officer, in this regard, has observed that, that the CB did not obtain any authorization letters from the exporters concerned, nor did they ever meet or verify the genuineness of the exporters. Instead, all documents, including invoices, IEC details, and shipping documents, were received through Shri Bhupendra S. Joshi alias Maharaj who was neither the IEC holder nor the authorized representative of the exporters. The IO submitted that this violation is proved from the statements of Shri Jayesh D. Muni recorded under Section 108 of the Customs Act, 1962, wherein, he admitted that he had no contact with the exporters and had not obtained authorization letters from them. It is clearly established and proved that M/s. Muni Cargo Movers Pvt. Ltd. has violated Regulation 13(a) of the CHALR, 2004.

(c) I have perused the facts and records of the case and the findings of the inquiry officer. I observe that as far as the authorizations are concerned, it is an admitted fact that the CB had not obtained the authorizations in respect of the impugned consignments from any of the exporters. I find that Shri Jayesh D. Muni admitted that the proprietors of the three exporters (M/s. Silver Rock Export Co, M/s. Mamta International and M/s. Star Trade Linkers) never met him or any of the CB's employees. Further, all documents were

received through Shri Bhupendra S. Joshi alias Maharaj. The CB admitted that they did not possess authority letters for these exporters and were waiting for them even as the shipments were being processed. It is further evident from the statements of Shri Bhupendra S. Joshi, Shri Jayesh D. Muni, Director of CB firm M/s Muni Cargo Movers Pvt. Ltd. and Shri Bipin Mishra, Manager (Imports) at M/s Muni Cargo Movers Pvt. Ltd. recorded during the investigation that the CB never intended to get involved in the clearance process but only sublet their license to Shri Bhupendra S. Joshi alias Maharaj for monetary consideration. The failure of the CB in obtaining authorizations from their clients/ exporters and resultant lapse in verifying the genuineness of the exporters directly led to the attempted fraudulent export of rags/ tailoring waste declared as readymade garments claiming huge amount of undue drawback. In view of these findings, I am of the considered view that the Inquiry Officer has rightly held the charge of violation of Regulation 13(a) of CHALR, 2004 (now Regulation 10(a) of the CBLR, 2018) as Proved.

10.3 Violation of Regulation 13(d) of the CHALR, 2004 (now Regulation 10(d) of the CBLR, 2018):

(a) I find that the charge of violation of Regulation 13(d) of the CHALR, 2004 has been levelled against the CB on the grounds that the investigation revealed that the CB M/s. Muni Cargo Movers Pvt Ltd had not met the exporters at any point of time and they did not verify the genuineness of the exporters. The CB had obtained the documents brought by Shri Maharaj, who was neither the IEC Holder nor the authorized representative of the exporters. It was therefore clear that the CB did not meet the exporters at any point of time, therefore, the question of advising the exporters to comply with the provisions of the Act did not arise. The CB was aware of the fact that Shri Maharaj was not the real IEC Holder of any of the exporting firms and they did not even doubt Shri Maharaj as to how he brought the clearance work of different IEC Holders. As a Licenced CB, they should not have entertained any middleman/ commission agent but they should have obtained the clearance work from the IEC Holders. In this case, the CB accepted the clearance work from an imposter. Though the CB had known all these facts, they kept silent for monetary

consideration and did not inform the concerned Customs Authority, which is in contravention of the provisions of Regulation 13(d) of the CHALR, 2004.

(b) I find that the inquiry officer, in this regard, has observed that, it is conclusively established from the facts and voluntary statements recorded under Section 108 of the Customs Act, 1962 that M/s. Muni Cargo Movers Pvt. Ltd., through their Director Shri Jayesh D. Muni, has violated Regulation 13(d) of the CHALR, 2004. The IO submitted that as per the said regulation, a CB is obligated to advise their clients (i.e., the actual IEC holders/ exporters) to comply with the provisions of the Customs Act and allied laws. However, in this case, the CB never interacted with the actual exporters, nor did they verify their genuineness. Instead, the CB knowingly accepted clearance work from Shri Bhupendra S. Joshi alias Maharaj who was neither the IEC holder nor an authorized representative of the exporters. Despite, being aware that Shri Maharaj was not the legitimate party, the CB did not raise any concerns or inform Customs authorities. The IO submitted that it is clearly established and proved that M/s. Muni Cargo Movers Pvt. Ltd. has violated Regulation 13(d) of the CHALR, 2004.

