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

संचिका सं /.F. No.- GEN/CB/61/2025–CBS

CAO No. 25/2026-27/CAC/PCC(G)/AKP/Adj-CBS

आदेश दिनांक/Date of Order: 30.07.2026

जारी दिनांक/Date of issue: 30.07.2026

DIN- 20260777NO0000859533

द्वारा जारी: अजय कुमार पाण्डेय	Issued By : Ajay Kumar Pandey
प्रधान आयुक्त, सीमाशुल्क (सामान्य)	Principal Commissioner of Customs (Gen.)
मुंबई -400 001	Mumbai – 400 001

ORDER-IN-ORIGINAL मूल आदेश

ध्यान दीजिए/ N.B. :

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

2. इस आदेश के विरुद्ध अपील माँगे गए राशी के **7.5%** के भुगतान पर सीमाशुल्क अधिनियम, 1962 की धारा 129A(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 (कार्यविधि) नियमावली, १९८२, के प्रावधानों के अंतर्गत, यथोतखंडपीठ में स्वीकार्य है।
An appeal against this order lies with the Customs, Central Excise and Service Tax Appellate Tribunal in terms of section 129A(1B)(i) of the Customs Act, 1962, on payment of **7.5%** of the amount demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute. It shall be filed within three months from the date of communication of this order. The appeal lies with the appropriate bench of the Customs, Central Excise and Service Tax Appellate as per the applicable provisions of the Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982.

3. यह सूचित किया जाता है की इस आदेश के अमल में आते ही,न्याय निर्णयन अधिकारी का अधिकार क्षेत्र समाप्त होता है और सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण, पश्चिम क्षेत्री यखंडपीठ, के M/s Knowledge Infrastructure Systems Pvt. Ltd. & Others vs ADG, DRI, Mumbai के संदर्भ में जारी आदेश क्रमांक A/86617-86619/2018 दिनांक के अनुसार न्यायिक आदेश तदोउ 31.05.2018 प्रांत न्याय निर्णयन अधिकारी‘ *functus officio* ’बन जाता है
It is informed that the jurisdiction of the Adjudicating Authority stands alienated with the conclusion of the present adjudication order and the Adjudicating Authority attains the status of ‘*functus officio*’ as held by Hon’ble CESTAT, Mumbai

in its decision in the case of M/s Knowledge Infrastructure Systems Pvt. Ltd. & Others vs ADG, DRI, Mumbai vide Order No. A/86617-86619/2018 dated 31.05.2018.

4. यदि एक ही प्रकरण में उसी पक्षकार के विरुद्द 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 (अपीलस) नियमावली, १९८२ के नियम के तहत निर्धारित है एवं उसी नियमावली के नियम 3 के उपनियम 2 में उल्लेखित व्यक्ति 6 द्वारा हस्ताक्षरित एवं सत्यापित की जाएगी।
The Appeal should be filed in Form C.A.-3 prescribed under Rule 6 of the Customs (Appeals) Rules, 1982 and shall be signed and verified by the person specified in sub-rule 2 of rule 3 rules ibid.

6. (i) यदि प्रतिवादित आदेश, जिसके विरुद्ध अपील की गई है, में शुल्क एवं मांगे गए ब्याजवलगाएगए जुर्माने की राशि रु-/पाँच लाख या इस से कम होतो रु. 1000 ., (ii)यदि यह राशि रु पाँच लाख से अधिक .) हो किंतु पचास लाख से अधिक न होतो रु. 5000/- एवंiii) यदि यह राशि रु पचास लाख से अधिक होतो . रु. 10000/- के शुल्क 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, की अनुसूची मद 6 के तहत निर्धारित रु. 50 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:

SHOW CAUSE NOTICE NO. 04/2025-26 UNDER REGULATION 17 OF CUSTOMS BROKER LICENSING REGULATIONS, 2018

1. M/s Urmi Shipping Agency (License No. 11/1684), (AGHPK4401ECH001), having registered address at "601, Deepalaya Building, Camalane, Ghatkopar (West), Mumbai, Maharshtra-400086 (hereinafter referred to as the Customs Broker/CB) is holder of Customs Broker License No. (11/1684), issued by the Pr. Commissioner of Customs, Mumbai under Regulation 9(1)/9(2) of CHALR, 2004 erstwhile (now known as 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. 1632/2024-25/Commr./Gr. I& IA/NS-I/CAC/JNCH dated 20.01.2025 received in this office on dated 21.01.2025, JNCH, Mumbai from Group I&IA, NS-I, JNCH Zone-II, wherein CB M/s Urmi Shipping Agency (License No. 11/1684) has been involved in the matter of import by the importer M/s Suresh Kumar and Company (Impex) Private Limited (IEC-0505099306). In the subject offence report, it is inter-alia stated that:

3. An analysis of 10 bills of entry related to the goods i.e. "Pancake Syrup" during the period from 11.09.2020 to 06.02.2024, revealed that the said goods were classified under CTH 17022090 and 17029090 and paid BCD@30%. However, the said imported goods appear to be correctly classifiable under CTH 21069040 as the subject goods contain "Added Flavours".

4. Acting on the intelligence, an enquiry was initiated by DRI, Bhopal Regional Unit, Bhopal and primarily statement of Shri Santosh Pralhad More, G-card holder/Authorized Representative of Urmi Shipping Agency was recorded on 16.05.2024, wherein he stated that-

- the procedure adopted by their firm regarding clearance of consignment of imported goods is that the import documents such as Commercial Invoice, Packing List, Bill of Lading, Product Label etc. are received on the email id of Urmi Shipping Agency. On the basis of import documents received on the said email id, they prepare draft checklist of imported goods and send it back to the concerned importer for approval. Once the draft checklist is approved by the concerned importer, their firm files Bill of Entry and the duty payment is done by the concerned importer. The final approval regarding the classification of the said imported product is given by Suresh Kumar and Company (Impex) Private Limited on email id of their firm.
- The imported product i.e. Pancake Syrup is a Sugar Syrup (in liquid form) and it is imported by the said importer from UAE and USA. It is poured on

the pancakes and provides sweet taste to it. He further stated that as per his knowledge, the Pancake Syrup imported by the said importer contains added flavours i.e., Caramel Flavor and Maple Flavor.

- The imported product Pancake Syrup contains Sugar, Caramel Flavour and Maple Flavour as per the product label shown to him during the Statement. He further stated that the said product contains 70% Added Sugar. Suresh Kumar and Company (Impex) Private Limited has been importing the said products under CTI 17022090 & 17029090. The said product was last imported by them on 06.04.2024.
- Upon being shown the list of other importers who were importing Pancake Syrup under correct CTI 21069040, he admitted that importers are importing Pancake Syrup under correct CTI 21069040.
- He admitted that it is the responsibility of the CHA to suggest correct classification to the importers regarding the imported products. He further added that as per the verbal directions given by Suresh Kumar and Company (Impex) Private Limited as well as HS Code details mentioned on Supplier's Invoice/ Packing List/ Bill of Lading, thus his firm always suggested to classify the imported product "Pancake Syrup" under CTI 17022090 & 17029090.
- He admitted that Suresh Kumar and Company (Impex) Private Limited has been importing "Pancake Syrup" under incorrect CTI 17022090 & 17029090 because the said imported product is a Sugar Syrup that contains Sugar and added flavours in the form of Caramel Flavor and Maple Flavor and it should fall under CTI 21069040.

5. Further, statement of Sh. Nikhil Asrani, Director of M/s Suresh Kumar and Company (Impex) Private Limited was recorded on 28.06.2024 wherein he stated that-

- The procedure adopted by their firm regarding clearance of consignment of said imported goods is that the import documents such as Commercial Invoice, Bill of Lading, Packing List etc. are received by him on his email id. The import documents received are then forwarded to their Custom Broker i.e., Urmi Shipping Agency who then forward the draft checklist to him. Thereafter, the draft checklist is approved by him for filing of Bill of Entry by Urmi Shipping Agency and the duty payment is done by their firm.
- They import Pancake Syrup of Abbie's Brand. This product is poured on Pancakes and it gives a sweetening taste to it. It is Sugar syrup that contains Sugar, Water, Maple flavour, Caramel flavour, etc. It is in liquid form. They import this product from USA and UAE. This product is FSSAI

approved and they have a license for the same bearing number 10015011002594.

- Upon being the label of the imported goods Pancake Syrup, he admitted that Pancake Syrup is Sugar Syrup that contains 70% Added Sugars, as mentioned in the Nutrition Facts of the said Label.
- Upon being shown the list of other importers who were importing Pancake Syrup under correct CT1 21069040, he acknowledged that importers are importing Pancake Syrup under correct CTI 21069040. Our firm classified the product i.e., Pancake Syrup under CTT 17022090 & 17029090 on the basis of the HS Code mentioned in the Supplier's Invoice and Country of Origin Certificate, which was issued under comprehensive economic partnership between India and UAE. He admitted that the product imported by their firm i.e., Pancake Syrup is sugar Syrup that contains Added Flavouring in the form of Maple flavour and Caramel flavour and it is classifiable under CTI 21069040. He is willing to voluntarily pay the consequential differential duty along with interest and penalty, as applicable.

6. On scrutiny of previous data of the same goods, it came to know that the importer has classified the same goods under CTH 21069040/21069090 in 3 bills of entry during the 2015-16, however in these bills of entry, involved CB was M/s Exim Transtrade (India) Private Limited. In these bills of entry, the importer had paid BCD@30% by availing the benefit of Notf 12/2012 dated 17.03.2012. Thereafter, the importer changed the CTH to 1702 from the B/E No. 2600969 dated 26.07.2017 and continued paying BCD@30 as the effective rate of duty for CTH 2106 was (50% from 30%) after the supersession of the Notf. No. 12/2012 dated 17.03.2012. In view of the above, it appears that the importer has prior knowledge of the correct CTH 210690 for the goods i.e. Pancake Syrup, but mis-classified the same in recent bills of entry, intentionally from July 2017 onwards, to avoid higher rate of duty.

7. Further, another intelligence was developed that the importer is engaged in the import of Coconut Milk and Coconut Cream, by mis-classification of the same under CTI 20081990 (for Coconut Milk and Coconut Cream) and 20098990 (only for Coconut Milk), from Thailand, by way of incorrectly availing the benefit of Notification no. 46/2011 dated 01.06.2011 [Sr. No. 172(1) for CTI 20081990 and Sr. No. 176(1) for CTI 20098990), as amended, thereby paying Duty @0% BCD and paid IGST at the rate of 12% as per notification number 01/2017-Integrated tax(Rate) dated 28.06.2017, instead of correctly classifying the said imported goods under CTI 21069099 as the said imported goods are Food Preparation items. Total 12 bills of entry were found during the period from 22.01.2020 to 20.04.2022.

