



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/402/2025-CBS

आदेश दिनांक/Date of Order: 30.03.2026

CAO No. 161/2025-26/CAC/CC(G)/SJS/Adj-CBS जारी दिनांक/Date of issue: 08.04.2026

संख्या:

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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, यथोत्खंडपीठ में स्वीकार्य है।

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

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

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

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

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

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

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

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

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

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

7. अपील की एक प्रति में कोर्ट फी अधिनियम, 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. Sagar Shipping Agencies (I) Pvt. Ltd. having address registered at A-1,2, Vaibhav CHS, Sahar Pipeline Road, Andheri (E), Mumbai, Maharashtra - 400099 (hereinafter referred as the Customs Broker/CB) is holder of Customs Broker License No. 11/709, issued by the Commissioner of Customs, Mumbai under Regulation 8 of CHALR, 1984, [Now regulation 7(2) of CBLR, 2018] and as such they are bound by the regulations and conditions stipulated therein.

2. An offence report in the form of Show Cause Notice No. 285/2025-26/PR.COMMR./Gr.I&IA/NS-I/CAC/JNCH dated 13.06.2025 issued by the Pr. Commissioner of Customs, NS-I, JNCH vide F. No. CUS/APR/SCN/905/2025-Gr(1And1A)/JNCH regarding action against CB M/s. Sagar Shipping Agencies (I) Pvt. Ltd. (CB No. 11/709) in the case of importer M/s. Hubergroup India Private Limited (IEC - 0392018861) was received in this office on 30.06.2025.

2.1 As per the offence report, while conducting Transaction Based Audit (TBA) of Bill of Entry No. 4160764 dated 01.06.2021 filed by the importer M/s. Hubergroup India Private Limited through their Customs Broker M/s. Sagar Shipping Agencies (I) Pvt Ltd., following was observed-

- i. Goods had been imported under ITCHS 15151990 as "Refined Linseed Oil (For MFG of printing Ink) (Flexi Tank Count)"
- ii. Benefit of Notification No. 50/2017 had been availed under serial No. 64 which is meant for "all goods of Refined and Edible grade" and attracted BCD@45%
- iii. Goods had been imported under Notification No. 52/2003

2.2 It seemed that the Importer/Customs Broker knowingly and maliciously claimed the exemption under Notification No. 50/2017 (Sr. No. 64) which was not available for impugned goods but for "all goods of refined and Edible grade". It appeared that the importer had intentionally and wilfully claimed the exemption under Notification No. 50/2017 (Sr. no 64).

2.3 It was noted that the importer was a 100% Export Oriented Unit (EOU). In this case, there are typically no duties or taxes applicable to imports for the purpose of manufacturing

of goods for export. This is because EOUs are allowed to import raw materials or goods without paying customs duties, under the condition that these goods are solely used for export purposes. The differential duty amount calculation is mentioned below (as per Consultative Letter i.e. C.L. for B/E No. 4160764 dated 01.06.2021): -

Differential Duty Calculation:

Assessable Value- Rs. 1,69,07,545/-

Duty paid- Nil (EOU)

Duty Foregone (BCD+SWS) Rs. 83,69,235/-

Applicable duty for RITC "15151990" - Other

Type of Duty	Rate of Duty
BCD	100%
SWS	10%
IGST	Nil (EOU)
Total Duty	110%

Total Applicable Duty = Rs. 1,85,98,300/-

Differential Duty = (1,85,98,300 - 83,69,235) = Rs. 1,02,29,065/-

2.4 The benefit of the aforesaid Notification No. 50/2017 (Sr. No. 64) is only available for goods with description 'refined and edible grade'. However, the importer had claimed the benefit of the aforesaid notification for goods which were 'refined but other than edible grade'. There is an exclusive entry for Edible grade under CTH 15151910 whereas entry under CTH 15151990 is 'Other'.

2.5 In view of the above, it appeared that,

- i) The imported goods under ITCHS 15151990 were liable to attract BCD@100%, without the benefit of any notification; however, the importer had claimed the exemption under Notification No. 50/2017 (Sr. No. 64) with BCD@45% which was not available for the impugned goods.
- ii) The Customs Broker knowingly and maliciously claimed the exemption under Notification No. 50/2017 (Sr. No. 64) which was not available for the impugned goods, and therefore, violated the conditions of Customs Brokers Licensing Regulations (CBLR), 2018.

2.6 Accordingly, a Consultative Letter No. 915 dated 16.09.2022 was issued to the importer for payment of Differential duty of Rs. 1,02,29,065/- (Rupees One Crore Two Lakh Twenty-Nine Thousand Sixty-Five Only) along with the applicable interest and

penalty. Vide the said Consultative letter dated 16.09.2022, the importer was advised to pay the Differential duty along with applicable interest and penalty within 10 days of the receipt of the consultative letter in terms of section 28(4) of the Customs Act, 1962.

2.6.1 The importer replied vide letter dated 29.09.2022 in response to C.L. No. 915 dated 16.09.2022. They submitted that they were eligible for claiming the benefit of the aforesaid notification. Following documents were also submitted by them:

- i) Copy of Product technical data sheet
- ii) Reference DYCC Test Report w.r.t Bill of Entry no. 5601030 dated 27.09.2021
- iii) Supplier declaration
- iv) Copy of explanatory notes w.r.t. Linseed oil.

2.6.2 Upon going through the aforesaid submissions, it was observed that the importer had imported Refined Linseed oil for industrial use and nowhere it was mentioned that it was of Edible grade. DYCC test report dated 12.10.2021 w.r.t Bill of Entry No. 5601030 dated 27.09.2021 stated that:

“The sample as received is in the form of pale yellowish oily liquid. It has the characteristics of Linseed Oil (Refined).”

Hence, the said DYCC test report stated that the item had characteristics of Linseed oil (Refined) and did not specify if it was of edible grade or not. Technical grade specifications provided by the supplier stated that the item had following properties:

“Refined Linseed oil, free from ‘break’ material, with extra pale colour, very low acid value and low odour. Raw material for the production of alkyd resins, stand oils and epoxydised linseed oils. To be used in paints, varnishes and printing inks of very low colour.”

2.7 Thereafter, another letter F. No. S/2-Audit-Gen-75/2022-23/JNCH dated 11.10.2022 was sent to the importer wherein, they were required to give detailed explanation with respect to the following points:

- i) Goods imported vide Bill of Entry No. 4160764 dated 01.06.2021 are of Edible Grade or not
- ii) If goods are of edible grade, then provide documentary evidences in support of the same.
- iii) Exemption notification No. 50/2017 (Sr. No. 64) is available for goods which are of ‘Refined and Edible Grade’ only, however goods were imported under ITCHS

15151990 which is for 'Refined but other than Edible Grade' hence not eligible for aforesaid exemption.

- iv) Uses of goods imported vide Bill of Entry No. 4160764 dated 01.06.2021 may also be furnished along with documentary evidences”

2.8 The imported made their written submission vide letter dated 28.10.2022 against the department's letter dated 11.10.2022 wherein, they stated as below:

2.8.1 “We have imported a consignment of 157360 Kgs of Refined Linseed oil having assessable value of Rs 1,69,07,545.20 for the manufacture of Printing Ink. The goods have been classified under Tariff Item 15151990 of the Customs Tariff and assessed to NIL duty claiming benefit of exemption in terms of notification No 52/2003 dated 31.03.2003. That for the purposes of debiting the bond the duty foregone has been calculated in terms of SI. No. 64 to Notification No 50/2017 Cus dated 30.06.2017. In this regard, it has been stated that exemption in terms of SI No. 64 to notification 50/2017 Cus dated is available to linseed oil of refined and edible grade only and such goods are classifiable under Tariff item 15151910 of the Customs Tariff. In this case goods have been classified under Tariff Item 15151990 i.e. under Tariff Item which covers goods which are other than of 'refined or edible grade; therefore goods not entitled to exemption in terms of SI No 64 to Notification No 50/2017 Cus SI.No.64.

