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

संचिका सं /.F. No. GEN/CB/625/2024–CBS आदेश दिनांक/Date of Order: 05.08.2026

CAO No. 26/2026-27/CAC/PCC(G)/AKP/Adj-CBS जारी दिनांक/Date of issue: 06.08.2026

संख्या:

DIN:- 20260877NO00009FF84E

द्वारा जारी : अजय कुमार पाण्डेय	Issued By : Ajay Kumar Pandey
प्रधान आयुक्त, सीमाशुल्क (सामान्य)	Pr. 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.

<u>Brief Facts of the Case</u>:

M/s. Unity Cargo Care (CB No. 11/2149) (PAN: AABFU2837N), having registered address at 14/A Ground floor, Ecastasy Business Park Co-Op Soc. Ltd. Mulund, Mumbai-400080 (hereinafter referred to as 'Customs Broker/CB') is holder of Customs Broker License No. 11/2149, issued by the Commissioner of Customs, Mumbai under Regulation 7(1) of CBLR, 2013 [Now Regulation 7(2) of CBLR, 2018] and as such they are bound by the regulations and conditions stipulated therein.

2. An Offence Report with respect to role of Customs Broker M/s. Unity Cargo Care was received in this office from the Directorate of Revenue Intelligence, Mumbai Zonal Unit (DRI, MZU), Mumbai, wherein it was informed that M/s. Vishwas International (IEC: BWNPJ5047A) (hereinafter referred to as the 'importer') having registered address at "Kasra no 86, 1st Floor, Bawan Road, Samaypur Badli, Prahladpur, New Delhi" was engaged in importing restricted/prohibited goods by mis-declaring and concealing them in refrigerated containers.

2.1 Importer M/s. Vishwas International had filed Bill of Entry No. 7749671 dated 09.09.2023 through Customs Broker M/s. Unity Cargo Care (CB No. 11/2149) for clearance of imported goods declared description as "Fresh Longans" through Nhava Sheva Port. Upon examination by the DRI, MZU officials, a total 31,01,200 concealed cigarette sticks were found. On verification of the Bill of entry by the DRI officers, the goods were declared as Fresh Longan. The importer had availed the exemption benefits provided under the ASEAN-India Free Trade Agreement (FTA) notification 46/2011-Cus dated 01.06.2011 for the importation of the aforementioned goods from Thailand to avail concessional rate of duty. Further investigation by DRI, MZU revealed that the aforementioned importer had imported two more containers containing Fresh Longan and Tamarind and the said containers were also kept on hold for examination. The container scanning report for Bill of Entry No. 7749671 dated 09.09.2023 (container no. TTNU8286440) showed that two or more different types of goods were contained in them whereas the goods declared in the Bill of Entry was Fresh Longan.

2.2 Based on the received intelligence, the DRI officers conducted an examination of the first 40 ft container number TTNU8286440, under Bill of Entry No. 7749671 dated 09.09.2023, at T.G Terminals Pvt Ltd, Container Freight Station, situated at Village - Veshvi, post - Dighode, Taluka - Uran, District -Raigad, Maharashtra-410206. This container had been flagged by the Container Scanning Department for a 100% examination under the supervision of the DC/Docks. The said container was examined in the presence of the Custom House Agent as the importer failed to attend. Therefore, the examination proceeded in the absence of the importer but before the CB, namely M/s Unity Cargo Care.

2.3 During the examination, the CB provided documents including Bill of Entry No. 7749671 dated 09.09.2023, Bill of Lading No. BLPLBKK2300545 dated 02.09.2023, Commercial Invoice No. FT/011/31 dated 22.08.2023, Packing List No. FT/011/31 dated 22.08.2023, and Country of Origin Certificate No. A12023-0045882 dated 05.09.2023 for the goods shipped in container No. TTNU8286440. According to the Bill of Entry, the declared quantity of goods was 1800 packages of 'Fresh Longan', with a declared gross weight of the container at 23400 kgs, as stated in the Bill of Entry and the Bill of Lading. However, upon weighment conducted at the Container Freight Station (CFS), the loaded weight was 16280 kgs, tare weight of container was 4490 kgs, so the net weight was found to be 11790 kgs, significantly different from the weight mentioned in the bill of lading, raising suspicion regarding the correctness of declaration.