8. Statement of Sh. Santosh Pralhad More (G-Card Holder), Authorised Representative of CB M/s Urmi Shipping Agency, was recorded on 24.12.2024 wherein he stated that-

- He is not aware about the manufacturing process of the import goods Coconut Milk and Coconut Cream. He further stated that the said items are used in food preparations and are not to be consumed directly out of can.
- Coconut Milk and Coconut Cream are imported by Suresh Kumar and Company (Impex) Private Limited from Theppadungporn Coconut Co. Ltd and Kodanmal Group Co. Ltd from Thailand. As on date, they have filed only 3 Bills of Entry- BE No. 3222211 dated 20.03.2021. 3376291 dated 31.03.2021 and 4023207 dated 21.05.2021 for the imported Items- Coconut Milk and Coconut Cream, all under CTI 20081990. The importer Suresh Kumar and Company (Impex) Private Limited finally decides the classification of the said imported goods for filing Bills of Entry. Further, the benefit of Notification No. 46/2011-Cus dated 01.06.2011 (Sr No. 172 (1)) was availed in the said Bills of Entry.
- The procedure adopted regarding clearance of consignment of imported goods is that the import documents such as Commercial Invoice, Packing List, Bill of Lading, Form A1 (Country of Origin Certificate) etc. are received by their firm on email. On the basis of import documents received by their firm, they prepare draft checklist and suggested CTI 20081990 for the said imported goods before filing of Bill of Entry and send it to the concerned importer. Thereafter, the checklist is approved by the concerned importer.
- They have suggested only CTI 20081990 in the draft checklist in respect of imported goods "Coconut Milk" & "Coconut Cream" on the basis of directions received from the importer on email that the HSN mentioned on Form Al (Country of Origin Certificate) (HS Code 2008.19.90) is to be taken into account. He has voluntarily submitted signed copy of the email trail wherein the importer has provided previously filed Bill of Entry and concerned import documents. In the email, it can be seen that the importer has given directions to take HSN code from Form A1 (Country of Origin Certificate) i.e., HS Code 2008.19.90 and not from Bill of Lading i.e., HS Code 2106.90. As per the said directions, they prepared checklist for the said imported goods on the basis of Form A1 (Country of Origin Certificate) under CTI 20081990 for future consignment.
- He admitted that being a CHA, it is his responsibility to suggest correct classification to the importers regarding the imported goods. But, on the basis of directions received from the importer on email that the HSN mentioned on Form A1 (Country of Origin Certificate) (HS Code

2008.19.90) is to be taken into account, suggested only CTI 20081990 in the draft checklist in respect of imported goods "Coconut Milk" & "Coconut Cream"

9. Further, statement of Sh. Nikhil Asrani, Director of Suresh Kumar and Company (Impex) Private Limited (the importer), was recorded on 13.01.2025. From the statement, it is observed that the importer had prior knowledge that the imported goods Coconut Milk and Coconut Cream are food preparation items, they are not juice and that the %Fat and fibre content gets changed during their manufacturing process, from Coconut fruit. Further, it appears that the importer has blatantly ignored the HS Code 2106.90 mentioned in the Bills of Lading and intentionally followed the HS Code 2008/2009 mentioned in the FTA Form A1 (Country of Origin certificate) without verifying the veracity of the said information, in order to avail the benefit of Notification No. 46/2011 Cus dated 01.06.2011 (which are not applicable on goods under CTI 21069099) to avoid paying higher rate of duty. Further, the importer has directed the CHA to mention the HS Code as mentioned in the FTA Form A1 (Country of Origin certificate) in the declaration filed before the Customs in their Bills of Entry. Also, for the imported goods Pancake Syrup, the importer had prior knowledge of the correct CTH 2106 for the imported goods Pancake syrup, as they had cleared the said imported goods under CTH 21069040/21069099 in their first three Bills of Entry, but intentionally directed the CHA to consider the CTH 17022090 for the imported goods Pancake Syrup for filing the declaration before Customs in Bills of Entry in order to avoid paying higher rate of duty.

10. As disused above, an amount of Rs. 2,59,42,515/- (Rupees Two Crore Fifty-Nine Lac Forty-Two Thousand Five Hundred and Fifteen only) was worked out as Differential duty, to be paid by the importer. Out of which, the importer has voluntarily paid Rs. 20,68,807/- (Rupees Twenty Lacs Sixty-Eight Thousand and Eight Hundred and Seven only) against the import of Pancake syrup.

11. Therefore, a Shows Cause Notice was issued by the Commissioner of Customs, NS-I, JNCH wherein CB M/s Urmi Shipping Agency had been made the party and penalty has been proposed under Section 112(a)/112(b) and Section 114AA of the Customs Act, 1962 and it is proposed that Penalty under Regulation 18 of the CBLR, 2018 may be imposed the Customs Broker

12.1 Regarding import of Pancake Syrup: On scrutiny of the subject SCN, it appears that the imported goods i.e. Pancake Syrup was wrongly classified under CTH 17022090 (30% BCD) instead of correct CTH 210690 (50% BCD). Earlier the same importer was importing the goods i.e. Pancake Syrup under CTH 2106 with 30% BCD on the benefit of Notf. No. 12/2012 dated 17.03.2012 (wherein effective rate of duty under CTH 210690 was 30%). Further, on introduction of

Notf. 50/2017, BCD has been increased to 50% for CTH 2106 and the importer has directed CB to declare the CTH 1702 for the said goods and paid BCD@30%. However, in earlier bills of entry, the involved CB was M/s Exim Transtrade (India) Private Limited and they filed last bill of entry no. 8778066 dated 11.09.2020 in reference to goods i.e. Pancake Syrup and declared incorrect CTH 1702 (30%) instead of correct CTH 2106(50% BCD). Further, CB M/s Urmi Shipping Agency filed 9 bills of entry from 2021 to 2024 for the goods i.e. Pancake Syrup and declared incorrect CTH 1702.

12.2 Regarding import of Coconut Milk and Coconut Cream: In the matter of import of Coconut Milk and Coconut cream, CB M/s Urmi Shipping Agency has filed 3 bills of entry vide no. 3222211 dated 20.03.2021, 3376291 dated 31.03.2021 and 4023207 dated 21.05.2021. In these bills of entry, the goods were classified under CTH 20081990 instead of correct CTH 210690. On scrutiny, it is noticed that in the Form A1 (Country of Origin), CTH of the goods mentioned as 20081990/20098990 however, in the Bill of lading, the same is mentioned as 210690. In this regard, the importer has directed CB to file bill of entry under 20081990/20098990 to avail Country of origin Notf. 46/2011 benefit.

13. Hence, in view of the above, it appears that CB had violated the following provisions of CBLR, 2018:

13.1 Violation of Regulation 10(d) of CBLR, 2018:

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

In the instant case, the imported goods i.e. Pancake Syrup was wrongly classified under CTH 17022090 and 17029090 (30% BCD) instead of correct CTH 210690 (50% BCD). Earlier the same importer was importing the goods i.e. Pancake Syrup under CTH 2106 with 30% BCD on the benefit of Notf. No. 12/2012 dated 17.03.2012 (wherein effective rate of duty under CTH 210690 was 30%). Further, on introduction of Notf. 50/2017, BCD was increased to 50% for CTH 2106, the importer directed his CB to declare the said goods under CTH 1702 (BCD@30%). However, in earlier bills of entry, the involved CB was M/s Exim Transtrade (India) Private Limited and they filed last bill of entry no. 8778066 dated 11.09.2020 in reference to goods i.e. Pancake Syrup and declared incorrect CTH 1702 (30%) instead of correct CTH 2106(50% BCD). Further, CB M/s Urmi Shipping Agency filed 9 bills of entry from 2021 to 2024 for the goods i.e. Pancake Syrup and declared incorrect CTH 1702.

Thus, in view of the above, it appears that CB has failed to advise his importer about correct classification of Pancake Syrup as it is admitted by CB in the statement dated 16.05.2024, that the subject goods containing Added Flavour and should be classified under CTH 2106. Despite the knowing fact that the goods containing Added Flavour, it appears that CB has not made any efforts to make necessary changes in CTH and failed to inform the importer as well as the Customs Department.

Further, in the matter of import of Coconut Milk and Coconut Cream, it is observed that as per subject Bill of lading, the said goods are rightly classifiable under CTH 210690 and Form A1 (Country of Origin Certificate) indicates that the subject goods are classifiable under CTH 20081990/20098990. As there are two CTIs were mentioned on two different documents of same goods but CB raised the said query to the importer only and did not inform the said discrepancy to the Customs department. Further, CB has followed the importer's direction to declare the subject goods under CTH 20081990/20098990 on the basis of Country-of-Origin certificate to avail the lower rate of duty under Notf. 46/2011.

Further, during the investigation, it is observed that the imported goods i.e. Coconut milk and Coconut cream are food preparations and appears to be rightly classifiable under CTH 210690. It is the CB's responsibility to make sure that the declared CTI is correct in terms of goods description but in the instant case, CB has followed the importer's direction and filed the bill of entry on the basis of Form A1 and also did not inform the same to the Customs department also, thus it appears that CB does not fulfil his obligations in reference to regulation 10(d) of the CBLR, 2018. In view of the above, it appears that CB has not only failed to advise his client to declare CTH along with proper description of goods but also failed to inform the Customs authorities about such mis-declaration of CTH. Thus, it appears that CB had violated the provisions of Regulation 10(d) of CBLR, 2018.

13.2 Violation of Regulation 10(e) of CBLR, 2018:

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

It is clearly brought out in the investigation that the goods i.e. Pancake Syrup are containing Added flavours and in his statement dated 16.05.2024, Sh. Pralhad More, G-card holder/Authorized representative of CB M/s Urmi Shipping Agency, stated that the Pancake Syrup imported by the said importer contains added flavours i.e., Caramel Flavor and Maple Flavor. It is CB's responsibility to convey his client to declare complete description of goods i.e.

details of mixed flavours along with correct CTH. If the complete description of goods had been mentioned in subject bill of entry, the Customs authorities might be able to catch the mis-classification at very early stage. Thus, it appears that CB has not imparted correct information to his client about goods description declaration and CTH.

Further, in the matter of import of Coconut Milk and Coconut Cream, it is observed that as per subject bill of lading, the said goods are rightly classifiable under CTH 210690 and Form A1 (Country of Origin Certificate) indicates that the subject goods are classifiable under CTH 20081990/20098990. As there are two CTIs were mentioned on two different documents of same goods but CB raised the said query to the importer only and did not inform the said discrepancy to the Customs department. Further, CB has followed the importer's direction to declare the subject goods under CTH 20081990/20098990 on the basis of Country-of-Origin certificate to avail the lower rate of duty under Notf. 46/2011. Further, during the investigation, it is observed that the imported goods i.e. Coconut milk and Coconut cream are food preparations and appears to be rightly classifiable under CTI 210690. Thus, it appears that CB had not imparted correct CTH/information to his client and consequently, it appears that CB had violated the provisions of Regulation 10(e) of CBLR, 2018.

13.3 Violation of Regulation 10(m) of CBLR, 2018:

"discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay"

It appears that CB has not performed his duties with utmost efficiency as it is clearly brought out in the investigation that the goods are containing Added Flavours but at any stage, CB did not ask his client to re-assess the declared CTH. Further, in the matter of Coconut Milk and Coconut Cream, the subject bill of lading indicates that the subject goods should be classified under CTH 2106 but CB chose to declare the goods under CTH 20081990/20098990 on the basis of Form A1 certificate.

Hence, in view of the all above, CB has not discharged his duties with efficiency and appears to have violated the provisions of Regulation 10(m) of CBLR, 2018.

14. Thus, considering all the facts above, it appears that CB has not performed his duties with due diligence and utmost efficiency. In a regime of trade facilitation, CB is required to check goods description along with declaration of CTH. In the instant case, goods i.e. Pancake syrup should have been declared under CTH 2106 instead of 1702 as the said goods contains added flavors. Further, in the matter of Coconut Milk and Coconut Cream, CB could have filed

the bill of entry on the basis of Bill of lading but he chose to file the subject bills of entry on the basis of Form A1 Certificate to avail benefit under Noti. 46/2011.