2.8.2 We say that being a 100% EOU, we are entitled to duty free import of all goods meant for manufacture of export goods in terms of Notification No. 52/2003 Cus dated 31.03.2003 subject to fulfilment of conditions laid down in the notification. That we fulfil all condition of the notification and also follow procedure laid down under Rule 5 of the Import of Goods at Concessional Rate of Duty Rules, 2017. We have also produced permission No. KASEZ/100%EOU/II/08/06-07/Vol.IV/9799 dated 20.2.2017 from the prescribed authority. Therefore, goods have correctly been assessed to NIL duty.

2.8.3 That:

- i) Goods imported vide Bill of Entry No. 4160764 dated 01.06.2021 are of edible grade as they conform to the standard laid down for Refined Linseed Oil of Edible grade under Food Safety and Standard (Food Products Standards and Food Additive) Regulation, 2011.

- ii) The imported Refined Linseed Oil are of Edible Grade in terms of the Supplementary Notes to Chapter 15 read with Appendix B of Prevention of Good Adulteration Rules, 1955. Copy of Standard prescribed vide Food Safety and Standard (Food Products Standard and Food Additive) Regulations, 2011 & the Certificate of Analysis provided by the Supplier is enclosed. It may kindly be seen that imported goods meet the specification mentioned in the said Rule.
- iii) It is submitted that the exemption provided for vide Sr. No.64 of Notification No. 50/2017 is for all goods of Refined and Edible Grade. The goods imported by us meet the requirement of Refined and Edible Grade. The exemption provided is for grade of goods and not linked to actual use therefore they are entitled to concessional duty in terms of Sr. No 64 of notification no. 50/2017 dated 30.06.2017. In this regard kind attention is invited to the Final Order of Hon'ble CESTAT in the case of M/s. Ritika Pharmatech Vs. Commissioner of Customs, New Delhi reported at 2019(370) E.L.T. 626 (Tri-Del) where identical exemption for goods "Refined and Edible Grade" was provided under earlier notification No. 12/2012 was considered. It is held by Hon'ble Tribunal –
- Butter - Shea Butter Ultra Refined classifiable under Tariff Item 15159091 of Customs Tariff Act, 1975 and eligible to exemption under Sr. No. 58 of Notification No. 12/2012-Cus. Being goods of refined and edible grade Said notification not having condition as to end use and therefore, refined and edible goods for use in cosmetic industry also eligible to its benefit - FSSAI certificate also not essential requirement as goods not meant for human consumption.*
- [paras &, 9]*
- iv) Refined Linseed Oil imported by them is used to make synthetic resins, especially linseed alkydes for printing inks, stand oils, and varnishes. It is also used as a binder for pigment pastes. Linseed Stand Oil of varying viscosity and acidity is obtained by polymerization at high temperatures, it is used to produce coating of many kinds, inks, corrosion-proof and aluminium paints and brake linings. That receipt of the materials, issue and removal of goods for export are monitored by the Customs Officer of EOU Section. All prescribed accounts are maintained in the EOU Unit. Being a 100% EOU we are entitled to duty free import of all goods meant for manufacture of export goods in terms of Notification No. 52/2003 Cus dated 31.03.2003 subject to fulfilment of conditions laid down under Rule 5 of the Import of Goods at Concessional Rate of Duty Rules, 2017 and has also produced permission No. KASEZ/100% EOU/11/08/06-07/Vol.IV/9799 dated 20.02.2017 from the prescribed authority. Copy of the permission letter enclosed. Therefore, goods have correctly been assessed to NIL duty. They, therefore requested you to close the audit objection as there is no short payment of duty.”

2.9 Upon going through the reply dated 28.10.2022 submitted by the importer it was observed that the importer had not submitted FSSAI certificate if the goods were of edible grade. Further, Food safety and standard regulation, 2011 w.r.t Linseed oil inter alia specifies that “test for argemone oil shall be negative and refined oil shall not contain hexane more than 5.0 ppm”. Both the crucial parameters were not mentioned anywhere in the documents submitted by the importer. They had not been able to establish the fact that the imported Linseed oil were of edible grade to avail the benefit of the above-mentioned notification.

2.10 Customs Broker M/s. Sagar Shipping Agencies (I) Pvt. Ltd. vide letter dated 21.10.2022 submitted that the goods imported by the importer were of edible grade and submitted the same grounds as given by the importer above. They also submitted that the goods were classified under tariff item 15151990 on the ground of its actual use which was manufacture of printing ink, whereas, it should have been classified under 15151910 of the Customs Tariff.

2.11 As per the Food Safety and Standards (Food Products Standards and Food Additives) Regulations, 2011 for Flaxseed or Linseed Oil (tisi ka tel) means the oil obtained by process of expressing clean and sound Flaxseed or Linseed (*linum usitatissimum*). It shall be clear, free from rancidity, suspended or other foreign matter, separated water, added colouring or flavouring substance, or mineral oil. It shall conform to the following standards, namely: -

Sr. No.	Parameters	Limits
1.	Butyro-refractometer Reading at 40°C or Refractive Index at 40°C	69.5-74.3 1.4720-1.4750
2.	Saponification value	188 to 195
3.	Iodine value	Not less than 170
4.	Unsaponifiable matter	Not more than 1.5 per cent
5.	Acid value	Not more than 4.0
6.	Argemone Oil	Negative
7.	Hexane	Not more than 5.0 ppm
8	End use	For Human consumption only

2.12 A consultative letter No. 915 dated 16.09.2022 was issued against Bill of Entry No. 4160764 dated 01.06.2021 demanding the differential duty. Thereafter, importer submitted

DYCC No. Test Report No. 925/Gr.I/IA dated 12.10.2021 w.r.t Bill of Entry no. 5601030 dated 27.09.2021 wherein, it could not be established whether goods were of edible grade or not. Further, a letter dated 08.12.2022 was issued to SIIB for the Insertion of LRM alert for drawing sample and testing of goods. Thereafter, test report bearing no. BTH/TR/003634/5307/24-25 dated 26.10.2024 for sample drawn against B/E No. 5494896 dated 09.09.2024 was submitted by the Importer.

2.13 On examining aforesaid submission of the Importer, following were observed:

That the importer had imported the Refined Linseed Oil for Industrial use and nowhere it is mentioned that it was of Edible Grade. The Importer had not submitted Test Report or FSSAI certificate, if the goods were of Edible Grade. Further, Food Safety and Standard Regulation, 2011 w.r.t. Linseed oil inter alia specified that “test for argemone oil shall be negative and refined oil shall not contain hexane more than 5.0 ppm”. However, both these crucial parameters were not mentioned in the DYCC Test report dated 12.10.2021 and certificate of analysis provided by the supplier. Further, as per explanatory notes of CTH 1515, cold-pressed linseed oil is edible; the same was also not specified anywhere whether the linseed oil imported vide aforesaid Bill of Entry was cold-pressed or otherwise. Explanatory notes for CTH 1515 are reproduced herein w.r.t. Linseed Oil:

“.....Linseed Oil, obtained from the seeds of the flax plant (Linum usitatissimum). This oil is one of the most important of the drying oils. Linseed Oil varies from yellow to brownish in colour and has an acrid taste and smell. On oxidation it forms a very tough elastic film. The oil is used chiefly in making paints, varnishes, oil cloth, putty, soft soap, printing inks, alkyd resins or pharmaceuticals. Cold-pressed linseed oil is edible...”