(c) Having carefully perused the facts of the case, I observe that it is abundantly clear that the CB had no clue whatsoever as to the identity of the exporters and had never met or interacted with them as there was a chain of middlemen involved none of whom had interacted with the exporters. The CB had admittedly sublet his Licence and was not involved in the clearance process. Since, the CB admittedly never met or interacted with the actual exporters, they were in no position to advise them on legal compliance. The CB was aware that Shri Bhupendra S. Joshi alias Maharaj was not the real IEC holder but remained silent for monetary gain. They failed to inform the Customs authorities that the clearance work was being managed by an imposter. The CB failed to bring the sordid facts about the unauthorized middlemen carrying out clearance work, to the notice of Customs. Hence, I have no hesitation in holding the CB guilty of violation of Regulation 13(d) of CHALR, 2004 (now Regulation 10(d) of the CBLR, 2018).

10.4 Violation of Regulation 13(n) of the CHALR, 2004 (now Regulation 10(m) of the CBLR, 2018):

(a) I find that the charge of violation of Regulation 13(n) of the CHALR, 2004 has been levelled against the CB on the grounds that various statements of Shri Jayesh D. Muni, Director of M/s. Muni Cargo Movers Pvt Ltd were recorded wherein, he admitted allowing Shri Bhupendra S. Joshi alias Maharaj to use his Licence for monetary consideration. Further, it had been admitted by Shri Jayesh Muni, that he allowed Shri Bhupendra S. Joshi to use his licence for clearing the consignments in respect of around 20-25 exporters. Shri Jayesh Muni further stated that he was not in possession of authority letters of most of the exporters. Moreover, he never met any of those exporters and he could not give any details of those exporters. It had been found that no attempt was made by Shri Jayesh Muni or his staff at any stage to verify the genuineness of those exporters. Shri Bhupendra S. Joshi alias Maharaj also admitted having used the licence of CB M/s. Muni Cargo Movers Pvt Ltd on payment to Shri Jayesh Muni. The CB thus allowed an imposter to attend the Customs work which was supposed to be done by them. It appeared from the above that the CB failed to discharge their duties as Customs House Agent efficiently, which is in contravention of the provisions of Regulation 13(n) of the CHALR, 2004.

(b) I find that the inquiry officer, in this regard, has observed that, from the facts on record and the statements of Shri Jayesh D. Muni and Shri Bhupendra S. Joshi alias Maharaj, it is clearly established that M/s. Muni Cargo Movers Pvt. Ltd. has violated Regulation 13(n) of the CHALR, 2004, which mandates that a Customs House Agent shall discharge its functions with utmost efficiency, professionalism and integrity. The IO submitted that in this case, the CB knowingly allowed an unauthorized person Shri Maharaj to use their CB licence for monetary consideration to clear consignments of 20-25 exporters without verifying the identity or genuineness of the exporters, and without obtaining the mandatory authority letters. The IO submitted that the CB admitted to having no knowledge of those exporters and permitted an imposter to carry out clearance work on their behalf, without supervision or proper authorization. The IO submitted that it is clearly

established and proved that M/s. Muni Cargo Movers Pvt. Ltd. has violated Regulation 13(n) of the CHALR, 2004.

(c) Having carefully perused the facts of the case and evidences on record, I find that the CB's Director, Shri Jayesh Muni admitted in his statements recorded by the investigating agency that it was a mistake and confessed that neither he nor his staff attended the clearance process for the subject six Shipping Bills filed in the name of the exporters M/s. Silver Rock Export Co, M/s. Mamta International and M/s. Star Trade Linkers. It was revealed during the investigation that all the clearance work was looked after by Shri Bhupendra S. Joshi alias Maharaj in collusion with some other middlemen. Allowing an unauthorized person to handle sensitive export documents and checklists without supervision constitutes gross inefficiency and a lack of integrity. I find that the CB illegally allowed Shri Maharaj to use his CB Licence for monetary consideration, he never met or interacted with the exporters, he has not done the Customs clearance, he has allowed unauthorized persons to handle the clearance of the consignments and lastly, he has admitted to his mistakes. All these omissions and commissions conclusively prove that the CB has failed to discharge their duties as Custom House Agents efficiently. In view of these findings, I am of the considered view that the CB has violated Regulation 13(n) of CHALR, 2004 (now Regulation 10(m) of the CBLR, 2018).