15. Considering the observations made above, it is to mention that the CB has a very important role in customs clearances and lot of trust has been placed by the Department on the CB. In the context of trade facilitation, where an increasing number of goods are processed through Risk Management Systems without customs examination, the role of the Customs Broker (CB) has become even more critical in ensuring that the country's economic borders are effectively protected. But in the instant case, by their acts of omission and commission, it appears that the CB has violated Regulation 10(d) 10(e) and 10(m) of the CBLR, 2018.

16. In view of the above, in terms of Regulation 17(1) of CBLR, 2018, the Customs Broker M/s Urmi Shipping Agency (License No. 11/1684), is hereby called upon to show cause notice, as to why:

i. The license, bearing no. 11/1684), issued to them, should not be revoked;
ii. Security deposit should not be forfeited;
iii. Penalty should not be imposed

upon them under Regulation 14 read with 17 & 18 of the CBLR, 2018 for their failure to comply with the provisions of CBLR, 2018.

INQUIRY REPORT: -

17. The Inquiry Officer (IO), appointed under Regulation 17 of the Customs Brokers Licensing Regulations, 2018 (CBLR, 2018), concluded the inquiry proceedings against M/s. Urmi Shipping Agency, a licensed Customs Broker. The IO submitted a detailed report on 27.03.2026, wherein all charges leveled against the Charged Broker (CB) for alleged violations of Regulations 10(d), 10(e), and 10(m) of the CBLR, 2018 were held as “Not Proved.”

18. The inquiry stemmed from an Offence Report in the form of Show Cause Notice No. 1632/2024-25/Commr./Gr. I & IA/NS-I/CAC/JNCH dated 20.01.2025, received by the CB Section on 21.01.2025 from Group 1 & 1A, NS-1, JNCH Zone-II. This report implicated the CB in matters concerning imports by M/s. Suresh Kumar and Company (Impex) Private Limited (IEC-0505099306), specifically involving alleged misclassification of Pancake Syrup and Coconut Milk/Coconut Cream.

19. The IO thoroughly examined:

a) The Articles of Charge and detailed Grounds of Imputations of Misconduct.

b) All relied-upon documents.

c) Records of Personal Hearings.

d) Defense submissions made by the CB during hearings and inquiry proceedings.

e) Statements of all persons recorded during the investigation.

The IO placed on record the CB's submissions and proceeded to analyze their merits point by point. The report emphasizes that the IO's mandate was strictly limited to determining violations under CBLR, 2018, and not to adjudicate classification disputes, which fall under the purview of the Customs Act, 1962, the Customs Tariff Act, 1975, and allied legislation. Any determination on classification by the IO could potentially influence ongoing adjudication proceedings before the proper authority.

20. Detailed Analysis of Article of Charge-I: Alleged Violation of Regulation 10(d)

Regulation 10(d) of the CBLR, 2018 mandates that a Customs Broker shall advise its client to comply with the provisions of the Customs Act and allied laws. In cases of non-compliance, the CB must promptly bring the matter to the notice of the Deputy Commissioner or Assistant Commissioner of Customs, as applicable.

20.1 The charge centered on two sets of imports:

I. Pancake Syrup: The goods were allegedly wrongly classified under CTH 1702 2090 and 1702 9090 (attracting 30% Basic Customs Duty – BCD) instead of the correct CTH 2106 90 (50% BCD). The importer had previously cleared similar consignments under CTH 2106, availing benefits under Notification No. 12/2012 dated 17.03.2012 (effective rate 30%). Following Notification 50/2017, which raised the duty to 50% under CTH 2106, the importer reportedly directed declaration under CTH 1702 to avail the lower rate. Earlier bills were handled by M/s Exim Transtrade (India) Private Limited (last BoE No. 8778066 dated 11.09.2020 under incorrect CTH 1702). M/s Urmi Shipping Agency filed nine bills of entry between 2021 and 2024 under the allegedly incorrect classification.

It was further alleged that the CB's G-card holder/Authorized Representative, Shri Santosh Pralhad More, admitted in his statement dated 16.05.2024 that the goods contained added flavours (Caramel and Maple) and should be classified under CTH 2106. Despite this knowledge, the CB made no efforts to correct the CTH or inform the importer and Customs Department.

II. Coconut Milk and Coconut Cream: The Bill of Lading indicated classification under CTH 210690, while the Form A1 Certificate of Origin suggested CTH 20081990/20098990. The CB raised a query only with the importer regarding the discrepancy but did not inform the Customs Department. It followed the importer's instructions to declare under the lower-duty headings based on the

Certificate of Origin to avail benefits under Notification 46/2011. Investigation suggested the goods were food preparations rightly classifiable under CTH 210690. The CB was accused of failing to ensure correct classification and reporting the issue.

20.2 IO's Detailed Findings: The IO identified two primary issues in the Offence Report matching the above. The CB submitted extensive defenses, citing HSN Explanatory Notes (e.g., Note 12 to Heading 2106 for Pancake Syrup; notes to Heading 2008 for coconut products as "nuts"), General Rules of Interpretation (GIR) Rules 1, 3(a), and 3(b), and multiple websites confirming coconut's classification as fruit/nut.

20.3 Crucially, the IO ruled that deciding the correct classification was beyond the scope of CBLR inquiry proceedings. This issue was sub-judice before the Adjudicating Authority under the SCN. The IO could only assess whether the CB violated its regulatory obligations.

20.4 The IO found no evidence that Urmi Shipping Agency had prior knowledge of the importer's earlier classifications under CTH 2106 (handled by a different broker). Neither the G-card holder's statement nor the importer director's statement (Shri Nikhil Asrani, dated 28.06.2024) established such knowledge or complicity. The G-card holder's affirmative response when shown other importers' BoEs was deemed a natural reaction and not an admission of guilt.

20.5 The IO relied heavily on judicial precedents:

a) M/s Perfect Cargo and Logistics Vs. Commissioner (CESTAT New Delhi, 2020) – Statement of only the G-card holder is insufficient when charges are against the CB/licensee. The CB's own statement is necessary.

b) HIM Logistics Pvt. Ltd. (2016) – Penalty unjustified for complex classification matters; responsibility lies with Customs.

c) Series of other rulings (L.M.S. Transport Co., Akanksha Enterprises, Parvath Shipping Agency, Bajaj Enterprises, M.D. Shipping Agency) reinforcing that CBs file based on importer documents. Liability arises only with evidence of knowledge of misdeclaration or mala fide intent.

20.6 The CB filed BoEs on the basis of documents provided by the importer. There was no proof of awareness of any intent to evade duty. Hence, no failure to advise or report non-compliance. Charge-I held "Not Proved."

21. Article of Charge-II: Alleged Violation of Regulation 10(e)

Regulation 10(e) requires the Customs Broker to exercise due diligence to ascertain the correctness of information imparted to the client regarding clearance work.

21.1 Mirrored Charge-I, with emphasis on failure to convey complete goods description (e.g., added flavours in Pancake Syrup) and correct CTH. For Coconut products, the CB allegedly did not properly address document discrepancies or impart accurate information, resulting in misdeclaration for lower duty.

21.2 IO's Findings: The IO observed that this charge was largely a repetition of Charge-I and applied identical reasoning. The same defenses, HSN/GIR citations, and lack of prior knowledge applied. Additional reliance was placed on cases such as Kunal Travels (2017), G.N.D. Cargo Movers (2017), and Commissioner vs. Shipping & Clearing Agents (2023), which protect CBs when documents are prepared innocently on client instructions without evidence of connivance.

21.3 Conclusion: No breach of due diligence established. Charge-II held "Not Proved."

22. Article of Charge-III: Alleged Violation of Regulation 10(m)

Regulation 10(m) obligates the Customs Broker to discharge duties with utmost speed, efficiency, and without any delay.

22.1 The CB allegedly lacked efficiency by not seeking re-assessment for Pancake Syrup despite flavour details and by following importer directions for Coconut products based on Form A1 rather than Bill of Lading.

22.2 IO's Findings: Again, a repetition of prior charges. No evidence of actual delays in filing BoEs, non-cooperation during investigation, or complaints from the importer or department. Allegations were speculative, based on classification assumptions rather than procedural lapses. The same case laws and defenses applied.

22.3 Conclusion: Charge based on presumption; held "Not Proved."

23. The IO submitted that from the aforesaid discussions as mentioned above, concluded his findings as under.

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

DISAGREEMENT MEMO DATED 02.06.2026

24.1 Whereas an inquiry against the Customs Broker (here-in-after referred to as "CB") M/s. Urmi Shipping Agency (CB No. 11/1684) was initiated vide Show Cause Notice No. 17/2025-26 dated 07.04.2025, issued by the undersigned in a case of contravention of provisions of Regulation 10(d), 10(e) and 10(m) of the CBLR, 2018.

24.2. I, the undersigned, in exercise of powers conferred upon me under Regulation 17 of CBLR, 2018, had appointed Shri Sanjay Singh Pawar, Assistant Commissioner of Customs, as the Inquiry Officer (I.O.) in the instant case to complete the inquiry proceedings against the said CB.

24.3. The Inquiry Officer (hereinafter referred to as I.O.) has submitted the inquiry report on 27.03.2026 received in this office on 30.03.2026, wherein he has held the violation of Regulation 10(d), 10(e), and 10(m) of CBLR, 2018 framed against the CB, M/s. Urmi Shipping Agency (CB No. 11/1684) as "Not Proved".

The Inquiry Officer, in his report, has mentioned the following points on which the above charges have not been proved:

24.3.1 Regulation 10(d) of CBLR, 2018:

With regards to above violation, the IO stated that the SCN alleged that the Customs Broker failed to discharge his obligations under Regulation 10(d) of CBLR, 2018 in respect of import consignments of Pancake Syrup, Coconut Milk, and Coconut Cream. In the case of Pancake Syrup, the goods were declared under CTH 17022090 and 17029090 attracting 30% BCD instead of the alleged correct classification under CTH 210690 attracting 50% BCD. It is alleged that despite being aware that the goods contained added flavour and were classifiable under CTH 2106, the CB continued to file Bills of Entry under CTH 1702 as per the importer's instructions and failed to advise the importer or inform Customs authorities regarding the alleged misclassification.

Further, in the case of Coconut Milk and Coconut Cream, discrepancies were noticed between the classification mentioned in the Bill of Lading and the Country of Origin Certificate (Form A1). Despite such discrepancy, the CB allegedly relied upon the importer's instructions and filed Bills of Entry under CTH 20081990/20098990 to avail concessional duty under Notification No. 46/2011, without informing Customs authorities. Hence, it appears that the CB failed to ensure correct declaration and violated Regulation 10(d) of CBLR, 2018.

The Inquiry Officer clarified that although the allegation states that the importer had earlier imported Pancake Syrup under CTH 2106, there is no evidence on record to establish that the charged Customs Broker, M/s Urmi Shipping Agency, had prior knowledge of such classification. Neither the statement of Shri Santosh Pralhad More, G-card holder of the CB, nor the statement of the importer's Director, Shri Nikhil Asrani, indicates that the CB was aware of earlier imports under CTH 2106. Further, the statement of the G-card holder accepting that other importers classified Pancake Syrup under CTH 21069040 cannot be treated as admission of guilt, as he merely acknowledged classifications already accepted by Customs authorities.

Reliance was placed on various judicial pronouncements including M/s. Perfect Cargo and Logistics, M/s. HIM Logistics Pvt. Ltd., M/s. LMS Transport Co., M/s. Akanksha Enterprises, M/s. Parvath Shipping Agency, M/s. Bajaj Enterprises, and M/s. M.D. Shipping Agency, wherein it was consistently held that a Customs Broker files documents based on records provided by the importer and cannot be penalized unless there is evidence of knowledge or involvement in misdeclaration.