2.4 Upon opening the aforementioned container, initially, perforated boxes containing fresh longans were observed. Behind a few rows of perforated boxes containing Longan Fruits, white rectangular thermocol boxes were found. The said thermocol boxes contained smaller cartons of cigarettes of three distinct type. The first type bore the name 'Marlboro' printed on them, the second type featured an outer paper cover marked with the letters '303', and the third type displayed an outer paper cover inscribed with the word 'SIGN'. The Marlboro cartons contained 10 packets, each containing 20 cigarettes. Meanwhile, the other two types of cartons marked with 'SIGN' and '303' contained gold flakes cigarettes, with 20 packets each, and 10 cigarettes in each packet. In addition to these, 583 perforated boxes filled with longans were also found in the said refrigerated container. The said 583 boxes of longan fruit were restuffed into Container no. TTNU8286440 and 466 white thermocol boxes containing the cigarettes were stuffed into another 40ft container no. HDMU6331991. Both containers were sealed with Customs seals under Panchanama dated 21.10.2023.

2.5 The smuggled 31,01,200 sticks of cigarette imported in Container No. TTNU8286440 were seized vide Seizure Memo issued under F. No. DRI/MZU/E/INT-132/2023 dated 3.11.2023 under Section 110(1) of the Customs Act, 1962. The 1770 boxes/crates of Longan Fruits valued at Rs 79,57,667 used to conceal the cigarettes were also seized under Section 110 of the Customs Act, 1962.

3. Statements of Key Persons:

3.1 Shri Milind Karangutkar, Partner in CB M/s. Unity Cargo Care in his statement recorded on 21.10.2023 under Section 108 of the Customs Act, 1962, inter-alia stated that:

i. that Unity Cargo Care is a partnership firm with three partners; that the firm was started in the year 2016 and is engaged in Import Custom Clearance; that they were mostly dealing with import of fresh fruits; Some of their major customers are Mahira International, S.R.C. Overseas, Atif Trading Co., Vishwas International amongst others.

ii. that the name of Vishwas International was suggested to him by Shri Krushna Panda who works in M/s. Falcon India, which is a freight forwarder, located at New Delhi; that the owner of the said firm is Shri Vikas Gupta; that they had cleared 6 consignments for M/s Vishwas International till date; that the name of M/s. Vishwas International was suggested to him by Shri Krushna Panda who also informed him that all the activities of the said firm was being handled by a lady named Ms. Neha Sharma and she would be interacting with him for all import related activities of M/s Vishwas International.

iii. that he knew Krushna Panda (Mobile No.9911390671 & 9319800593) from 1990 as he used to work as a delivery boy in R.B. Ramnath Lamba & Sons where he used to work; that when the firm closed down in 2004, he went to Delhi and joined Falcon India; that in May, 2023, he called him and asked him to do Custom Clearance work for Vishwas International who would be importing tamarind in refrigerated containers; that importer is specialised in the clearance of fruits in refrigerated containers, then he agreed to do the work; that he collected the KYC documents of

Vishwas International through courier from Krushna Panda and started the custom clearance work for the said firm; that when he used to work with R.B. Ramnath Lamba & sons, he also knew Vikas Gupta (Mobile No. 9911390670, 9810833314 and 9717381333) who was a relative of Arun Kumar Gupta, owner of R.B. Ramnath Lamba and Sons; that Krushna handles the work of Vishwas International for Falcon India, owned by Vikas Gupta.