11. 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 CB M/s Muni Cargo Movers Pvt. Ltd. (CB License No. 11/929) has violated Regulations 12, 13(a), 13(d) and 13(n) of the CHALR, 2004 (now Regulations 1(4), 10(a), 10(d) and 10(m) of the CBLR, 2018). I find that for the violation of obligations provided under the CHALR, 2004 and for their acts of omission and commission, the CB M/s Muni Cargo Movers Pvt. Ltd. has rendered itself liable for penal action under the CHALR, 2004 (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."

12. As discussed above, I conclude that the CB M/s. Muni Cargo Movers Pvt. Ltd. (CB License No. 11/929) is guilty of violation of Regulations 12, 13(a), 13(d) and 13(n) of the

CHALR, 2004 (now Regulations 1(4), 10(a), 10(d) and 10(m) of the CBLR, 2018). In view of the gravity of the findings detailed above, it is evident that the Customs Broker, M/s. Muni Cargo Movers Pvt. Ltd., has not merely committed a procedural lapse but has displayed a profound and systemic disregard for the statutory responsibilities mandated under the CHALR, 2004. Had the investigating agency not acted well in time to hold the export consignments, the CB by their acts of omission and commission directly facilitated a probable significant revenue loss to the exchequer, undermining the very integrity of the Customs clearance framework. The renting of the license and the total abdication of clearance responsibilities to third-party middlemen prove that the CB is not fit and proper person to hold the privilege of a Customs Broker license. It is also seen that the CB is a habitual offender indulging in misconduct despite facing disciplinary action for earlier lapses. This shows that the CB remained unrepentant and continued violating the law in defiance of the obligations cast on them under CHALR, 2004 and as such the CB does not deserve any sympathetic consideration whatsoever. Considering all the facts and circumstances of the case and taking into cognisance of the above-cited caselaws, I am inclined to revoke the CB license and forfeit the security deposit of the CB M/s. Muni Cargo Movers Pvt. Ltd. (CB License No. 11/929) under the CHALR, 2004 (now CBLR, 2018).

13. Further, with respect to the timelines prescribed under Regulation 22 of the CHALR, 2004 (now 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 thereafter, 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-1 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".

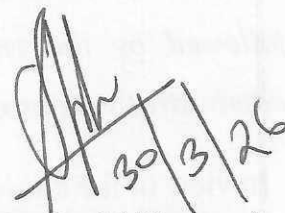
14. In view of the above-discussed facts and for their acts of omission and commission, the CB M/s. Muni Cargo Movers Pvt. Ltd. (CB License No. 11/929) is held liable and guilty for violating the provisions of the CHALR, 2004 (now CBLR, 2018). I hold that the CB has failed to discharge the duties cast upon them with respect to Regulations 12, 13(a), 13(d) and 13(n) of the CHALR, 2004 (now Regulations 1(4), 10(a), 10(d) and 10(m) of the CBLR, 2018) and is liable for penal action. Accordingly, in compliance with the directions of the Hon'ble CESTAT, Mumbai Bench passed vide Final Order No. A/85356/2023 dated 01.03.2023 and in exercise of the powers conferred under Regulation 22(7) of the CHALR, 2004 (now Regulation 17(7) of the CBLR, 2018), I pass the following order:

ORDER

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

- (i) I hereby order for revocation of the CB license held by M/s. Muni Cargo Movers Pvt. Ltd. (CB License No. 11/929) under Regulation 14 of the CBLR, 2018 (erstwhile Regulation 20 of the CHALR, 2004).
- (ii) I hereby order for forfeiture of the entire amount of the security deposit furnished by the CB M/s. Muni Cargo Movers Pvt. Ltd. (CB License No. 11/929) under Regulation 14 of the CBLR, 2018 (erstwhile Regulation 20 of the CHALR, 2004).
- (iii) I refrain from imposing penalty due to lack of relevant provision in CHALR 2004, which were effective at the time of commission of offence.
- (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 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.



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

To,
M/s Muni Cargo Movers Pvt. Ltd. (CB License No. 11/929)
402, Apollo Arcade, R.K. Singh Marg,
Near Sona Udyog, Andheri (East),
Mumbai – 400069.

Copy to:

1. The Pr. Chief Commissioner/ Chief Commissioner of Customs, Mumbai - I, II, III Zone.
2. The Pr. Commissioner of Customs, NS-II, JNCH.
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