Further, the importer had been asked to comment on exemption Notification No. 50/2017 (Sr.No. 64) available for goods which were of Refined and Edible Grade only. However, they had imported goods under ITCHS 15151990 which was for Refined but other than Edible Grade, hence the same was not eligible for the aforesaid exemption. The importer did not give specific reply to this and submitted copy of order of Hon'ble CESTAT, Delhi in support of their claim. On going through the said order, it was noticed that the goods in that case were classified under CTH 15159091 which was for edible grade

itself, however, in the instant case goods had not been classified as edible grade i.e. CTH 15151910 but under CTH 15151990 which was for Refined but other than Edible Grade. Hence, prima facie, the aforesaid CESTAT order did not seem applicable in this case. It was also seen that the BCD on the edible grade Linseed Oil under CTH 15151910 was 35% as against 15151990 which was 45%. No explanation was provided as to why the importer would intentionally lose 10% duty on BCD. Accordingly, the explanation furnished by them did not appear to be acceptable in this case.

2.14 Upon reviewing the submissions it was observed that:

- The importer did not provide the required FSSAI certificate to confirm that the goods were of Edible Grade. Additionally, the certificate of analysis provided by the supplier did not mention crucial parameters like the test for argemone oil and the permissible level of hexane.
- The explanatory notes for CTH 1515 indicated that cold-pressed linseed oil was edible, but it was unclear whether the imported oil was cold-pressed. The absence of such details in the submitted documents raised concerns.
- Regarding the exemption under Notification No. 50/2017 (Sr. No. 64), the importer did not provide a clear justification for claiming this exemption for goods classified under CTH 15151990. The cited Hon'ble CESTAT order in the case of M/s Ritika Pharmatech pertained to a different classification (CTH 15159091 for Edible Grade), and thus the cited order was not applicable in this case.

2.15 On retrieving data from ADVAIT it was observed that many other Bill(s) of Entry had identical goods. The Importer had cleared the said goods by resorting to misclassification resulting in short levy of legitimate Customs duty amounting to Rs. 133,10,32,613/- (Rupees 133 crores approx.). The CB M/s. Sagar Shipping Agencies (I) Pvt. Ltd was also called upon to show cause as to why penalty should not be imposed on them under Section 112(a) and/ or 114A & 114AA of the Customs Act, 1962 for their acts of omission or commission.

3. Role of Customs Broker: -

3.1 On perusal of the offence report, it was apparent that the Customs Broker committed serious lapses in handling the import of refined linseed oil. The CB failed in its fundamental duty of advising the importer to obtain the mandatory FSSAI certificate required by food safety regulations to prove the imported linseed oil was of edible grade. Despite being aware that the goods were claimed to be edible, the broker did not ensure this critical documentation was provided.

3.2 This failure directly led to the goods being incorrectly classified as “non-edible” for customs purposes. Consequently, an ineligible exemption from customs duty was claimed, which was not lawful for edible-grade oil without the proper certification. The broker neglected verifying the essential information or documentation needed to support the importer’s claim, demonstrating a clear lack of due diligence. By not securing the correct paperwork, the broker facilitated an inaccurate customs declaration and an improper duty exemption. Hence, it appeared that the CB had not fulfilled the obligations of Regulations 10(d) and 10(e) of the CBLR, 2018.

4. From the investigations in the above-mentioned case, the following omission leading to violation of obligations stipulated under Regulations 10(d) and 10(e) of the CBLR, 2018 were apparent: -

i. Regulation 10(d) of the CBLR, 2018 which reads as:

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

The Customs Broker failed in its duty specified under Regulation 10(d) by not advising the importer to furnish the mandatory FSSAI certificate to substantiate the edible-grade claim for the imported refined linseed oil. Despite admitting in their submission dated 21.10.2022 that the goods were of edible grade, the CB did not ensure compliance with the Food Safety and Standards Regulations, 2011, which require proof of edible-grade parameters (e.g. argemone oil negativity and hexane ≤ 5 ppm). This omission directly

contributed to the wrongful classification under CTH 15151990 (other than edible grade) and the ineligible claim of exemption under Notification No. 50/2017 (Sr. No. 64). By not advising the importer to comply with the essential documentation (e.g., FSSAI certificate) the CB violated Regulation 10(d). Additionally, there was no evidence in the SCN that the CB reported the non-compliance to the Deputy Commissioner or Assistant Commissioner of Customs, further compounding the violation.

ii. Regulation 10(e) of the CBLR, 2018 which reads as:

“exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;”

On perusal of the offence report, it was apparent that the Customs Broker accepted the goods in question were of edible grade. In such circumstances, the Customs Broker was expected to advise the importer to furnish the requisite Food Safety and Standards Authority of India (FSSAI) certificate to substantiate the edible-grade nature of the imported refined linseed oil. However, no such certificate was made available at the time of filing the Bill of Entry. This lapse reflected a clear failure on the part of the Customs Broker to exercise the level of due diligence required under Regulation 10(e) of the CBLR, 2018, which stipulates that a Customs Broker shall ascertain the correctness of any information imparted to a client concerning clearance of cargo or baggage. By not verifying the compliance documentation required for claiming exemption under Notification No. 50/2017 (Sr. No. 64), the Customs Broker facilitated the inaccurate classification and the inadmissible duty exemption claim, thereby violating Regulation 10(e) of the CBLR, 2018.

5. From the above stated facts and outcome of the investigation, it appeared that the CB M/s. Sagar Shipping Agencies (I) Pvt. Ltd. (CB License No. 11/709) failed to fulfil the obligations mandated under CBLR, 2018 and had violated Regulations 10(d) and 10(e) of the CBLR, 2018.

5.1 In view of the offence report received in the form of Show Cause Notice No. 285/2025-26/PR.COMMR./Gr.I&IA/NS-I/CAC/JNCH dated 13.06.2025 issued by the Pr. Commissioner of Customs, NS-I, JNCH vide F.No. CUS/APR/SCN/905/2025-

Gr(1And1A)/JNCH, action under CBLR, 2018 was initiated against the CB M/s. Sagar Shipping Agencies (I) Pvt. Ltd. (CB License No. 11/709). Further, in view of the Board's Instruction No. 24/2023 dated 18.07.2023, the case was not considered appropriate for immediate suspension of the CB license under Regulation 16 of the CBLR, 2018. However, action under Regulation 17 of CBLR, 2018 was initiated against the CB M/s. Sagar Shipping Agencies (I) Pvt. Ltd. and accordingly, based on the Offence Report, the following articles of charges were framed against the CB:

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

5.2 In light of the above, a Show Cause Notice (SCN) No. 31/2025-26 dated 25.09.2025 was issued to the CB M/s. Sagar Shipping Agencies (I) Pvt. Ltd. (CB License No. 11/709) under the provisions of Regulation 17(1) of the CBLR, 2018 wherein, the CB was called upon to show cause, as to why:

- a. The Customs Broker License bearing no. 11/709 issued to them should not be revoked under regulation 14 read with regulation 17 of the CBLR, 2018;
- b. Security deposited should not be forfeited under regulation 14 read with regulation 17 of the CBLR, 2018;
- c. Penalty should not be imposed upon them under Regulation 18 read with Regulation 17 of the CBLR, 2018.

5.3 Shri Sanjay B. Mehta, Assistant Commissioner of Customs was appointed as Inquiry Officer (IO) to conduct the inquiry proceedings against the CB M/s. Sagar Shipping Agencies (I) Pvt. Ltd. (CB License No. 11/709) under Regulation 17 of the CBLR, 2018.

INQUIRY REPORT: -

6. The Inquiry Officer (here in after referred to as the 'IO') concluded the inquiry proceedings and submitted the Inquiry Report dated 06.01.2026 received in this office on 07.01.2026, wherein, all the charges levelled against the CB vide Show Cause Notice No. 31/2025-26 dated 25.09.2025 were held as "Not Proved". The IO further stated that the

Inquiry Report was delayed beyond the timeline prescribed under CBLR because he was on leave from 28.11.2025 to 22.12.2025.