iv. that the proprietor of Vishwas International is Jumma Hussain; that he had never interacted with him till date; that there was one lady namely Neha who used to talk with him in connection with all details of the imports of Vishwas International; that she said that she was in charge of all imports in respect of Vishwas International and was handling everything related to the consignments being imported by Vishwas International; that she was the only person who was dealing with them in respect of Vishwas International; that they had not dealt with any other person; that she used to make WhatsApp calls to him and used to enquire about the status of the consignments assigned to them for clearing; that every importer has to register with shipping line for Online Loaded Container Bond in order to get loaded container delivery; that in order to file the said bond, an OTP is sent by the Shipping line to Importer, the said OTP was sent to her number by the shipping line; that it is apparent that she was the person who was handling the import of the goods by Vishwas International; that the documents and details required by them used to provide by her through Falcon India i.e. Krushna Panda via e-mail id "krushna.panda@falconfreight.com",

v. that he had not conducted any independent verification of the Importer; that this was a mistake on their part; that they should have independently verified the genuineness of the importer, that they had interacted with Neha Madam of Vishwas International over the phone and she had informed that she was handling all imports; that they took her statements on face value and believed that Vishwas International was a genuine importer; that this was further corroborated by the fact that Shri Krushna Panda and Shri Vikas Gupta had also informed him that they had met Neha Madam who was in charge of Vishwas International.

vi. that on receipt of the documents through email of Kurshna Panda, they proceeded with preparing of checklist and forwarded the same to the same email id; that they got the verification of correctness of the checklist through return email; that thereafter, they filed documents, clearance was assigned under RMS; that the Scanning Department had raised suspicion in respect of the said consignment on 3.10.2023; that on receipt of the said information, he informed Krushna Panda about the same and asked him to send the importer for the purpose of examination in his presence; that on 6.10.2023, he sent an email to Neha Madam of Vishwas

International on email-id "vishwasinternationa574@gmail.com" and copy to Krushna Panda, informing him about the hold of the container by scanning department and asked them to inform about the exact nature of the cargo; that meanwhile, Krushna Panda called him on his mobile and informed that Neha Madam has asked him to get the goods cleared from customs and requested him to clear three more containers of the same importer; that thereafter, he received an email from Neha madam of Vishwas International on 9.10.2023 forwarding mail received from supplier, that the email was from Nakulai. from "chokpreechatrading@outook.com"; that in the said mail, the purported supplier informed that due to mistake at the time of loading of container, 400 cartons, belong to other client consisting of 210 carton Thai Lotus and 190 Cartons of Mushroom loaded in the cargo; that he was providing a copy of the set of e-mails sent by him, he then talked to Vikas Gupta asking him to direct the importer to attend the examination; that he promised to present the importer, however, he could not deliver on his promise, then on 9.10.2023, he sent a letter through Speed Post to Vishwas International, asking them about the exact nature of the cargo in the container which has been delivered to them; that there was no response to the said letter; then he had sent regular reminders to Neha Madam of Vishwas International with cc to Krushna Panda requesting them to appear before the customs authorities for examination of container. However, they did not turn up nor did they respond to the same, that he used to call up Krushna Panda regularly on phone and he said that Vikas Gupta was in touch with Neha Madam and that he would try to bring her for the examination.

vii. On being asked about the interaction with the importer and Falcon India/Krushna Panda in respect of the clearance of container No.TTNU8286440 in which cigarettes were found to be concealed during the examination held on 20/21-10-2023, he stated that Neha in all their earlier conversations had indicated that she was handling everything related to Vishwas International, the email received from Vishwas International seemed to have been sent by her, since she was the only person who was handling the import of goods by Vishwas International.

viii. On being asked that during examination, it was seen that Cigarettes had been concealed in the said container and what did they have to say about the email of the supplier forwarded by the Importer, he stated that it appeared that the said email of the supplier forwarded by M/s, Vishwas International was nothing but a fraudulent attempt to hoodwink the authorities and the clearing agents into believing that there was only a slight mis-declaration in the consignment and that some other goods had been inadvertently shipped in the container along with the declared goods.