Regarding classification of Coconut Milk and Coconut Cream, the undersigned cannot determine whether the classification adopted by the Customs Broker was correct or incorrect. Although differing classifications appeared in the Bill of Lading and Country of Origin Certificate, the CB provided justification. The Inquiry Officer's role is limited to examining violations under CBLR, 2018.

It is further observed that no evidence exists to show that the CB was aware of any intent to evade duty or deliberately misclassify the goods. Accordingly, the charge alleging violation of Regulation 10(d) of CBLR, 2018 is held as "Not Proved".

24.3.2 <u>Regulation 10(e) of CBLR, 2018:</u>

With regards to above violation, the IO stated that the SCN alleged that the Customs Broker failed to comply with Regulation 10(e) of CBLR, 2018 by not imparting correct information to the importer regarding proper declaration of goods description and classification. In the case of Pancake Syrup, investigation revealed that the goods contained added flavours such as Caramel and Maple Flavour. The G-card holder of the CB admitted this fact in his statement dated 16.05.2024. However, the Bills of Entry allegedly did not contain complete description of the goods, which may have prevented Customs authorities from detecting the alleged misclassification at an early stage.

Further, in the case of Coconut Milk and Coconut Cream, different CTHS were reflected in the Bill of Lading and Country of Origin Certificate. Despite noticing the discrepancy, the CB allegedly relied upon the importer's instructions and declared the goods under concessional tariff headings to avail lower duty benefit under Notification No. 46/2011, without informing Customs authorities. Thus, the CB appears to have violated Regulation 10(e) of CBLR, 2018.

The Inquiry Officer clarified that the allegations in this article are same as Article of Charge I and therefore same observations have been made. The Inquiry Officer observed that there is no evidence on record to establish that the charged Customs Broker, M/s Urml Shipping Agency, had prior knowledge that the importer was earlier classifying Pancake Syrup under CTH 2106. Neither the statement of the G-card holder, Shri Santosh Prahlad More, nor that of the importer's Director indicates such knowledge. Further, the admission by the G-card holder regarding classification adopted by other importers cannot be treated as admission of guilt, as the Bills of Entry were already assessed by Customs authorities.

Reliance has been placed on various judicial pronouncements including M/s. Perfect Cargo and Logistics, M/s. HIM Logistics Pvt. Ltd., M/s. Kunal Travels, M/s. G.N.D. Cargo Movers, and Shipping & Clearing Agents Pvt. Ltd., wherein it has been consistently held that a Customs Broker files documents based on information and records provided by the importer and cannot be penalized unless there is evidence of mala fide intent, knowledge of misdeclaration, or active connivance.

Regarding classification of Coconut Milk and Coconut Cream, the undersigned cannot determine whether the classification adopted by the Customs Broker was correct or incorrect. Although differing classifications appeared in the Bill of Lading and Country of Origin Certificate, the CB provided justification. The Inquiry Officer's role is limited to examining violations under CBLR, 2018.

It is further observed that the Customs Broker had provided justification regarding classification and there is no evidence showing deliberate suppression or failure to exercise due diligence. Accordingly, the charge alleging violation of Regulation 10(e) of CBLR, 2018 is held as "Not Proved."

24.3.3 <u>Regulation 10(m) of CBLR, 2018:</u>

During the course of inquiry proceedings, the IO found that the SCN alleged that CB has not performed his duties with utmost efficiency as it is clearly brought out in the investigation that the goods are containing Added Flavours but at any stage, CB did not ask his client to re-assess the declared CTH. Further, in the matter of Coconut Milk and Coconut Cream, the subject bill of lading indicates that the subject goods should be classified under CTH 2106. However, CB chose to declare the goods under CTH 20001990/20090990 on the basis of Form A1 certificate".

IO further clarified that there is no evidence on record to establish that the charged Customs Broker, M/s Urmi Shipping Agency, had prior knowledge that the importer was earlier classifying Pancake Syrup under CTH 2106. Neither the statement of Shri Santosh Prahlad More, G-card holder of the CB, nor the statement of the importer's Director, Shri Nikhil Asrani, indicates such prior knowledge. Further, the admission made by the G-card holder regarding classification adopted by other importers cannot be treated as admission of guilt, as the classifications referred to were already accepted by Customs authorities.

Reliance has been placed on the decision of Hon'ble CESTAT in M/s. Perfect Cargo and Logistics wherein it was held that proceedings against a Customs Broker cannot be sustained solely on the basis of the statement of a G-card holder without recording the statement of the Customs Broker himself. The ratio of the said judgment is applicable in the present case.

Further, regarding classification of Coconut Milk and Coconut Cream, the Inquiry Officer under CBLR, 2018 cannot determine correctness of tariff classification and is confined only to examining violations under CBLR, 2018. Reliance is also placed on M/s. HIM Logistics Pvt. Ltd., wherein it was held that classification disputes are complex issues primarily falling within the domain of Customs authorities.

It is further observed that there is no evidence showing lack of efficiency, delay, or non-cooperation on the part of the charged Customs Broker. Accordingly, the allegation of violation of Regulation 10(m) of CBLR, 2018 is held as "Not Proved."

24.4. The Adjudicating Authority i.e. the Principal Commissioner of Customs (General) disagreed with the findings of the Inquiry Officer with regard to "Not-Proved" charges of Regulation 10(d) of CBLR, 2018 on the following grounds, emanating from the facts of the case:

25. The inquiry report concluded that the violation of Regulation 10(d) of CBLR, 2018, framed against CB as "Not Proved".

26. The Inquiry Officer's finding that the charge of violation of Regulation 10(d) of the Customs Brokers Licensing Regulations (CBLR), 2018 is "Not Proved" is legally flawed and factually inconsistent with the evidentiary record.

26.1.1 Regulation 10(d) casts a clear and affirmative obligation on the Customs Broker (CB) to “advise his client to comply with the provisions of the Act, rules, regulations, notifications and orders issued thereunder." This duty is not contingent upon the CB's role in document filing alone, but extends to ensuring that the exporter/importer is made aware of and complies with all applicable legal requirements.

26.1.2 The IO has observed that Shri Santosh Prahlad More, G-card holder/Authorized Representative of charged CB M/s. Urmi Shipping Agency & Shri Nikhil Asrani, Director of importing firm M/s. Suresh Kumar and Company (Impex) Pvt. Ltd., in their recorded statements dated 25.06.2024 & 28.06.2024 have never stated that the charged CB was having prior knowledge that the importer was importing the goods i.e. Pancake Syrup under CTH 2106. However, in the same statement, Shri Santosh Prahlad More has accepted that their firm has relied upon verbal directions given by the importer as well as HS Code details mentioned on Suppliers Invoice/Packing List/Bill of Lading and also suggested to classify the imported product i.e. Pancake Syrup under 17022090 & 17029090. Further, has agreed that the goods contain sugar and added flavouring in the form of Caramel Flavour and Maple Flavour and it should fall under CTH 21069040. Therefore, it appears that the charged CB has merely relied on verbal directions and importer-provided documents and failed to perform their independent statutory duty under Regulation 10(d). The CB's obligation to advise the client on compliance cannot be diluted by procedural clearance. Thus, CB neither advised the importer regarding correct CTH nor brought the non-compliance to the notice of the Deputy or Assistant Commissioner of Customs, as was his duty. This failure facilitated the misclassification of goods by the said importer resulting into loss of revenue to the Government exchequer.

26.1.3 The IO's assertion that if any investigating officer shows list of Bills of Entry filed by other importers with some classification and ask 'G' Card holder of the CB to comment on it whether the classification is right or wrong, then he will obviously reply in affirmative as he cannot comment any negative on the Bills of Entry assessed by the Customs Officer. Thus, it cannot be considered as admission of the guilt of the charged CB. This does not hold ground as Shri Santosh Prahlad More has admitted the fact that the impugned goods contain sugar and added flavouring in the form of Caramel Flavour and Maple Flavour. However, plain reading of CTH 2106 and label available on the product indicate that the impugned goods should fall under CTH 21069040.

26.1.4 With regards to classification of 'Coconut Milk' and 'Coconut Cream, the IO asserted that the CB has filed Bills of Entry on the basis of documents given to them by the said importer and they are confined to the submissions of the paper as given by the importer/exporter. IO find that need to advise a client would arise only if the charged CB was aware of any alleged intent of the importer to mis-classify the goods to evade Customs duty. If this is the case, CB will never be required to advise the client about the correct classification even after knowing the fact that the classification is incorrect as the intention of the importer/exporter in the eyes of CB is bona-fide. Hence, the justification given by the IO does not appear to be proper and logical.

26.1.5 Furthermore, the IO's conclusion that there was no evidence or finding that the charged CB was aware of such an intent on the part of the client, is misplaced. Abetment under Regulation 10(d) does not require proof of active conspiracy; it is sufficient to establish that the CB, by omission or negligence, facilitated the importer's non-compliance. The CB's failure to act demonstrates a breach of regulatory duty.

26.1.6 In view of the above, the IO's finding that the charge under Regulation 10(d) is "Not Proved" is contrary to the facts, unsupported by law, and fails to appreciate the scope and intent of the regulation. The CB's conduct clearly falls short of the standard of diligence and compliance expected under the CBLR, 2018. In view of the above, the Disagreement Memo dated 02.06.2026, along with the inquiry report is being served to the CB, M/s. Urmi Shipping Agency (CB No. 11/1684).

WRITTEN SUBMISSIONS OF THE CB: -

27.1. The CB submitted that the Inquiry Officer had considered all documentary evidence and all relevant material available on record to come to a judicious finding that the charges framed against them are "not proved". The CB submitted that the Inquiry Report dated 27.03.2026 submitted by the Inquiry Officer (IO) is well reasoned and fair in all respects. However, the Pr. Commissioner had issued a Disagreement Memo dated 02.06.2026 to the IR, in respect of IO's findings relating to Regulation IO(d) of CBLR, 2018.

27.2. The CB submitted that prior to making detailed submissions on each alleged inconsistencies in the Inquiry Report (hereafter 'IR') raised in the Disagreement Memo dated 02.06.2026 (hereafter 'DM'), they would like to draw attention of the Adjudicating Authority to the nature of dispute involved and the Departmental advisories and Instruction issued thereof by the CBIC.

27.2.1 The CB submitted that the issue involved is classification of three items namely 'Pancake Syrup', 'Coconut Milk' and 'Coconut Cream' : whether Pancake syrup is classifiable under heading 2106 as being insisted by the DRI/Department or under 1702 as claimed by the importer and whether Coconut Milk / Coconut Cream are classifiable under heading 2106 as being insisted by the DRI/Department or under heading CTI 2005 19 90 / 2009 89 90 as claimed by the importer. The CB submitted that the importer had submitted his justification supported by the terms of headings, HSN Notes and the relevant General Interpretative Rules whereas the Department also cited HSN notes in support of its stand that the goods are classifiable under the heading 2106 attracting higher rate of duty.

27.2.2 Thus, the CB submitted that there was no mis-declaration of description or quantity or value but issue is in the nature of interpretation of classification and the case is still pending for adjudication before the Commissioner JNCH. The CB submitted that irrespective of the outcome of the adjudication, no offence can be made out against them in terms of the Regulation 10 (d) of CBLR, 2018 when the issue involved is in the nature of interpretation of Customs Tariff in view of the following Departmental guidelines/instructions.