FINDINGS OF THE INQUIRY OFFICER: -

7. The IO submitted that he had gone through Show Cause Notice No. 31/2025-26 dated 25.09.2025 along with the relied upon documents, records of the personal hearings, as well as written submissions made by the charged CB during enquiry proceedings and the contraventions mentioned in the Show Cause Notice as well as the legal provisions contained in CBLR, 2018. The IO discussed the CB's submissions and examined its merits as against charges framed in the Show Cause Notice issued to the CB and his findings are as under:

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

(A) Allegation made in the Show Cause Notice: -

Customs Broker failed in its duty under Regulation 10(d) by not advising the importer to furnish the mandatory FSSAI certificate to substantiate the edible grade claim for the imported refined linseed oil. Despite admitting in their submission dated 21.10.2022 that the goods were of edible grade, the CB did not ensure compliance with the Food Safety and standards regulations, 2011, which require proof of edible-grade parameters (e.g. argemone oil negativity and hexane - 5ppm). This omission directly contributed to the wrongful classification under CTH 15151990 (other than edible grade) and the ineligible claim of exemption under notification No. 50/2017 (Sr.no. 64). By not advising the importer to comply with the documentation requirement (e.g. FSSAI certificate), the CB violated regulation 10(d) of CBLR 2018. Additionally, there was no evidence in the SCN that the CB reported the non-compliance, to the Deputy Commissioner or Assistant commissioner of customs, further compounding the violation.

(B) Findings: -

The IO found that the importer M/s. Hubergroup is a 100% EOU and was entitled to import raw material free of Customs duty in terms of Notification No 52/2003 Cus. dated

31.03.2003 for the manufacture of end product. In the present case, the importer had imported Linseed oil/ alkali refined Linseed oil for the manufacture of printing ink. The IO submitted that the claim of exemption of duties in terms of notification No. 50/2017 Cus. dated 30.06.2017 (SI. No. 64), determines the amount of duty foregone which is to be debited in the Bond (B-17). The duty amount is again re-credited when the goods are used for intended purpose. The IO submitted that on perusal of SCN issued by the Principal Commissioner of Customs, NS-I, Nhava Sheva Custom House, it was observed that the SCN did not allege that the goods imported viz. refined Linseed oil or alkali reined Linseed oil had not been used in the manufacture of export goods and that importer was liable to pay duty on this ground. Therefore, the claim of exemption under Notification no. 50/2017 (Sr. No. 64) which attracted BCD 45% effectively had no revenue implications.

The IO observed that the CB had submitted that as the imported goods viz. refined Linseed Oil/ Alkali Refined Linseed Oil were imported by an EOU for manufacture of printing ink i.e. for industrial use and goods were not meant to be used for edible purposes, importer was not advised to obtain NOC from FSSAI authorities and for this reason there was nothing for the CB to report the non-compliance to the Deputy Commissioner or Assistant commissioner of Customs. Further in the present case, out of 82 B/Es for which SCN was issued, 8 B/Es were assessed by appraising group and in respect of four consignments goods were also examined by officers before OOC and the officers were also of the view that the goods were meant for industrial use. The IO also found that importer had all along taken a stand that the goods were of edible grade. The IO also found that in the letter submitted by Hubergroup to the Deputy Commissioner of Customs, Valsad Division, in-charge of EOU and to Dy. Commissioner of Customs, JNCH under Customs (Import of goods at concessional Rate of duty) Rules, 2017, importer had shown classification of the imported goods item 15159090 and had shown the duty fore gone under serial no. 50/2017-Cus (Sr. No. 64) which attracts BCD at 45%. The IO found justification in the submission of the CB that since the import documents clearly mentioned that the goods were meant for manufacture of Printing Ink viz. Industrial use and were not meant for consumption, they did not advise for referring the matter for FASSI NOC. The

IO also found that subsequently samples were drawn pursuant to alert issued in respect of two B/Es Nos. 5494896 dated 09.09.2024 and 8611405 dated 28.02.2025 drawn at the instance of FSSAI confirmed that the goods conformed to FSSAI parameters. The IO found that the documents submitted by the CB established the Linseed Oil imported by the Importer was of Edible Grade. The CB had thus filed the bills of Entry on the basis of Import documents and application under Rule 5 of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017, wherein, the goods were declared classified under CTH 15151990. As regards mis-classification of the goods, it was seen that when the goods were found of edible grade the only issue remained was of misclassification under CTH 15151990 instead of 15151190 done by importer. The CB stated that they filed B/E under CTH of 15151990 on the basis of actual use of the goods and as declared by the importer in letters issued Rule 5 of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017. The IO submitted that there was no allegation that the CB did not give any advice w.r.t. to the provisions of Customs Act, 1962, the allied laws and rules and regulations, particularly when the department also did not ask for FSSAI Certificate so as to require the CB to advise the importer to comply with the requirement or to report any non-compliance to the notice of the Customs Department.

The IO found that the above submissions of the CB were acceptable and consequently, the charge of violation of provisions of Regulation 10(d) of CBLR was not proved.

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

(A) Allegation made in the Show Cause Notice: -

On perusal of the offence report, it was apparent that the Customs Broker accepted the goods in question were of edible grade. In such circumstances, the Customs Broker was expected to advise the importer to furnish the requisite Food Safety and Standards Authority of India (FSSAI) certificate to substantiate the edible-grade nature of the imported refined linseed oil. However, no such certificate was made available at the time of filing the Bill of Entry. This lapse reflected a clear failure on the part of the Customs

Broker to exercise the level of due diligence required under Regulation 10(e) of the CBLR, 2018, which stipulates that a Customs Broker shall ascertain the correctness of any information imparted to a client concerning clearance of cargo or baggage. By not verifying the compliance documentation required for claiming exemption under Notification No. 50/2017 (Sr. No. 64), the customs Broker facilitated the inaccurate classification and the inadmissible duty exemption claim, thereby violating Regulation 10(e).

(B) Findings: -

The IO submitted that the CB reiterated in their submission that as the Refined Linseed Oil was imported as raw material for manufacturing of Printing Ink, they did not ask the importer for getting certificate from FSSAI to substantiate the edible grade nature of the goods as the FSSAI regulations applied to food products meant for human consumption. That the officers who assessed the bills of entry/ examined the goods also did not ask for this requirement. The IO submitted that the CB further stated that the obligation under this regulation is to exercise due diligence regarding correctness of information which CB imparts to the client and there was no allegation that the CB had imparted incorrect information to their client. The IO submitted that the CB relied upon the Hon'ble Delhi High Court's judgement in the matter of Kunal Travel (Cargo) vs Commissioner of Customs (I&G), IGI Airport New Delhi 217(314) ELT 447(Del) and in the matter of Regulation 13(e) of the CHALR 2004 held that;

“Clause (e) of the aforesaid Regulation requires exercise of due diligence by the CHA regarding such information which he may give in his client with reference to any work related to clearance of cargo

Clause (1) requires that all documents submitted, such as bills of entry and shipping bills delivered etc. reflect the name of the importer exporter and the name of the CHA prominently at the top of such documents.

The aforesaid clauses do not obligate the CHA to look into such information which may be made available to it from the exporter/ importer. The CHA is not an inspector to weigh the genuineness of the transaction. It is a processing agent of documents with respect to clearance of goods through customs house and in that process only such authorized personnel of the CHA can enter the customs house area”

The IO found that the obligation under this regulation is to exercise due diligence regarding correctness of information which CB imparts to a client and there was no allegation that the CB had imparted any incorrect information to their client. The IO found that the above submissions of the CB were acceptable and consequently, the charge of violation of provisions of Regulations 10(e) of CBLR was not proved.