3.2 Statement of Shri Vikas Gupta, Director, Falcon Airsea Logistics Pvt Ltd, freight forwarding agency who provided services to M/s Vishwas International, recorded on 22.10.2023 under Section 108 of the Customs Act, 1962 wherein, he inter-alia, stated that:

i) M/s. Vishwas International, an importer of fruits, required a Custom House Agent for customs clearance at the port of import; that they arranged for customs clearance through authorized Custom House Agents (CHAs) in Mumbai like Unity Cargo Care and Veewin Logistics; that they further mentioned that these CHAs also managed container transportation from Mumbai to Delhi, with payments made to the transporter and recovered from M/s. Vishwas International.

ii) His firm collected all the necessary documents from M/s. Vishwas International and then arranged to send them to the Custom House Agent for customs clearances; that the Phytosanitary certificate and country of origin certificate were sent directly to the Custom House Agent by M/s. Vishwas International; that Once the Custom House Agent received the documents, they sent a checklist to him for verification. After verifying the checklist, they forwarded it to M/s. Vishwas International; that upon receiving confirmation from M/s. Vishwas International, they informed the customs house agent accordingly; that based on these documents the customs house agent filed the Bills of Entry and completed all other customs formalities, such as the examination of goods, to facilitate the clearance of goods from customs.

iii) There was a firm called Rainbow International with an IEC No. AAGPJ4220K, engaged in importing dragon fruits from Bangkok; that they clarified that M/s. Falcon Airsea Logistics Pvt Ltd handled the custom clearances for Rainbow International, which was operated by a woman named Neha, while her husband, Mr. Tarun Kumar, resided in Bangkok; that he noted that the proprietor of Rainbow International, as per the IEC of the company, was Shri. Balesh Kumar Jain and might be Neha's father or father-in-law. In April 2023, Neha informed them about starting imports under a new firm called Vishwas International with IEC No. BWNPJ5047A; that Neha provided all necessary documents for Vishwas International, showing that the proprietor of the new firm was one 'Jumma Hussain'; that upon inquiry with Neha, they learned that 'Jumma Hussain' was her employee; that all discussions regarding the import of goods by Vishwas International, their transportation from Mumbai to Delhi, payment for customs clearance charges, transportation charges, arrangement of documents, and other related matters were handled solely by Neha.

iv) He had never interacted with 'Jumma Hussain' for any purpose; that he emphasized that all the activities of Vishwas International were overseen by Neha and her husband, Tarun Kumar; that he mentioned that all payments for the work done for

Vishwas International were made by Neha; that additionally, all documents required for customs clearances were provided to them by Neha; that he concluded that, for all intents and purposes, Neha was the person in charge of all activities related to Vishwas International.

v) On being asked about the payments made by Neha for the work done by them, he stated that they received payments through bank transfers by RTGS or IMPS from the bank accounts of Vishwas International.

vi) There was a CHA, Unity Cargo Care in Bhandup, Mumbai, who used to handle the import consignment of M/s. Vishwas International on his behalf; that however, when one of the consignments was held up in customs due to a container scanning report indicating a suspicious item in the container, the said CHA refused to proceed with any further clearances; that as there was another container pending clearance, the task of clearing was transferred to M/s. Veewin Logistics, Andheri, Mumbai.

vii) In the meeting, Neha had informed him that she would either personally accompany the IEC holder, Jumma Hussain, to Mumbai for the examination of the container before the customs authorities, or she would arrange to send a representative, and she requested a few days' time; that he mentioned that thereafter, he had been continuously following up with her over the phone, and every time, she used to make up some excuse or say that she, along with her partner, Shri. Nitesh Garg was in touch with the customs authorities and that all the necessary arrangements had been taken care of, assuring him that the container would be released in a few days.