(a) Advisory No. 01/2022 dated 29.12.2022 issued by the Learned Principle Chief Commissioner of Customs Zone-I to the Commissioner of Custom Audit wherein it is categorically clarified that in case of the disputes regarding classification, availing of exemption notification and valuation, the violation of provision of CBLR, 2018 should not be invoked.

(b) The CBIC vide instruction No. 20/2024-Customs 03-09-2024, in para 4 of the instruction, it is categorically stated that implicating Customs Brokers as co-noticee in a routine manner, in matters involving interpretation of statute, must be avoided, unless the element of abetment of the Customs Brokers in the investigation is established by the investigating authority.

The CB submitted that in the case at hand, the matter involved is of interpretation of classification and no proof has been supplied that the they had abetted the misclassification. Further, the CB submitted that to prove an offence of abetment, it being a criminal offence under Sec 107 of IPC (now sec 45 of BNS) requires proof beyond doubt that the offender had the 'intention' to commit abetment.

The CB submitted that they had relied upon the following case laws regarding proof of abetment

i) Shri Ram & Another vs the State Of Uttar Pradesh on 6 November, 1974 (SC) and

ii) Rajeev Khatri Vs Commissioner of Export Delhi (Delhi High Court.)

Further, the CB submitted that they had relied upon the following case laws in support of their submission that they cannot be penalised for matters involving interpretation of Tariff

(i) In the case of L&T limited, Mumbai Vs Commissioner of Customs, Chennai (2025), the penalty imposed on the Customs Broker was set aside by the CESTAT Chennai on the ground that when the dispute involved is classification, which is interpretational in nature, no mala fide can be attributed to the importer.

(ii) In Tulsi Impex Pvt Ltd vs Customs Ahmedabad decided on 10 April, 2024, it was held that no penalty could be imposed under CBLR, 2018 when classification dispute is involved.

27.2.3 The CB submitted that in view of the standing instructions of the Department and the settled law invoking the Regulation 10(d) of CBLR, 2018 against CB in the instant case would be bad in law.

27.3. The CB submitted that in respect of contentions raised in the DM in respect of IR, the following submissions are made:

27.3.1 The CB submitted that in the Para 6.1.2 of the Disagreement Memo dated 02.06.2026 it is mentioned that the IO had erroneously stated that they did not have prior knowledge that the importer was importing Pancake Syrup under CTH 2106 whereas in the same statement, they received verbal instructions from the importer as well as HS code detail mentioned in Invoice / Packing List and Form Al (COO certificate) to classify Pancake syrup under CTI 1702 20 90 / 1702 90 90.

27.3.2 In this regard, the CB submitted that there is no inconsistency in the IR since they never had any information whether or not the importer imported Pancake Syrup under CTH 2106 on previous occasions. The CB submitted that they only received documents wherein the Form Al mentioned the heading 1702 20 90 and B/L mentioned heading 2106. Therefore, the CB submitted that they had to discuss with him or take instructions from the Importer as to which of the headings was more appropriate and accordingly filed BE with heading 1702 after consultation with the importer.

27.3.2.1 Nevertheless, the CB submitted that classification of an item is never decided on the basis of Bill of Lading or Form Al. These are only indicatory in nature and for legal purposes the classification should be decided on the basis of terms of headings and subheadings in the Customs Tariff and the relative HS Notes as interpreted by the General Rules of Interpretation. Therefore, the CB submitted that the allegation that they should have classified goods under CTH 2106 on the basis of what had been written on the Bill of Lading is absolutely illegal.

27.3.3 The CB submitted that in the second part of Para 6.1.2 and in the Para 6.1.3, it is mentioned that the CB agreed that Pancake syrup contained added sugar and flavours in the form of Maple and Caramel and hence should fall under CTH 2106.

27.3.3.1 In this regard the CB submitted that though they may have agreed for classification under CTH 2106 during their statement before the investigating Agency, the CB submitted that they had examined the terms of headings of 1702 and 2106 and had come to an informed conclusion that Pancake syrup is correctly classifiable under heading 1702 and not under 2106 for following reasons:

(a) Though it is true that 2106 90 covers "sugar syrups containing added flavouring and colouring matter", it should be noted that 'Maple syrup' and 'caramel' themselves are classifiable under heading 1702 itself, under subheadings 1702 20 and 1702 90 respectively. That being so, addition of 'maple syrup' and 'caramel' to a sugar syrup would turn it into a 'sugar syrup blend' which is appropriately classifiable under 1702 90. Only if the added flavouring and colouring matters belonged to a heading other than 1702, only then such sugar syrup would go out of the heading 1702 to the heading 2106. In so far as the added flavouring and colouring substances are classifiable within the same heading of 1702, the Pancake syrup which is a blend of Sugar syrup, Maple syrup and Caramel remains in the same subheading 1702 90 as 'syrup blend.'

(b) In view of the above the CB submitted that they were convinced that Pancake Syrup was correctly classifiable under heading 1702 and hence there was no occasion for them to suggest a different heading 2106.

27.3.3.2 The CB submitted that as stated above, classification is a matter of interpretation and hence the Department may not hold it as failure on the part of them to advise the importer under Regulation 10 (d) of CBLR, 2018.

27.3.4 The CB submitted that in Para 6.1.3, the Disagreement Memo dated 02.06.2026 notes that there is a contradiction in the IR when the IO stated that anyone would reply in the affirmative when some assessed bills of entry were shown to him by the Investigating Officer and at the same time, they had accepted that the Pancake syrup was classifiable under 2106.

27.3.4.1 In this regard the CB submitted that when assessed Bills of Entry are shown to any person during recording of a statement, and asked to comment on classification, he cannot say the classification was incorrect and would naturally answer in the affirmative because he had neither locus standi nor the authority to contradict it. Therefore, the CB submitted that the IR cannot be held as inconsistent with the facts on record as justification for classifying Pancake Syrup under heading 1702 has already been explained above.

27.3.5 The CB submitted that in the Para 6.1.4, the DM further notes that the IO's finding was not legal and proper when the IO reported that the question of advising the importer would arise only when CB became aware of the importer's intention to evade Customs duty and the DM notes that in such a scenario a CB would never advise an importer even when he knew the correct classification.

27.3.5.1 In this regard, the CB submitted that IR is judicious and fair because an offence should necessarily should lead to a revenue loss to be sustainable, otherwise it would become a revenue neutral exercise, and revenue neutral offences do not hold water to impose penalty.

27.3.5.2 In the instant case, the CB submitted that they had suggested the classification of Coconut cream and Coconut cream under CT1 2008 19 90 / 2009 89 90 on the basis of documents provided by the importer as well as his own understanding of the terms of Tariff and HS Notes and GIR, as a coconut is known scientifically and commercially as a 'fruit' or a 'nut' or a 'seed' and accordingly merit classification under headings 2008 and / or 2009.

27.3.5.3 Therefore, the CB submitted that they had not felt it proper to advise a different tariff heading of 2106 and also they had not seen any intention on the part of the importer to evade Customs duty. Therefore, the CB submitted that they had acted within the scope of CBLR, 2018 and their action in this regard may not be seen as violative of Regulation 10(d) of CBLR, 2018.

27.4. The CB submitted that in para 6.1.5 of the DM, it is mentioned that 'abetment under Regulation 10(d) of the CBLR,2018 does not require proof of conspiracy'. This observation is totally against the law. As abetment has not been defined under Customs law, it should be taken from IPC (BNS). In order to prove an offence of abetment, it being a criminal offence under Sec 107 of IPC (now sec 45 of BNS) requires proof beyond doubt that the offender had the 'intention' to commit abetment.

The CB submitted that they had relied upon the following case laws regarding proof of abetment

(i) Shri Ram & Another vs The State Of Uttar Pradesh on 6 November, 1974 (SC)

(ii) Rajeev Khatri Vs Commissioner of Export Delhi (Delhi High Court.)

27.5. In view of the above submissions, the CB submitted that the IR is consistent with the facts and supported by law and departmental instructions and therefore merits acceptance / agreement by the Pr. Commissioner (General).

<u>RECORDS OF PERSONAL HEARING</u>: -

28. An opportunity for a Personal Hearing was granted to the CB M/s Urmi Shipping Agency (CB No. 11/1684) (PAN: AGHPK4401ECH001) on 19.06.2026

at 13:15 p.m. Shri Bochu Timothy Satyanandam, Advocate appeared for the Personal Hearing before the Principal Commissioner of Customs (General). During the hearing, they had reiterated their earlier written submission as discussed above, which was taken on record. Consequently, the matter was taken up for final adjudication based on the facts of the case, the Inquiry Officer's report, their written submissions, and the evidence available on record.

DISCUSSIONS AND FINDINGS: -

29. I have carefully gone through the Show Cause Notice No. 17/2025-26 dated 07.04.2025 issued under Regulation 17 of the CBLR, 2018; the detailed Inquiry Report dated 27.03.2026 submitted by Shri Sanjay Singh Pawar, Assistant Commissioner (Inquiry Officer); the Disagreement Memo dated 02.06.2026 issued by the undersigned; the evidence on record including the Offence Report in the form of Show Cause Notice No. 1632/2024-25/Commr./Gr. I&IA/NS-I/CAC/JNCH dated 20.01.2025 issued under the Customs Act, 1962 along with relied-upon documents (RUDs), as well as the comprehensive written submissions filed by the Noticee CB M/s Urmi Shipping Agency (CB No. 11/1684) (PAN: AGHPK4401ECH001). In compliance with the principles of natural justice, sufficient opportunities were granted to the Noticee to present their defence through written submissions in response to the Inquiry Report and the Disagreement Memo dated 02.06.2026, as well as during the personal hearing. All the submissions advanced by the Noticee have been carefully considered and taken on record before proceeding to adjudicate the present proceedings on merits.

30. The present proceedings against the Customs Broker M/s Urmi Shipping Agency (CB License No. 11/1684) originated from an Offence Report in the form of Show Cause Notice No. 1632/2024-25/Commr./Gr. I&IA/NS-I/CAC/JNCH dated 20.01.2025 issued by the Commissioner of Customs, JNCH, Mumbai. The said offence report alleged misclassification of imported goods by the importer M/s Suresh Kumar and Company (Impex) Private Limited (IEC: 0505099306) in respect of “Pancake Syrup”, “Coconut Milk” and “Coconut Cream”. It was alleged that Pancake Syrup was wrongly classified under CTH 17022090 / 17029090 (attracting 30% BCD) instead of the correct CTH 210690 (attracting 50% BCD) as the goods contained added flavours. Similarly, Coconut Milk and Coconut Cream were allegedly classified under CTH 20081990 / 20098990 to avail the benefit of Notification No. 46/2011 dated 01.06.2011 instead of the correct CTH 210690. Pursuant to this, investigation was conducted and statements of Shri Santosh Pralhad More (G-card holder/Authorised Representative of the CB) dated 16.05.2024 & 24.12.2024 and Shri Nikhil Asrani (Director of the importer) dated 28.06.2024 & 13.01.2025 were recorded. Thereafter, Show Cause Notice No. 17/2025-26 dated 07.04.2025 was issued to M/s Urmi Shipping Agency

under the Customs Brokers Licensing Regulations, 2018, alleging contravention of Regulations 10(d), 10(e) and 10(m) on the ground that the CB failed to advise the importer on correct classification, exercise due diligence while handling discrepant documents, and discharge duties with utmost efficiency. In essence, the present case against the CB has been triggered due to the CB's alleged failure to exercise due diligence and advise the importer regarding proper classification of the goods while filing the Bills of Entry.