7.3 Summary of the Findings:

The IO concluded his findings as under:

1.	Violation of Regulation 10(d) of CBLR, 2018	Not Proved
2.	Violation of Regulation 10(e) of CBLR, 2018	Not Proved

DISAGREEMENT MEMO: -

8. The Inquiry Officer in his report dated 06.01.2026 held the charges of violation of Regulations 10(d) and 10(e) as not proved. Commissioner of Customs (Gen.), Mumbai-I disagreed with the Inquiry Officer's findings with respect to the charge of violation of Regulation 10(d) of the CBLR, 2018. Therefore, a Disagreement Memo dated 09.02.2026 was issued by the Commissioner of Customs (Gen.), Mumbai-I. Under the provisions of Regulation 17(6) of the CBLR, 2018, a copy of the Inquiry Report dated 06.01.2026 and Disagreement Memo dated 09.02.2026 was shared with the CB and an opportunity of personal hearing was granted to the CB on 10.03.2026.

RECORDS OF PERSONAL HEARING: -

9. The personal hearing in the matter was held on 10.03.2026 before me. Shri Vijai Kumar Singh, Consultant and Shri Shailesh Patil, Director at M/s Sagar Shipping Agencies (I) Pvt. Ltd. (CB License No. 11/709) appeared for the personal hearing. They submitted a written reply dated 09.03.2026 and reiterated the facts of the same. They further added that they had nothing more to add and requested that the proceedings be dropped. Accordingly, the oral and written submission of the CB was taken on record.

WRITTEN SUBMISSIONS OF THE CB: -

10. The CB submitted that M/s Hubergroup Limited is an EOU and are allowed to import specified goods free of Customs duty, IGST and Compensation Cess in terms of

Notification No. 52/2003 Cus. dated 31.03.2003. The CB submitted that the exemption in terms of Notification 52/2003 Cus. dated 31/03.2003 is, however, subject to fulfilment of conditions laid down therein. The CB submitted that one of the conditions being that unit shall follow the procedure prescribed under Rule 5 of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017. That EOU has followed said procedure and has provided information relating to import to jurisdictional Deputy Commissioner of Customs and to Deputy Commissioner of Customs at the port of import. They have debited the bond furnished before the jurisdictional Deputy Commissioner of Customs. Taking the basic duty @45% into consideration (i.e. treating duty applicable to Linseed Oil of refined and edible grade) and informed the same to jurisdictional Dy. Commissioner of Customs and also to Dy. Commissioner of Customs at the Nhava Sheva i.e. at the port of import. The CB submitted that based on this they have claimed benefit of exemption and exemption has been allowed. The CB stated that no objection was ever raised either by the Jurisdictional Dy. Commissioner of Customs or Dy. Commissioner at the port of import. The CB submitted that a sample of the Intimation prescribed in this regard together with Running bond account submitted to the Jurisdictional Dy. Commissioner of Customs in-charge of EOU and to the Deputy commissioner of Customs, at port of import is annexed.

10.1 The CB submitted that the import invoice, packing list of the imported goods clearly mentioned that the imported goods viz. 'Refined Linseed Oil/Alkali Refined Linseed Oil' were meant for manufacture of printing ink and not for human consumption. In this background, the CB did not advise importer for obtaining FSSAI NOC.

10.2 The CB submitted that as regards the observations of Hon'ble Commissioner of Customs (General) that IO overlooked the fact that only FSSAI NOC at the time for clearance could conclusively establish whether the goods were of edible grade, irrespective of their intended use and although as per test results of the samples drawn for two Bill of entry B/E No.5494896 dated 09.09.2024 and B/E No. 8611405 dated 28.02.2025) at the instance of FSSAI, goods were found to be edible but the test results for 2 aforementioned B/Es cannot establish whether the good in the consignments imported prior to these 2 B/Es

were also edible in nature - It is submitted that the fact of the goods being of edible grade is also supported by the documents in the form of Kosher Certificate and Halal Certificate in respect of Refined Linseed Oil downloaded from the Website of the manufacturer, which shows that the Refined Linseed Oil manufactured by them are Kosher Certified and are also Halal, which means that the same are fit for human consumption i.e. Edible. Further, the CB submitted that the manufacturer's website shows that the Refined Linseed Oil is a purified Raw Linseed oil and amongst the uses of Raw Linseed Oil as Food.

10.3 The CB submitted that M/s Hubergroup is an EOU and are entitled to import Refined Linseed Oil/ Alkali Refined Linseed Oil, which is raw material for the end product (printing ink), free of Customs duty in terms of Notification No 52/2003 Cus. dated 31.03.2003. The CB submitted that the claim of exemption in terms of Notification No. 50/2017 Cus. dated 30.06.2017 (SI. NO. 64), was only for the purpose of arriving at the amount of duty foregone to be debited in the bond which is again reccredited when the goods are used for intended purpose. The CB submitted that it is not the case that goods imported viz. Refined Linseed oil or Alkali Refined Linseed by M/s Hubergroup has not been used in the manufacture of export goods and that importer is liable to pay duty on this ground. Therefore, the CB submitted that the claim of exemption under Notification No. 50/2017 Cus. (Sr. No. 64) which attracts BCD @45% has no revenue implications. Further, importer has all along said that "Refined Linseed oil / Alkali refined Linseed oil" are of 'edible grade'. The CB further submitted that as consequence to Audit objection, based on which the present Show Cause Notice by Pr. Commissioner of Customs, Nhava Sheva was issued, Alert had been issued by the department for drawing sample and testing of Refined Linseed Oil being imported by M/s Hubergroup. Accordingly, samples were drawn from the Refined Linseed Oil imported under Bills of Entry No. 5494896 dated 09.09.2024 and 8611405 dated 28.02.2025, which are manufactured by the same manufacturer who had manufactured the Refined Linseed Oil imported under the Bills of entry covered by the present Show Cause Notice, and upon test at the instance of FSSAI, the same had been found to be of Edible Grade. Based on such test reports the said Alert had been removed

by letter dated 25.06.2025 [Exhibit-VII]. It is therefore clear that the Refined Linseed Oil imported by M/s Hubergroup was of Edible grade.

10.4 The CB submitted that they had prepared bill of entry and classified imported goods under Tariff item 15159090 of the Customs tariff on the basis of documents including letters submitted by Hubergroup to the Deputy Commissioner of Customs, Valsad Division/ Dy. Commissioner of Customs, Nhava Sheva. The CB submitted that they followed the classification as per the Application made by the Importer with the office of the Dy. Commissioner Valsad/ Dy. Commissioner of Customs, JNCH. That exemption under Notification No. 52/2003-Cus was correctly claimed by the importer irrespective of the fact whether the goods were of Edible grade or otherwise being a 100% EOU and there has not been any loss of revenue. The CB submitted that the entire case is that while computing the duty foregone the amount should have been debited @100% instead of 45%. That amount debited in bond is recredited once goods are put to intended use. There is no allegation that imported goods were not used for intended purpose.