3.3 Statement of Shri. Harekrushna Panda alias Krushna panda, Customer Co-ordinator Manager of Falcon Airsea Logistics Pvt. Ltd., freight forwarding agency who provided services to M/s Vishwas International recorded on 22-10-2023 under Section 108 of the Customs Act, 1962. In his statement, he inter-alia, stated that:

i) Upon joining Falcon Airsea Logistics Pvt. Ltd., the handling of Rainbow International's account (IEC AAGPJ4220K) was already in progress within the company, that he noted that Rainbow International was importing Dragon Fruits and their customs house agent (CHA) was Unity Care Cargo based in Mumbai; that the management of Rainbow International was under Ms. Neha, who used to regularly communicate information about expected import consignments and used to provide documents.

ii) Regarding 'Vishwas International', he stated that on April 5, 2023, Ms. Neha informed him about their initiation of import business under a new IEC named 'Vishwas International". Consequently, on the same day, he forwarded the list of required KYC documents for the firm to Ms. Neha via WhatsApp. Ms. Neha promptly responded by sending copies of all the documents via WhatsApp.

Subsequently, on April 6, 2023, he forwarded his office address to Ms. Neha, requesting her to send hard copies of the KYC documents via courier.

iii) He mentioned that according to the IEC provided by Ms. Neha, the proprietor of the firm was Mr. Jumma Hussain. However, he clarified that he never encountered this individual nor has he engaged in any form of interaction with him; that on inquiring about Mr. Jumma with Ms. Neha, she had conveyed that Mr. Jumma was her employee; that he emphasized that throughout all dealings related to Vishwas International, his communication was solely with Ms. Neha and occasionally with Mr. Tarun Kumar, and he had no interaction with any other individual;

iv) On being asked about his visit to the office of Vishwas International he stated that he had never visited office of Vishwas International. He stated that all activities, including imports for M/s. Vishwas International, were managed by Ms. Neha and her husband Mr. Tarun Kumar who was in Bangkok: that the documents sent by Ms. Neha via WhatsApp facilitated the import process for Vishwas International; that original documents such as the Phytosanitary Certificate, Certificate of Origin, and Fumigation for Vishwas International's imports were directly sent by Mr. Tarun Kumar through courier to the CHA, Mr. Milind Karangutkar.

v) Regarding the interaction concerning the clearance of container No. TTNU8286440, he was informed by Mr. Milind Karangutkar about the suspicious findings and the subsequent hold by Customs for 100% inspection; that he promptly notified his employer, Shri. Vikas Gupta, and also informed Ms. Neha about the situation, inquiring about the container's contents; that Ms. Neha claimed that besides Longan Fruit, the container contained Mushroom and Thai Lotus and assured him of managing the clearance; that however, it was evident that she misrepresented the container's contents, allegedly colluding with the supplier to fabricate an email stating different contents

3.4 Statements of Ms. Neha Sharma beneficial owner of M/s Vishwas International was recorded on 25.10.2023, 26.10.2023, 26/27.10.2023 & 31.10.2023, 15.11.2023 (in Byculla Jail) under Section 108 of the Customs Act, 1962. In her statement she, inter-alia, stated that:

i) They imported two PVC tapes container in the name of Vishwas International, and the IEC of Vishwas International had been provided to her by Falcon; that it was Vikas Gupta who gave her IEC of Vishwas International; that she came to know that Jumma Hussain was IEC holder of Vishwas International; that she knew the person's name Jumma Hussain but had not met him personally ever.

ii) On being asked about Milind Karangutkar and firm namely Unity Cargo Care, she stated that she didn't know any person by name Milind Karangutkar and any firm by name Unity Cargo care. She stated that she had never interacted over WhatsApp, mail or via phone with Milind Karangutkar.

iii) She stated that Rainbow Trading Company had purchased fruits vegetables, PVC tapes, Logan from Vishwas international. She had told Vikas Gupta to procure insulation tapes from Fujaan Yougi Adhesive and, as per her request, he procured the same and told her to make payment to Vishwas International's account. She had made payment for all purchases from Vishwas International through banking channels and all transactions, had been done through RTGS bank transfers, she had not made any cash payments.

iv) She confirmed that she knew the person by name Jumma, he was owner of Vishwas International; that his wife worked with her as a house maid for last two years; that her name was Chutki; that in April 2023, she came to know that Jumma was the proprietor of Vishwas International; that in her last statement she failed to recognise him in photo shown to her but then she met him once and could recognise his photo.

v) Vikas Gupta had suggested that as there was an alert in respect of Rainbow Trading Company further import should be done from another firm. Based on his suggestion her husband and Nitesh Garg identified Jumma and the firm Vishwas International was incorporated on his name with the help of Vikas Gupta.