31. Following the issuance of Show Cause Notice No. 17/2025-26 dated 07.04.2025, Shri Sanjay Singh Pawar, Assistant Commissioner was formally appointed as the Inquiry Officer under Regulation 17 of the CBLR, 2018 to conduct a detailed inquiry into the allegations levelled against M/s Urmi Shipping Agency (CB License No. 11/1684) regarding violations of Regulations 10(d), 10(e) and 10(m) of CBLR, 2018. The Inquiry Officer concluded the proceedings and submitted his detailed Inquiry Report dated 27.03.2026. In the report, after examining all case records, statements, documents, and submissions made by the CB, the IO held all the charges as "**Not Proved**" — i.e., violations of Regulations 10(d), 10(e) and 10(m) of CBLR, 2018. The IO found that the core issue involved interpretation of classification under the Customs Tariff, that the CB had filed the Bills of Entry based on documents and instructions provided by the importer, and that there was no evidence of prior knowledge, mens rea or deliberate failure on the part of the CB to advise the importer or exercise due diligence. The IO further held that the CB cannot be penalized in a matter essentially involving classification dispute pending adjudication before the proper authority.

32. After careful perusal of the Inquiry Report dated 27.03.2026, wherein the Inquiry Officer held all the charges framed against M/s Urmi Shipping Agency under Regulations 10(d), 10(e) and 10(m) of CBLR, 2018 as "Not Proved", the undersigned recorded disagreement with the findings of the Inquiry Officer. Accordingly, a Disagreement Memo dated 02.06.2026 was issued to the Noticee, communicating the reasons for disagreement, particularly with regard to the findings on Regulation 10(d) of CBLR, 2018. The Noticee was granted an opportunity to file their additional written submissions in response to the Disagreement Memo dated 02.06.2026 and was also afforded a personal hearing to present their defence.

33. In the Disagreement Memo dated 02.06.2026, it was inter-alia observed that the Inquiry Officer had erred in holding that the Customs Broker had no obligation to advise the importer on correct classification merely because the issue involved interpretation of the Customs Tariff. It was pointed out that the G-card holder of the CB had admitted during his statement that the Pancake Syrup contained added flavours and should be classifiable under CTH 2106, yet

the CB continued to file Bills of Entry under CTH 1702 as per the importer's instructions without advising the client or bringing the discrepancy to the notice of the Customs authorities. Similar observations were made regarding the classification of Coconut Milk and Coconut Cream, where discrepant classifications appeared in the Bill of Lading and Form A1 Certificate. The Disagreement Memo dated 02.06.2026 emphasized that the CB has a statutory duty under Regulation 10(d) of CBLR, 2018 to advise the client on compliance and report non-compliance, which was not discharged in the present case.

34. Upon careful consideration of the brief facts and allegations contained in the Show Cause Notice No. 17/2025-26 dated 07.04.2025, the written submissions advanced by the Noticee, the Inquiry Report dated 27.03.2026, the Disagreement Memo dated 02.06.2026 issued by the undersigned, and the evidence available on record, I find that the following principal issues arise for determination in the present proceedings:

a) Whether the Inquiry Officer Rightly Held the Charges under Regulation 10(e) and 10(m) of the CBLR, 2018 as "Not Proved".

b) Whether the Customs Broker M/s Urmi Shipping Agency (CB No. 11/1684) has violated Regulations 10(d) of the CBLR, 2018.

c) Whether the CB breached its statutory obligation to advise the importer on correct classification under the Customs Tariff Act and allied laws and to bring any discrepancy or non-compliance to the notice of Customs officers.

d) Whether there was any mens rea / knowledge / collusion on the part of the CB or whether it was a case of mere negligence / lack of professional care in a matter involving interpretation of classification, and to what extent this affects liability under the CBLR, 2018.

e) Whether the extreme penalties of revocation of the Customs Broker License and forfeiture of security deposit are warranted, or whether a lesser penalty under Regulation 18 would suffice, considering the facts, the CB's defence, the Inquiry Officer's findings, and principles of proportionality.

35. Whether the Inquiry Officer Rightly Held the Charges under Regulation 10(e) and 10(m) of the CBLR, 2018 as "Not Proved"

35.1 Regulation 10(e) of CBLR, 2018: With regards to above violation, the IO stated that the SCN alleged that the Customs Broker failed to comply with Regulation 10(e) of CBLR, 2018 by not imparting correct information to the importer regarding proper declaration of goods description and classification. In the case of Pancake Syrup, investigation revealed that the goods contained added flavours such as Caramel and Maple Flavour. The G-card holder of the CB admitted this fact in his statement dated 16.05.2024. However, the Bills of Entry allegedly did not contain complete description of the goods, which may have prevented Customs authorities from detecting the alleged misclassification at an early stage.

35.2 Further, in the case of Coconut Milk and Coconut Cream, different CTHS were reflected in the Bill of Lading and Country of Origin Certificate. Despite noticing the discrepancy, the CB allegedly relied upon the importer's instructions and declared the goods under concessional tariff headings to avail lower duty benefit under Notification No. 46/2011, without informing Customs authorities. Thus, the CB appears to have violated Regulation 10(e) of CBLR, 2018.

35.3 The Inquiry Officer clarified that the allegations in this article are same as Article of Charge I and therefore same observations have been made. The Inquiry Officer observed that there is no evidence on record to establish that the charged Customs Broker, M/s Urml Shipping Agency, had prior knowledge that the importer was earlier classifying Pancake Syrup under CTH 2106. Neither the statement of the G-card holder, Shri Santosh Prahlad More, nor that of the importer's Director indicates such knowledge. Further, the admission by the G-card holder regarding classification adopted by other importers cannot be treated as admission of guilt, as the Bills of Entry were already assessed by Customs authorities.

35.4 Reliance has been placed on various judicial pronouncements including M/s. Perfect Cargo and Logistics, M/s. HIM Logistics Pvt. Ltd., M/s. Kunal Travels, M/s. G.N.D. Cargo Movers, and Shipping & Clearing Agents Pvt. Ltd., wherein it has been consistently held that a Customs Broker files documents based on information and records provided by the importer and cannot be penalized unless there is evidence of mala fide intent, knowledge of misdeclaration, or active connivance.

35.5 Regarding classification of Coconut Milk and Coconut Cream, the undersigned cannot determine whether the classification adopted by the Customs Broker was correct or incorrect. Although differing classifications appeared in the Bill of Lading and Country of Origin Certificate, the CB provided justification. The Inquiry Officer's role is limited to examining violations under CBLR, 2018.

35.6 It is further observed that the Customs Broker had provided justification regarding classification and there is no evidence showing deliberate suppression or failure to exercise due diligence. Accordingly, the charge alleging violation of Regulation 10(e) of CBLR, 2018 is held as "Not Proved."

36. **Regulation 10(m) of CBLR, 2018**: During the course of inquiry proceedings, the IO found that the SCN alleged that CB has not performed his

duties with utmost efficiency as it is clearly brought out in the investigation that the goods are containing Added Flavours but at any stage, CB did not ask his client to re-assess the declared CTH. Further, in the matter of Coconut Milk and Coconut Cream, the subject bill of lading indicates that the subject goods should be classified under CTH 2106. However, CB chose to declare the goods under CTH 20001990/20090990 on the basis of Form A1 certificate".

36.1 IO further clarified that there is no evidence on record to establish that the charged Customs Broker, M/s Urmi Shipping Agency, had prior knowledge that the importer was earlier classifying Pancake Syrup under CTH 2106. Neither the statement of Shri Santosh Prahlad More, G-card holder of the CB, nor the statement of the importer's Director, Shri Nikhil Asrani, indicates such prior knowledge. Further, the admission made by the G-card holder regarding classification adopted by other importers cannot be treated as admission of guilt, as the classifications referred to were already accepted by Customs authorities.

36.2 Reliance has been placed on the decision of Hon'ble CESTAT in M/s. Perfect Cargo and Logistics wherein it was held that proceedings against a Customs Broker cannot be sustained solely on the basis of the statement of a G-card holder without recording the statement of the Customs Broker himself. The ratio of the said judgment is applicable in the present case.

36.3 Further, regarding classification of Coconut Milk and Coconut Cream, the Inquiry Officer under CBLR, 2018 cannot determine correctness of tariff classification and is confined only to examining violations under CBLR, 2018. Reliance is also placed on M/s. HIM Logistics Pvt. Ltd., wherein it was held that classification disputes are complex issues primarily falling within the domain of Customs authorities.

36.4 It is further observed that there is no evidence showing lack of efficiency, delay, or non-cooperation on the part of the charged Customs Broker. Accordingly, the allegation of violation of Regulation 10(m) of CBLR, 2018 is held as "Not Proved."

36.5 I have carefully examined the findings of the Inquiry Officer regarding the charges under Regulations 10(e) and 10(m) of the CBLR, 2018. The Inquiry Officer has held both charges as "Not Proved". I am in agreement with the said findings. The allegations levelled under Regulation 10(e) (failure to exercise due diligence) are substantially a repetition of the allegations made under Regulation 10(d). The central issue involved in the present case is one of interpretation of classification of goods under the Customs Tariff Act, 1975 — namely, whether Pancake Syrup is classifiable under CTH 1702 or CTH 2106, and whether Coconut Milk and Coconut Cream are classifiable under CTH 2008/2009 or CTH 2106. Such classification disputes involve interpretation of HSN Notes and the

General Rules of Interpretation and are essentially legal questions to be determined by the adjudicating authority under the Customs Act, 1962. The Inquiry Officer has rightly held that deciding the correctness of classification is beyond the scope of proceedings under the CBLR, 2018.

36.6 The Customs Broker had prepared and filed the Bills of Entry on the basis of documents and specific instructions provided by the importer. There is no material on record to establish that the CB had prior knowledge of any alleged misclassification or any intent to evade duty. In the absence of evidence demonstrating mens rea or active collusion, the CB cannot be held liable for every classification dispute raised subsequently. The Inquiry Officer has correctly relied upon binding judicial precedents such as Kunal Travels (Cargo) v. Commissioner of Customs (Delhi High Court, 2017) and HIM Logistics Pvt. Ltd. (2016), which hold that a Customs Broker cannot be penalized in matters involving bona fide classification disputes unless deliberate misconduct or mala fide intent is clearly established. Similarly, the charge under Regulation 10(m) regarding discharge of duties with utmost speed and efficiency is also not independently sustainable, as there is neither any allegation nor any evidence of delay or lack of cooperation on the part of the CB. Accordingly, I hold that the charges under Regulations 10(e) and 10(m) of the CBLR, 2018 are Not Proved.

37. Whether the Customs Broker M/s Urmi Shipping Agency (CB No. 11/1684) has violated Regulations 10(d) of the CBLR, 2018.

The inquiry report concluded that the violation of Regulation 10(d) of CBLR, 2018, framed against CB as "Not Proved".

37.1 The Inquiry Officer's finding that the charge of violation of Regulation 10(d) of the Customs Brokers Licensing Regulations (CBLR), 2018 is "Not Proved" is legally flawed and factually inconsistent with the evidentiary record.

37.2 Regulation 10(d) casts a clear and affirmative obligation on the Customs Broker (CB) to “advise his client to comply with the provisions of the Act, rules, regulations, notifications and orders issued thereunder." This duty is not contingent upon the CB's role in document filing alone, but extends to ensuring that the exporter/importer is made aware of and complies with all applicable legal requirements.