10.5 The CB submitted that the Show cause notice itself does not dispute the fact that the Linseed Oil was of Edible grade and only ground is that the importer was not asked by CB to produce FSSAI Certificate. Since, the goods were meant for industrial use and not for human consumption, the CB submitted that they had a bonafide understanding that the FSSAI Act was inapplicable to the said goods, and it was not the case that CB neglected to ask for any further information or documentation needed to support the importer's claim. The CB submitted that their role was limited to filing the documents as per the document and advise of the importer and they had not violated the provisions of Regulation 10(d) of CBLR, 2018. In support of their submission the CB placed reliance on the following caselaws-

- i) *Basant Global Trade Pvt. Ltd. Vs. Commissioner of Customs, Mundra- (2024)20 Centax 263 (Tri-Ahmd.).*
- ii) *Kunal Travels (Cargo) Vs. Commissioner of Customs (I&G), IGI Airport New Delhi-2017(354) ELT 447 (Del).*
- iii) *Manjunath Shipping Pvt. Ltd. Vs Commr. Of Customs, Bangalore-2019(369) E.L.T. 1010 (Tri. -Bang.).*

10.6 The CB submitted that the SCN (Offence Report) covered 82 bills of entry relating to import of "Refined Linseed Oil/ Alkali refined Linseed Oil" out which 8 bills of entry (3618149 dated 19.04.2021, 4742935 dated 20.07.2021, 5051498 dated 14.08.2021, 5601030 dated 27.09.2021, 5885666 dated 18.10.2021, 6790567 dated 22.12.2021, 8467547 dated 28.04.2022 and 4963468 dated 09.03.2023), were assessed by the Group assessing officer extending benefit of Sl. No 64 to Notification No. 50/2017 Cus dated 30.06.2017 for the purposes of arriving at duty foregone and goods covered under 4 bills of entry (3618149 dated 19.04.2021, 5601030 dated 27.09.2021, 8467547 dated 28.04.2022 and 4963468 dated 09.03.2023) were examined by the officers of Customs before clearance. However, these officers also did not ask for FSSAI 'No Objection'. This shows that officers were also of the view that since goods were meant for industrial use they did not require FSSAI, 'No Objection'.

10.7 The CB submitted that the Hon'ble CESTAT, in the matter of regulation 11(d) of CBLR, 2013, which was identical to Regulation 10(d) of CBLR, 2018, held that said provisions are attracted when a CHA has advised contrary to provisions of Customs Act, 1962, in Geeta Clearing and Forwarding Agency Pvt. Ltd. vs. Commissioner of Customs (General), Mumbai 2019(370) ELT 1030 (Tri-Mumbai). The CB submitted that in the present case there is no allegation nor there is evidence that the CB gave any advice contrary to provisions of Customs Act, 1962. Therefore, they have not violated provisions of Regulation 10(d) of CBLR, 2018.

10.8 The CB submitted that the present case is outcome of a Consultative Letter No. 915 dated 16.09.2022 whereby it was alleged that the exporter was asked to pay differential duty for alleged wrongful claim of exemption under Notification No. 50/2017. Further the CB was also charged with violation of conditions of CBLR, 2018. The CB submitted that they had replied to the same. Thereafter, the CB submitted that after a lapse of almost 3 years, Show Cause Notice No. 285/2025-26/PR.COMMR./Gr.I&IA/NS-I/CAC/JNCH dated 13.06.2025 (Offence report) was issued to the importer and CB. Thereafter, SCN No. 31/2025-26 dated 25.09.2025 was issued under CBLR, 2018. The CB stated that the IO

submitted his report on 06.01.2026 and thereafter disagreement memo dated 09.02.2026 was issued to the CB for making submissions. It may kindly be seen that the time limit prescribed in Regulation 17(5) for completion of inquiry proceedings has not been adhered to.

11. In view of the above, the CB submitted that they had not violated the Regulation 10(d) of the CBLR, 2018, and prayed to drop the proceedings initiated against them under the CBLR, 2018.

DISCUSSIONS AND FINDINGS: -

12. I have gone through the facts and records of the case; the offence report received in the form of Show Cause No. 285/2025-26/PR.COMMR./Gr.I&IA/NS-I/CAC/JNCH dated 13.06.2025 issued by the Pr. Commissioner of Customs, NS-I, JNCH vide F. No. CUS/APR/SCN/905/2025-Gr (1And1A)/JNCH; Show Cause Notice No. 31/2025-26 dated 25.09.2025 issued under Regulation 17(1) of CBLR, 2018; Inquiry Report dated 06.01.2026, Disagreement Memo dated 09.02.2026, PH records dated 10.03.2026 and the CB's written submission dated 09.03.2026.

13. Briefly stated, the case originated from Transaction Based Audit (TBA) of the Bill(s) of Entry filed by the importer, M/s. Hubergroup India Private Limited wherein they had imported "Refined Linseed Oil" from a Belgian supplier. While the importer is a 100% Export Oriented Unit (EOU) entitled to duty-free imports for manufacturing exports, the audit of Bill of Entry No. 4160764 dated 01.06.2021 flagged a significant discrepancy. The goods were classified under ITC-HS 15151990 (the "Other" category for refined but non-edible grade oil), yet the importer claimed a concessional Basic Customs Duty (BCD) of 45% under Notification No. 50/2017 (Sr. No. 64), which is strictly reserved for "refined and edible grade" goods. Investigation determined that the applicable BCD for the declared non-edible classification was actually 100%, leading to a total alleged differential duty liability of Rs. 133 crores approx. across multiple similar shipments. The department's investigation found that the Customs Broker (CB) failed to ensure that the mandatory FSSAI certificate was obtained to substantiate the "edible grade" claim required for the

duty exemption. Although, the CB and importer both contended in later submissions that the oil met edible standards, they could not produce documentation confirming essential parameters like negative argemone oil or permissible hexane levels. The CB is alleged to have failed in its duty to advise the client on statutory compliance and failed to exercise due diligence to verify the correctness of information regarding the cargo's clearance thereby facilitating an inaccurate declaration and improper duty benefit. Consequently, the CB was charged with violating Regulations 10(d) and 10(e) of the CBLR, 2018.

14. I find that 02 articles of charges have been framed against the CB i.e. violation of Regulations 10(d) and 10(e) of the CBLR, 2018. Now, I proceed to discuss the articles of charges, sequentially.

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

(a) I find that the charge of violation of Regulation 10(d) of the CBLR, 2018 has been levelled against the CB on the grounds that the Customs Broker failed in its duty specified under Regulation 10(d) by not advising the importer to furnish the mandatory FSSAI certificate to substantiate the edible-grade claim for the imported refined linseed oil. Despite admitting in their submission dated 21.10.2022 that the goods were of edible grade, the CB did not ensure compliance with the Food Safety and Standards Regulations, 2011, which require proof of edible-grade parameters (e.g. argemone oil negativity and hexane \leq 5 ppm). This omission directly contributed to the wrongful classification under CTH 15151990 (other than edible grade) and the ineligible claim of exemption under Notification No. 50/2017 (Sr. No. 64). By not advising the importer to comply with the essential documentation (FSSAI certificate) the CB violated Regulation 10(d). Additionally, there was no evidence in the SCN that the CB reported the non-compliance to the Deputy Commissioner or Assistant Commissioner of Customs, further compounding the violation.

(b) I find that the inquiry officer, in this regard has observed that the importer M/s. Hubergroup is a 100% EOU and was entitled to import raw material free of Customs duty in terms of Notification No 52/2003 Cus. dated 31.03.2003 for the manufacture of end

product. In the present case, the importer had imported Linseed oil/ alkali refined Linseed oil for the manufacture of printing ink. The IO submitted that the claim of exemption of duties in terms of notification No. 50/2017 Cus. dated 30.06.2017 (SI. No. 64), determines the amount of duty foregone which is to be debited in the Bond (B-17). The duty amount is again re-credited when the goods are used for intended purpose. The IO submitted that on perusal of SCN issued by the Principal Commissioner of Customs, NS-I, Nhava Sheva Custom House, it was observed that the SCN did not allege that the goods imported viz. refined Linseed oil or alkali refined Linseed oil had not been used in the manufacture of export goods and that importer was liable to pay duty on this ground. Therefore, the claim of exemption under Notification no. 50/2017 (Sr. No. 64) which attracted BCD 45% effectively had no revenue implications.