3.5 Statement of Shri Jumma, IEC holder of M/s Vishwas International, was recorded on 08-12-2023, 09-12-2023 & 11.12.2023 under Section 108 of the Customs Act, 1962. In his statement he inter-alia, stated that:

i) He was aware of a company known as Vishwas International; that he was not the owner of Vishwas International; that Mrs. Neha Sharma used to operate the company. He explained that Mrs. Neha Sharma had started the company in his name; that she had taken his Aadhar Card and PAN card from him; that she also took his signatures on some documents; that she also opened a Bank Account in the name of the company; that she also instructed him not to disclose this fact of the new company to anyone.

ii) He confirmed that there is only one factory of Vishwas International located in Prahladpur, and Rainbow Trading Company also operated from the same factory. Rainbow Trading Company was managed by Neha Sharma and her father-in-law. Even though Shri Balesh Jain, Neha's father-in-law was the owner of Rainbow Trading Company, Neha Sharma was the one who managed all the work of Rainbow Trading Company.

iii) In 2022, Mrs. Neha Sharma informed him about the company being established in his name. He was asked to open a Bank Account in IDFC Bank and she instructed him to go to the Bank with one Rahul and sign the documents as instructed by Rahul.

Neha Sharma had told him that she is opening a company by the name Vishwas International in his (Jumma's) name and instructed him to keep it a secret. He confirmed his inability to recognize the person in the photo, i.e. of the CB Shri Milind Karangutkar, shown to him.

iv) He mentioned seeing cigarette cartons in Vishwas International's factory at Prahladpur once; that he had asked Chhotu and Rahul about it, and they told him to focus on his work; that additionally, he recalled receiving WhatsApp messages from Tarun Jain to buy Gold Flake cigarettes from a shop and sending him the pictures.

4. During the course of investigation, it was observed that the Customs Broker M/s. Unity Cargo Care dealt with a person namely Ms. Neha Sharma, who acted on behalf of importer. Custom Broker in his statement had stated that the importer M/s. Vishwas International was suggested to them by Shri Vikas Gupta of M/s. Falcon Airsca Logistics Pvt. Ltd., which is a freight forwarder, located at New Delhi. Further, Shri Krushna Panda who worked in Falcon Airsca Logistics Pvt. Ltd. also informed them that all the activities of the said firm were being handled by a lady by the name Ms. Neha Sharma. She was interacting with them for all import related activities of M/s. Vishwas International. All the documents and details required by the CB, used to be provided by her through Falcon India i.e. Krushna Panda only, via email i.e. "krushna.panda@falconfreight.com".

4.1 Further, the Customs Broker in his statement dated 21.10.2023 stated that proprietor of M/s. Vishwas International was Mr. Jumma and he had never interacted with Mr. Jumma alias Mr. Jumma Hussein. The above said bill of entry was filed on the basis of telephonic conversation and submission given by Ms. Neha Sharma. It was further, mentioned by Custom Broker that address of the importer was never personally verified by them. Thus, it was amply clear from the statement of customs broker that they had failed to undertake their responsibility of conducting independent verification of the identity of their client i.e. M/s. Vishwas International and its functioning at the address mentioned in the documents. They accepted the job of clearance of goods of M/s. Vishwas International as per the request of Shri. Vikas Gupta/Shri Krushna Panda of M/s. Falcon Airsea Logistics Pvt. Ltd. They were fully aware that the proprietor of the firm was Mr. Jumma but were acting on the directions of unauthorized person namely Ms. Neha Sharma. Therefore, there has been a serious lapse on the part of the Customs Broker.