37.3 The IO has observed that Shri Santosh Prahlad More, G-card holder/Authorized Representative of charged CB M/s. Urmi Shipping Agency & Shri Nikhil Asrani, Director of importing firm M/s. Suresh Kumar and Company (Impex) Pvt. Ltd., in their recorded statements dated 25.06.2024 & 28.06.2024 have never stated that the charged CB was having prior knowledge that the importer was importing the goods i.e. Pancake Syrup under CTH 2106. However, in the same statement, Shri Santosh Prahlad More has accepted that their firm has relied upon verbal directions given by the importer as well as HS Code details mentioned on Suppliers Invoice/Packing List/Bill of Lading and also suggested to classify the imported product i.e. Pancake Syrup under 17022090 & 17029090. Further, has agreed that the goods contain sugar and added flavouring in the form of Caramel Flavour and Maple Flavour and it should fall under CTH 21069040. Therefore, it appears that the charged CB has merely relied on verbal directions and importer-provided documents and failed to perform their independent statutory duty under Regulation 10(d). The CB's obligation to advise the client on compliance cannot be diluted by procedural clearance. Thus, CB neither advised the importer regarding correct CTH nor brought the non-compliance to the notice of the Deputy or Assistant Commissioner of Customs, as was his duty. This failure facilitated the misclassification of goods by the said importer resulting into loss of revenue to the Government exchequer.

37.4 The IO's assertion that if any investigating officer shows list of Bills of Entry filed by other importers with some classification and ask 'G' Card holder of the CB to comment on it whether the classification is right or wrong, then he will obviously reply in affirmative as he cannot comment any negative on the Bills of Entry assessed by the Customs Officer. Thus, it cannot be considered as admission of the guilt of the charged CB. This does not hold ground as Shri Santosh Prahlad More has admitted the fact that the impugned goods contain sugar and added flavouring in the form of Caramel Flavour and Maple Flavour. However, plain reading of CTH 2106 and label available on the product indicate that the impugned goods should fall under CTH 21069040.

37.5 With regards to classification of 'Coconut Milk' and 'Coconut Cream, the IO asserted that the CB has filed Bills of Entry on the basis of documents given to them by the said importer and they are confined to the submissions of the paper as given by the importer/exporter. IO find that need to advise a client would arise only if the charged CB was aware of any alleged intent of the importer to mis-classify the goods to evade Customs duty. If this is the case, CB will never be required to advise the client about the correct classification even after knowing the fact that the classification is incorrect as the intention of the importer/exporter in the eyes of CB is bona-fide. Hence, the justification given by the IO does not appear to be proper and logical.

37.6 Furthermore, the IO's conclusion that there was no evidence or finding that the charged CB was aware of such an intent on the part of the client, is misplaced. Abetment under Regulation 10(d) does not require proof of active conspiracy; it is sufficient to establish that the CB, by omission or negligence, facilitated the importer's non-compliance. The CB's failure to act demonstrates a breach of regulatory duty.

37.7 In view of the above, the IO's finding that the charge under Regulation 10(d) is "Not Proved" is contrary to the facts, unsupported by law, and fails to appreciate the scope and intent of the regulation. The CB's conduct clearly falls short of the standard of diligence and compliance expected under the CBLR, 2018.

37.8 After careful consideration of the Show Cause Notice, the Inquiry Report, the Disagreement Memo dated 02.06.2026, the written submissions of the Noticee, and the evidence on record, I hold that M/s Urmi Shipping Agency has violated Regulation 10(d) of the CBLR, 2018.

37.9 Regulation 10(d) of the CBLR, 2018 imposes a clear statutory obligation upon the Customs Broker to advise his client to comply with the provisions of the Customs Act, other allied Acts and the rules and regulations thereunder, and in case of non-compliance, to bring the matter to the notice of the Deputy or Assistant Commissioner of Customs.

37.10 In the present case, the CB was handling repeated imports of Pancake Syrup and Coconut Milk/Cream. The G-card holder of the CB, Shri Santosh Pralhad More, in his statement dated 16.05.2024, admitted that the Pancake Syrup contained added flavours (Caramel and Maple) and that it should be classifiable under CTH 2106. Despite having this knowledge, the CB continued to file Bills of Entry under CTH 1702 as per the verbal instructions of the importer, without advising the client on the correct classification or bringing the discrepancy to the notice of Customs authorities.

37.11 Similarly, in respect of Coconut Milk and Coconut Cream, there was a clear discrepancy between the classification mentioned in the Bill of Lading (CTH 2106) and the Form A1 Certificate (CTH 2008/2009). The CB chose to follow the importer's instructions to declare the goods under CTH 2008/2009 to avail the benefit of Notification No. 46/2011, without advising the importer or reporting the inconsistency to the Department.

37.12 The obligation under Regulation 10(d) is not a passive one. A Customs Broker cannot limit himself to merely acting upon the instructions of the importer when he has reason to believe that the declared classification may be incorrect. In the present case, the CB failed to discharge this affirmative duty, which facilitated the alleged misclassification and short levy of duty.

37.13 I am not persuaded by the Inquiry Officer's finding that the CB had no obligation to advise the importer because the matter involved interpretation of classification. While final classification is to be determined in separate proceedings under the Customs Act, the CB's failure to advise the client and report the discrepancy to Customs authorities clearly amounts to violation of Regulation 10(d) of CBLR, 2018.

37.14 This position is supported by the judgment of the Hon'ble Madras High Court in M/s. Cappithan Agencies v. Commissioner of Customs [2015], wherein it was held that a Customs Broker has a greater responsibility and cannot act as a mere post office. The CB is expected to use his professional expertise while transacting business.

Accordingly, I hold that the charge of violation of Regulation 10(d) of the CBLR, 2018 stands proved against M/s Urmi Shipping Agency.

38. Whether the Customs Broker M/s Urmi Shipping Agency (CB No. 11/1684) breached its statutory obligation to advise the importer on correct classification under the Customs Tariff Act and allied laws and to bring any discrepancy or non-compliance to the notice of Customs officers?

38.1 After careful examination of the material on record, I hold that M/s Urmi Shipping Agency has breached its statutory obligation under Regulation 10(d) of the CBLR, 2018.

38.2 Regulation 10(d) imposes a clear and affirmative duty upon every Customs Broker to advise his client to comply with the provisions of the Customs Act, 1962, the Customs Tariff Act, 1975, and other allied laws and, in case of non-compliance, to bring the matter to the notice of the Deputy or Assistant Commissioner of Customs. This obligation is not merely passive or mechanical but requires the application of professional expertise.

38.3 In the present case, the CB was repeatedly filing Bills of Entry for Pancake Syrup and was aware, through its G-card holder Shri Santosh Pralhad More (statement dated 16.05.2024), that the goods contained added flavours (Caramel and Maple) and that similar goods were being classified by other importers under CTH 210690. Despite this knowledge and the fact that the importer had earlier cleared the same goods under CTH 2106 in previous years, the CB continued to declare the goods under CTH 1702 as per the importer's verbal instructions, without advising the client on the correct classification or reporting the issue to Customs authorities.

38.4 Likewise, in the case of Coconut Milk and Coconut Cream, there was a patent discrepancy between the classification mentioned in the Bill of Lading (CTH 2106) and the Form A1 Certificate (CTH 2008/2009). The CB chose to follow the importer's direction to declare the goods under CTH 2008/2009 to avail the benefit of Notification No. 46/2011, without advising the importer about the correct classification or bringing the discrepancy to the notice of the proper officer.

38.5 By failing to advise the importer on the correct classification under the Customs Tariff and by not reporting the apparent non-compliance/discrepancy to the Customs Department, the CB has breached its statutory obligation under Regulation 10(d) of the CBLR, 2018. This omission facilitated the alleged misclassification and short payment of duty. The defence that the CB merely followed the importer's instructions is not acceptable, as the regulation casts an independent duty on the Customs Broker to act as a responsible professional and not as a mere conduit.

39. Whether there was any mens rea / knowledge / collusion on the part of the Customs Broker or whether it was a case of mere negligence / lack of professional care in a matter involving interpretation of classification, and to what extent this affects liability under the CBLR, 2018?

39.1 After careful consideration of the evidence on record, I find that there is no evidence of mens rea, deliberate knowledge, or collusion on the part of M/s Urmi Shipping Agency or its G-card holder in the alleged misclassification of goods. The CB appears to have acted on the basis of documents and instructions provided by the importer. However, the facts do indicate a lack of due professional care and diligence on the part of the Customs Broker in a matter involving classification.

39.2 The core dispute in the present case relates to interpretation of classification under the Customs Tariff Act — an issue involving application of HSN Notes and General Rules of Interpretation. While the CB cannot be expected to possess the same level of expertise as a classification authority, once the G-card holder had admitted during investigation that Pancake Syrup contained added flavours and that similar goods were being classified under CTH 2106 by other importers, a higher degree of caution and professional advice was expected from the CB. Similarly, the patent discrepancy between the Bill of Lading and Form A1 Certificate in the case of Coconut Milk and Coconut Cream ought to have prompted the CB to either advise the importer properly or flag the issue to Customs authorities.

39.3 Thus, while there is no positive evidence of mens rea or active collusion, the conduct of the CB reflects negligence and lack of professional diligence. Under the CBLR, 2018, liability can arise even in the absence of mens rea for violations of professional obligations. Regulations 10(d) is primarily regulatory in nature and are attracted on proof of failure to discharge statutory duties. However, the absence of deliberate intent or collusion is a strong mitigating factor while determining the quantum of penalty and the extreme penalty of revocation of license.

39.4 After careful examination of the entire evidence on record, it is held that there is no conclusive proof of mens rea, deliberate knowledge, or active collusion on the part of M/s Urmi Shipping Agency or its G-card holder Shri Santosh Pralhad More in any deliberate misclassification or evasion of duty. The investigation and the statements recorded do not bring out any evidence such as extra financial benefits to the CB, prior communication showing awareness of incorrect classification, or any direct involvement of the CB in manipulating documents to evade duty. The Bills of Entry were filed on the basis of documents (Invoice, Packing List, Bill of Lading, Form A1 Certificate) and instructions provided by the importer. The CB appears to have processed the consignments in the normal course of business. Therefore, the allegation of active complicity or dishonest intention (mens rea) is not established against the Customs Broker. However, this does not absolve the CB of its regulatory obligations under the CBLR, 2018, particularly with regard to due diligence and advisory responsibilities in classification matters.

39.5 In view of the above, I hold that the case is one of negligence and lack of due professional care rather than one of mens rea or collusion. This distinction is material while considering the proportionality of punishment under the CBLR, 2018.

40. However, the conduct of the Customs Broker clearly reflects gross negligence, lack of professional care, and serious failure in due diligence. Shri Santosh Pralhad More, the G-card holder and Authorised Representative of the CB (License No. 11/1684), in his statement dated 16.05.2024 recorded under Section 108 of the Customs Act, 1962, explicitly admitted that the Pancake Syrup contained added flavours such as Caramel Flavour and Maple Flavour and that the product should be classifiable under CTH 2106. Despite having this knowledge and being aware of the patent discrepancy between the Bill of Lading (CTH 2106) and the Form A1 Certificate (CTH 2008/2009) in the case of Coconut Milk and Coconut Cream, the CB neither advised the importer on the correct classification nor brought the discrepancy to the notice of the Customs authorities. Instead, they proceeded to file the Bills of Entry under the lower duty headings as per the importer's instructions and facilitated the clearance of the goods by availing the benefit of Notification No. 46/2011. This was not a case of minor inadvertence but a complete abdication of professional responsibility, especially while dealing with repeated imports involving substantial revenue implications and classification under the Customs Tariff Act, 1975.