The IO observed that the CB had submitted that as the imported goods viz. refined Linseed Oil/ Alkali Refined Linseed Oil were imported by an EOU for manufacture of printing ink i.e. for industrial use and goods were not meant to be used for edible purposes, importer was not advised to obtain NOC from FSSAI authorities and for this reason there was nothing for the CB to report the non-compliance to the Deputy Commissioner or Assistant commissioner of Customs. Further in the present case, out of 82 B/Es for which SCN was issued, 8 B/Es were assessed by appraising group and in respect of four consignments goods were also examined by officers before OOC and the officers were also of the view that the goods were meant for industrial use. The IO also found that importer had all along taken a stand that the goods were of edible grade. The IO also found that in the letter submitted by Hubergroup to the Deputy Commissioner of Customs, Valsad Division, in-charge of EOU and to Dy. Commissioner of Customs, JNCH under Customs (Import of goods at concessional Rate of duty) Rules, 2017, importer had shown classification of the imported goods item 15159090 and had shown the duty fore gone under serial no. 50/2017-Cus (Sr. No. 64) which attracts BCD at 45%. The IO found justification in the submission of the CB that since the import documents clearly mentioned that the goods were meant for manufacture of Printing Ink viz. Industrial use and were not meant for consumption, they did not advise for referring the matter for FASSI NOC. The

IO also found that subsequently samples were drawn pursuant to alert issued in respect of two B/Es Nos. 5494896 dated 09.09.2024 and 8611405 dated 28.02.2025 drawn at the instance of FSSAI confirmed that the goods conformed to FSSAI parameters. The IO found that the documents submitted by the CB established the Linseed Oil imported by the Importer was of Edible Grade. The CB had thus filed the bills of Entry on the basis of Import documents and application under Rule 5 of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017, wherein, the goods were declared classified under CTH 15151990. As regards mis-classification of the goods, it was seen that when the goods were found of edible grade the only issue remained was of misclassification under CTH 15151990 instead of 15151190 done by importer. The CB stated that they filed B/E under CTH of 15151990 on the basis of actual use of the goods and as declared by the importer in letters issued Rule 5 of the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017. The IO submitted that there was no allegation that the CB did not give any advice w.r.t. to the provisions of Customs Act, 1962, the allied laws and rules and regulations, particularly when the department also did not ask for FSSAI Certificate so as to require the CB to advise the importer to comply with the requirement or to report any non-compliance to the notice of the Customs Department. The IO found that the submissions of the CB were acceptable and consequently, the charge of violation of provisions of Regulation 10(d) of CBLR was not proved.

(c) I have perused the defence submission of the CB wherein, the CB contends that they did not advise the importer contrary to the law, asserting that their role was limited to filing documents based on the importer's instructions and the bonafide belief that the goods were for industrial use. They argued that because the "Refined Linseed Oil" was explicitly intended for manufacturing printing ink rather than human consumption, they reasonably understood FSSAI NOC requirements to be inapplicable. To support this, the CB points out that Customs officers assessed 82 Bills of Entry and physically examined several consignments without ever raising an objection or requesting FSSAI certificate. Furthermore, the CB maintains that they followed the classification and exemption claims (Notification No. 52/2003-Cus) already established by the importer in communications

with jurisdictional Deputy Commissioners. The CB further argued that a broker is not required to be an expert in every aspect of the law beyond the documents provided, and since there is no evidence of them giving advice that wilfully violated the Customs Act, the charge under Regulation 10(d) cannot be sustained.

(d) I have gone through the facts and records of the case in detail. I find that the IO relied solely on the CB's submission that the imported refined linseed oil was intended for industrial use and not for human consumption, and on that basis accepted that the importer was not required to obtain FSSAI NOC. However, this overlooks the fact that only FSSAI NOC at the time of clearance could conclusively establish whether the goods were of edible grade, irrespective of their intended end use. Further, although the test results of the samples drawn for two Bill(s) of Entry (B/E No. 5494896 dated 09.09.2024 and B/E No. 8611405 dated 28.02.2025) were found to be edible but the test results for two aforementioned B/Es cannot establish whether the goods in the consignments imported prior to these two B/Es were also edible in nature. From the CB's defence, I find that the CB admits that they did not advise the importer to obtain a mandatory FSSAI NOC. Their defence that the goods were for industrial use is legally untenable considering that the goods were classified under ITCHS 15151990 (Other than Edible) while simultaneously claiming a benefit reserved only for edible grade oil. The exemption under Notification No. 50/2017 (Sr. No. 64) is strictly contingent upon the goods being of "Refined and Edible grade". If the CB claimed this benefit to calculate duty foregone, they were legally bound to advise the importer that "edible grade" status must be proven by getting the necessary NOC from FSSAI and other relevant documents. The CB should have advised the importer to obtain the FSSAI NOC/ test report before clearance of the consignment. The CB neither advised the importer to comply with the requisite documentation requirements nor did they inform the department.

I also observe that the CB and importer repeatedly asserted that the goods were of "edible grade" to justify the 45% BCD rate for bond debiting. However, they simultaneously ignored the FSSAI compliance required for all edible-grade oils. A CB

cannot pick and choose which part of a regulation to follow; if the “edible” status was claimed for a tax benefit, the “edible” compliance (FSSAI certificate) was mandatory. The CB’s argument that Customs officers also did not ask for the NOC does not absolve them of their independent statutory obligation under Regulation 10(d). The CB is a licensed intermediary expected to uphold the sanctity of the clearance process by duly following all the compliances mandated under the allied laws as and when applicable to an import and flag any non-compliance promptly. However, the CB M/s Sagar Shipping Agencies (I) Pvt. Ltd. failed to advise their client or bring the non-compliance to the notice of the department. In view of the aforementioned findings, I hold the CB guilty of violation of Regulation 10(d) of the CBLR, 2018.

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

(a) I find that the charge of violation of Regulation 10(e) of the CBLR, 2018 has been levelled against the CB on the grounds that on perusal of the offence report, it was apparent that the Customs Broker accepted the goods in question were of edible grade. In such circumstances, the Customs Broker was expected to advise the importer to furnish the requisite Food Safety and Standards Authority of India (FSSAI) certificate to substantiate the edible-grade nature of the imported refined linseed oil. However, no such certificate was made available at the time of filing the Bill of Entry. This lapse reflected a clear failure on the part of the Customs Broker to exercise the level of due diligence required under Regulation 10(e) of the CBLR, 2018, which stipulates that a Customs Broker shall ascertain the correctness of any information imparted to a client concerning clearance of cargo or baggage. By not verifying the compliance documentation required for claiming exemption under Notification No. 50/2017 (Sr. No. 64), the Customs Broker facilitated the inaccurate classification and the inadmissible duty exemption claim, thereby violating Regulation 10(e) of the CBLR, 2018.

(b) I find that the inquiry officer, in this regard has observed that the CB reiterated in their submission that as the Refined Linseed Oil was imported as raw material for manufacturing of Printing Ink and they did not ask the importer for getting certificate from

FSSAI to substantiate the edible grade nature of the goods as the FSSAI regulations applied to food products meant for human consumption. That the officers who assessed the bills of entry/ examined the goods also did not ask for this requirement. The IO submitted that the CB further stated that the obligation under this regulation is to exercise due diligence regarding correctness of information which CB imparts to the client and there was no allegation that the CB had imparted incorrect information to their client. The IO submitted that the CB relied upon the Hon'ble Delhi High Court's judgement in the matter of Kunal Travel (Cargo) vs Commissioner of Customs (I&G), IGI Airport New Delhi 217(314) ELT 447(Del) and in the matter of Regulation 13(e) of the CHALR 2004 held that;

“Clause (e) of the aforesaid Regulation requires exercise of due diligence by the CHA regarding such information which he may give in his client with reference to any work related to clearance of cargo

Clause (1) requires that all documents submitted, such as bills of entry and shipping bills delivered etc. reflect the name of the importer exporter and the name of the CHA prominently at the top of such documents.