41. Under the Customs Brokers Licensing Regulations, 2018, the liability of a Customs Broker is not confined only to cases involving dishonest intention. The Regulations impose a high standard of care, diligence, and professionalism. A Customs Broker is a licensed professional in whom the Department reposes significant trust by granting access to the customs clearance system. Regulations 10(d), 10(e) and 10(m) are violated not only by positive acts of collusion but also by acts of omission, carelessness, and failure to exercise reasonable due diligence. The very purpose of licensing is to ensure that only competent and responsible persons act as intermediaries between the trade and the Customs Department. Gross negligence in classification and document verification undermines the entire regulatory framework and revenue collection mechanism.

42. In the present case, while mens rea is absent, the persistent failure to verify critical classification aspects, advise the client on legal requirements under the Customs Tariff Act, and report apparent discrepancies amounts to gross professional negligence. Such negligence has real consequences — it enabled the clearance of goods at lower rates of duty than what was allegedly applicable and resulted in substantial revenue loss to the Government. Under the CBLR, 2018, this level of professional misconduct is sufficient to warrant penal action. The absence of dishonest intention may be considered as a mitigating factor only for the purpose of quantum of penalty, but it does not provide complete immunity from disciplinary action.

43. Even if the ingredients of conscious complicity or active facilitation are not fully established against the Customs Broker, the evidence on record clearly demonstrates gross negligence on their part, which is sufficient to hold them liable for violation of Regulations 10(d), 10(e) and 10(m) of the CBLR, 2018. The G-card holder of the CB, in his statement, admitted that Pancake Syrup contained added flavours and should be classifiable under CTH 2106, and was also aware of the discrepancy between the Bill of Lading and Form A1 Certificate in respect of Coconut Milk and Coconut Cream. Despite these red flags, the CB failed to exercise reasonable care, advise the importer on the correct classification, or bring the discrepancy to the notice of Customs authorities. Instead, they continued to file Bills of Entry under the lower duty headings as per the importer's instructions.

44. A licensed Customs Broker cannot plead ignorance when faced with obvious discrepancies in classification-related documents and knowledge of added ingredients that may affect the applicable tariff heading. This constitutes gross negligence in the discharge of their statutory obligations under the CBLR, 2018. While there is no direct evidence of monetary gain or active collusion with the importer, such negligence itself amounts to serious misconduct, as it

facilitated the alleged misclassification and short payment of duty. The Inquiry Officer has taken a lenient view, but the evidence on record sufficiently establishes negligence by the Customs Broker, which is grave enough to sustain the charges framed against them under Regulation 10(d) of the CBLR, 2018. This negligence, though falling short of proven conscious complicity, is still serious enough to warrant penal action under the CBLR, 2018

45. The defence that the issue is merely one of “interpretation of classification” and not misdeclaration does not absolve the Customs Broker. While final classification is to be decided in separate proceedings, Regulation 10(d) of the CBLR, 2018 imposes an independent obligation on the CB to advise the importer on compliance with the Customs Tariff Act and allied laws. The G-card holder had admitted during his statement that the Pancake Syrup contained added flavours and should be classifiable under CTH 2106, and was also aware of the discrepancy in classification of Coconut Milk and Coconut Cream. Despite this knowledge, the CB failed to advise the importer and continued to file Bills of Entry under lower duty headings. This is not a case of bona fide interpretational difference but a failure to discharge the advisory and reporting duty cast upon the licensed professional.

46. The plea that the CB merely followed the importer’s instructions and documents is legally untenable. A Customs Broker is not a mere post office or mechanical filer of documents. Once the CB becomes aware of facts that may lead to incorrect classification or revenue loss (such as added flavours in Pancake Syrup or conflicting HS codes in documents), it is obligated under Regulation 10(d) and 10(e) to exercise due diligence, advise the client appropriately, and, if necessary, bring the discrepancy to the notice of Customs authorities. Relying blindly on the importer’s verbal instructions or selective documents amounts to abdication of professional responsibility rather than a valid defence.

47. The CB’s reliance on CBIC advisories and instructions to avoid implication in classification disputes is misplaced in the facts of this case. Those instructions are meant to prevent routine or mechanical implication of Customs Brokers. However, when there is clear admission by the G-card holder regarding the nature of goods and visible discrepancies in documents, the CB cannot claim immunity. The persistent filing of Bills of Entry under allegedly incorrect classifications over multiple consignments indicates a pattern of negligence, which goes beyond a simple interpretational dispute and attracts liability under the CBLR, 2018.

48. Finally, the absence of mens rea or active collusion, while a mitigating factor for quantum of penalty, does not provide complete immunity. Regulations

10(d) is primarily regulatory provisions aimed at maintaining professional standards. Gross negligence and failure to exercise due diligence in classification matters, especially resulting in alleged short payment of substantial duty, constitute serious misconduct under the CBLR, 2018 and warrant appropriate penal action.

49. The liability of a Customs Broker under Regulation 10 of the Customs Brokers Licensing Regulations, 2018 is primarily in the nature of Strict Liability. Regulation 10 of the CBLR, 2018 imposes specific, mandatory obligations on every Customs Broker, such as advising the client on compliance with the Customs Act, Customs Tariff Act and allied laws (including correct classification of goods), exercising due diligence in verification of documents and declarations, and discharging duties with utmost efficiency. Breach of these obligations attracts penal consequences even in the absence of mens rea or deliberate dishonest intention. An objective failure to comply with the prescribed standard of care and professional conduct is sufficient to impose penalty under the CBLR, 2018. This makes the liability under CBLR, 2018 largely strict in character, as the focus is on the broker's failure to fulfil the regulatory obligations rather than their subjective state of mind.

50. In the present case, the admission of Shri Santosh Pralhad More, the G-card holder and Authorised Representative of the CB, that the Pancake Syrup contained added flavours and should be classifiable under CTH 2106, coupled with the awareness of discrepancy between the Bill of Lading and Form A1 Certificate in respect of Coconut Milk and Coconut Cream, and the failure to advise the importer on the correct classification and to report the discrepancy to Customs authorities, clearly demonstrates strict liability for non-compliance. Such liability is not dependent upon proof of active collusion or conscious facilitation. Gross negligence in the discharge of statutory duties is itself sufficient to sustain the charges under Regulations 10(d), 10(e) and 10(m) of the CBLR, 2018. Therefore, the liability fastened upon M/s Urmi Shipping Agency is squarely covered under the strict liability framework of the CBLR, 2018. This position is well settled by various judicial pronouncements wherein penalty has been upheld on the basis of failure to meet the regulatory standards, irrespective of intent.

51. Whether the extreme penalties of revocation of the Customs Broker License and forfeiture of security deposit are warranted, or whether a lesser penalty under Regulation 18 would suffice, considering the facts, the CB's defence, the Inquiry Officer's findings, and principles of proportionality.

Since I hold that the charge of violation of Regulation 10(d) of the CBLR, 2018 has been clearly established against M/s Urmi Shipping Agency, while the charges under Regulations 10(e) and 10(m) are held as Not Proved, the question of appropriate penalty/action arises for my consideration. This includes application of the doctrine of proportionality and consideration of mitigating factors. The violation committed by the Customs Broker is substantive in nature as it relates to repeated filing of Bills of Entry with allegedly incorrect classification of goods, resulting in short payment of duty. A licensed Customs Broker is expected to act as a responsible professional and exercise high standards of care and due diligence while advising on classification and filing declarations. However, the doctrine of proportionality requires that the penalty must be commensurate with the gravity of the lapse and the culpability of the offender.

51.1 While the charge under Regulation 10(d) is proved, certain mitigating factors have been duly considered — there is no evidence of mens rea or active collusion with the importer, the CB has a clean past record, and full cooperation was extended during the investigation. It is also noted that the CB has been operating with this license for several years without any previous violation. Nevertheless, the lapse involving classification of goods resulting in alleged short payment of substantial duty cannot be ignored. Taking into account the doctrine of proportionality and the mitigating factors, revocation of the licence and forfeiture of security deposit would be excessive. Instead, imposition of a substantial penalty under Regulation 18 of the CBLR, 2018 is considered just, fair and proportionate. This penalty adequately balances the need for deterrence with the principle of proportionality while taking note of the mitigating circumstances.

51.2 As discussed above, considering all the facts and circumstances of the case, I conclude that revoking the CB license or forfeiture of the whole amount of security deposit is too grave a penalty to be imposed for the above violation. The ends of justice will be met by imposing a penalty of Rs. 50,000/- (Rupees Fifty Thousand only) on the CB under Regulation 18 of the CBLR, 2018. This penalty is imposed to meet the ends of justice so that the violation of Regulation 10(d) of the Customs Brokers Licensing Regulations, 2018 does not go completely unpunished. It has been proved from the facts and findings on record that the CB violated Regulation 10(d) of CBLR, 2018 and therefore deserves to be penalized under the provisions of Regulation 18 of CBLR, 2018. I rely upon the following decisions in his order:

Rubal Logistics Pvt. Ltd. [2019 (368) E.L.T. 1006 (Tri. - Del.].

"*6.1 These provisions require the Customs Broker to exercise due diligence to ascertain the correctness of any information and to advice the client accordingly. Though the CHA was accepted as having no mens rea of the noticed* *misdeclaration/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."*

52. Various High Courts have held that punishment for the offences should be proportionate to the gravity of offence. In this regard, I place reliance on the following case laws:

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 licencee 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".

53. Having gone through the facts of the case and evidence on record , it is noted that the role of the CB, although marked by negligence and a significant

lapse in professional caution, appears to be one of administrative omission and failure to adhere to prescribed standards rather than a premeditated *modus operandi* to bypass Customs laws. 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, having regard to the nature of the violations and the fact that revocation of the license 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.

54. I have gone through the available records and find that the Inquiry Report in the matter was received on 27.03.2026. Meanwhile, the Adjudicating Authority changed due to the transfers ordered vide CBIC Order No. 59/2026 dated 30.04.2026. Consequently, Disagreement Memo was issued to the Noticee on 02.06.2026, and in the interest of natural justice, Personal Hearing was conducted 19.06.2026. The adjudication proceedings could not be completed within the prescribed 90 days period of receipt of the Inquiry Report due to the aforementioned administrative reason. 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 cases where the complexity of the investigation or administrative exigencies prevent the adjudication within the prescribed timeline. In this regard, I place reliance on the following case laws:

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

55. In view of the above considerations 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 or forfeit the security deposit of the CB. However, for their acts of omission and commission, the Customs Broker, M/s Urmi Shipping Agency (CB No. 11/1684) (PAN: AGHPK4401ECH001) is held liable and guilty for violating the provisions of Regulation 10(d) of the CBLR, 2018, as mentioned above. I hold that the CB has failed to discharge the advisory and due diligence duties cast upon them under the Regulations, and the interest of justice would be met by the imposition of a penalty under Regulation 18 of the CBLR, 2018. Accordingly, I pass the following order:

ORDER

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

(i) I, hereby impose a penalty of **Rs. 50,000/- (Rupees Fifty Thousand only)** on the Customs Broker M/s Urmi Shipping Agency (CB No. 11/1684) (PAN: AGHPK4401ECH001) under Regulation 18(1) of the CBLR, 2018.

57. 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.

30.7.26

(AJAY KUMAR PANDEY)
Principal Commissioner of Customs (General)
New Customs House, Mumbai-I

To,

M/s Urmi Shipping Agency (CB No. 11/1684) (PAN: AGHPK4401ECH001)

Copy to:

1. The Pr. Chief Commissioner/ Chief Commissioner of Customs, Mumbai - I, II, III Zone.
2. The Deputy/ Assistant Commissioner of Customs, Customs Broker Section, New Custom House, Mumbai Zone-1.
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