The aforesaid clauses do not obligate the CHA to look into such information which may be made available to it from the exporter/ importer. The CHA is not an inspector to weigh the genuineness of the transaction. It is a processing agent of documents with respect to clearance of goods through customs house and in that process only such authorized personnel of the CHA can enter the customs house area”

The IO found that the obligation under this regulation is to exercise due diligence regarding correctness of information which CB imparts to a client and there was no allegation that the CB had imparted any incorrect information to their client. The IO found that the above submissions of the CB were acceptable and consequently, the charge of violation of provisions of Regulations 10(e) of CBLR was not proved.

(c) I have gone through the CB's submission and find that the CB submits that there was no concealment of facts or revenue loss, as the importer is a 100% EOU entitled to duty free imports. They explain that the claim under Notification No. 50/2017 (Sr. No. 64) was merely a procedural step to calculate the duty foregone amount for bond debiting, which is eventually reccredited upon fulfilling the export obligation. The CB emphasizes

that the goods were indeed “edible grade,” as confirmed by later FSSAI test results from 2024 and 2025, as well as Kosher and Halal certificates from the manufacturer’s website. Therefore, the CB argues that the declaration of the goods was technically accurate and they exercised due diligence and that the proceedings should be dropped.

(d) Having gone through the facts of the case and the available records I find that the Inquiry Officer has held the charge of violation of Regulation 10(e) as not proved. I have gone through the IO’s findings in detail and find it tenable. In view of same, I am inclined to observe that the CB is not in violation of Regulation 10(e) of the CBLR, 2018 and drop the said charge.

15. I find that a Customs Broker occupies a very important position in the Custom House and is supposed to safeguard the interests of both the importers/exporters and the Customs Department. A lot of trust is kept in CB by the Government Agencies; however, by their acts of omission and commission, the Customs Broker M/s. Sagar Shipping Agencies (I) Pvt. Ltd. (CB License No. 11/709) has violated Regulation 10(d) of the CBLR, 2018. I find that for the violation of obligations provided under the CBLR, 2018 and for their acts of omission and commission, the Customs Broker M/s. Sagar Shipping Agencies (I) Pvt. Ltd. has rendered itself liable for penal action under the CBLR, 2018. Hence, while deciding the matter, I rely on the following caselaws:

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

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

intent would be sufficient to invite upon the CB the punishment listed in the Regulations”.

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

"6.1 These provisions require the Customs Broker to exercise due diligence to ascertain the correctness of any information and to advise the client accordingly. Though the CB was accepted as having no mensrea of the noticed mis-declaration /under- valuation or mis-quantification but from his own statement acknowledging the negligence on his part to properly ensure the same, we are of the opinion that CH definitely has committed violation of the above mentioned Regulations. These Regulations caused a mandatory duty upon the CB, who is an important link between the Customs Authorities and the importer/exporter. Any dereliction/lack of due diligence since has caused the Exchequer loss in terms of evasion of Customs Duty, the original adjudicating authority has rightly imposed the penalty upon the appellant herein."

16. As discussed above, I conclude that the CB M/s. Sagar Shipping Agencies (I) Pvt. Ltd. (CB License No. 11/709) is guilty of violating Regulation 10(d) of the Customs Brokers Licensing Regulations, 2018. In view of the detailed discussion and analysis above, it is established that the CB M/s. Sagar Shipping Agencies (I) Pvt. Ltd. failed to discharge the professional and statutory obligations mandated under the CBLR, 2018. I find that while the CB may not have intentionally imparted incorrect information regarding the nature of the goods, they fundamentally failed in their professional and statutory obligation to advise the importer on mandatory regulatory compliance. By facilitating a claim for a specific duty benefit reserved for “edible grade” goods under Notification No. 50/2017 without ensuring the procurement of the requisite FSSAI NOC, the CB allowed a significant procedural and legal lapse to persist across multiple consignments. Further, the importer is an EOU wherein the duty liability is not paid in cash but the Bond submitted to the department is debited for the relevant amount and is recredited on fulfilment of the export obligation. I observe that the CB could have acted in a callous manner considering this aspect resulting in a lapse of judgement and consequent incorrect avilment of benefit under Notification No. 50/2017 (Sr. No. 64). Hence, under the factual matrix of the case

and applying the principle of proportionate punishment I am not inclined to revoke the License and forfeit the security deposit of the CB as the punishment of revocation of license and forfeiture of security deposit is much harsher and disproportionate to the offence committed. However, I am of the considered view that the ends of justice will be met by imposing a penalty on the CB, under Regulation 18 of the CBLR, 2018 which suffices both as a punishment for the infraction and as a deterrent to future violations. In this regard, I place reliance on the following caselaws:

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

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

give rise to action for suspension, revocation or nonrenewal have to keep several aspects in mind. Primarily, the effect of the action vis-a-vis right to carry on trade or profession in the background of Article 19(l)(g) of the Constitution has to be noted. It has also to be borne in mind that the proportionality question is of great significance as action is under a fiscal statute and may ultimately lead to a civil death."

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

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

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

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

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

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

17. Further, with respect to the timelines prescribed under Regulation 17 of the CBLR, 2018, I observe that the timelines under CHALR/CBLR are directory in nature and not mandatory. In this regard, I place reliance on the following caselaws:

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

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

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

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

(iii) that the object of the Regulations, the nature of the power and the language employed do not give scope to conclude that the time limit prescribed is mandatory.

Hence, we hold that the time limit prescribed in Regulation 20 (7) is not mandatory but only directory.”

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

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

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

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

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

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

18. Having gone through the facts of the case and evidences on record, it is noted that the role of the CB, though marked by negligence and lack of professional caution, appears to be one of omission and failure to adhere to prescribed standards rather than a thought after modus operandi to effect illegal imports. This distinction is of material importance while determining the proportionality of punishment under the licensing regulations. The objective of action under the CBLR is not punitive alone but also corrective and deterrent, aimed at ensuring that Customs Brokers adhere to the high standards of diligence and responsibility expected of them as licensed intermediaries. In the present case, the regulatory lapses established on record justify imposition of a monetary penalty under Regulation 18 of the CBLR, 2018, so as to underscore the seriousness of the obligations violated and to deter recurrence of such lapses in future. However, having regard to the absence of proven abetment, the nature of the violations, and the fact that revocation of licence would have severe and disproportionate consequences on the livelihood of the CB and its employees, the extreme penalty of revocation or forfeiture of security deposit is not warranted.


19. In view of the above judgements and the "Doctrine of Proportionality" which propagates the idea that a punishment for an offence should be proportional to the gravity of the offence, I am not inclined to revoke the license and forfeit security deposit of the CB. However, for their acts of omission and commission, the Customs Broker M/s. Sagar Shipping Agencies (I) Pvt. Ltd. (CB License No. 11/709) is held liable and guilty for violating the provisions of the CBLR, 2018, as mentioned above. I hold that the CB has failed to discharge their duties cast upon them with respect to Regulation 10(d) of the CBLR, 2018 and the interest of justice would be met by imposition of penalty under Regulation 18 of the CBLR, 2018. Accordingly, I pass the following order:

ORDER

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

(i) I, hereby impose a penalty of Rs. 50000/- (Rupees Fifty Thousand only) on the Customs Broker M/s. Sagar Shipping Agencies (I) Pvt. Ltd. (CB License No. 11/709) under Regulation 18(1) of the CBLR, 2018.

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



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

To,
M/s. Sagar Shipping Agencies (I) Pvt. Ltd.
(CB License No. 11/709)
A-1,2, Vaibhav CHS,
Sahar Pipeline Road,
Andheri (E), Mumbai - 400099.

Copy to:

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