5. On scrutiny of the Offence Report and Relied Upon Documents (RUDs) supplied by the DRI, MZU, the Role of Customs Broker emerged as - During the investigation, it was observed that the CB had filed the Bill of Entry No. 7749671 dated 09.09.2023 on behalf of the importer M/s. Vishwas International. Upon examination by the officers of DRI, MZU, a total 31,01,200 cigarette sticks were found concealed. From the facts in the foregoing paras, it appeared that the CB M/s Unity Cargo Care (CB No. 11/2149) failed to comply with sub-regulations 10(a), 10(d), 10(e), 10(m) and 10 (n) of the Customs Brokers Licensing Regulations, 2018 which are discussed below: -

5.1 Regulation 10(a) of CBLR, 2018:

"obtain an authorization from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Broker and produce such authorization whenever required by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;"

As per the Offence Report, the Customs Broker did not produce any evidence to prove that he had obtained proper authorization from the importer. Also, the importer/IEC holder of firm M/s. Vishwas International, Shri Jumma Hussein, in his statements recorded on dated 08,09 & 11.12.2023 confirmed his inability to recognize Shri Milind Karangutkar, partner in CB M/s. Unity Cargo Care. Also, Shri Milind Karangutkar, partner in CB M/s. Unity Cargo Care in his statement dated 21.10.2023 stated that he had never interacted with him (Mr. Jumma Hussein) till date. Thus, it was clear that CB was never in touch with importer by any means of communication or contact which indicated that the CB filed the bills of entry without taking proper authorization from importer/IEC holder and did not verify the genuineness of the importer. Hence, the CB appeared to have violated provisions of regulation 10(a) of CBLR, 2018.

5.2 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 noncompliance, shall bring the matter

to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;"

As per statement of Shri Milind Karangutkar, Partner in CB M/s. Unity Cargo Care recorded by the DRI, MZU officials, they never met the importer and received documents through a person Ms. Neha Sharma. It was evident that the CB did not advise their client to comply the provisions of the Act, other allied acts and rules and regulations thereof as they never met the importer. Further, on examination of goods by DRI, MZU officers, it was found that imported goods were declared as 'Fresh longans', however, upon examination by the DRI, MZU officials, restricted/prohibited goods were found which the CB should have highlighted to the Customs Authority but it appeared that the Customs Broker failed to do so. Thus, it appeared that the Customs Broker not only failed to advise their client to comply with provisions of the act, other allied acts and the rules regulations thereof but they also did not bring such violation to the notice of the customs authorities, which is non-compliance on the part of the Customs broker. Such negligence committed by the CB, led to the smuggling of a total 31,01,200 cigarettes sticks, which could have been avoided, if they had fulfilled their responsibility laid down under the said regulations. Hence, it appeared that the CB had violated the provisions of Regulation 10(d) of CBLR, 2018.

5.3 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;"

As per his statement dated 21.10.2023, Shri Milind Karangutkar, partner in CB M/s. Unity Cargo Care stated that every importer has to register with shipping line for online loaded container bond in order to get loaded container delivery; that in order to file the said bond, an OTP is sent by the shipping line to importer; that the said OTP was sent to Ms. Neha Sharma by the shipping line and the customs broker received OTP/confirmation from Ms. Neha Sharma. Further, as per statements Shri Jumma Hussein, importer/IEC holder of firm M/s. Vishwas International were recorded on dated 08, 09 &11.12.2023, he had confirmed his inability to recognize Shri Milind Karangutkar, partner in CB M/s. Unity Cargo Care. Furthermore, the said CB also accepted that he had never interacted with Shri Jumma Hussein. Thus, it was amply clear that the CB was never in touch with the importer and hence they did not exercise due diligence to ascertain the correctness of the information imparted and hence abetted the import of restricted goods. It appeared that the CB had tacitly connived with middlemen and fraudulently tried to clear the consignments from custom authorities. Hence, the CB appeared to have violated regulation 10(e) of CBLR, 2018.

5.4 Regulation 10(m) of CBLR, 2018:

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

As per the offence report, it appeared, the said CB did not discharge their duties with utmost speed and efficiency. Shri Milind Karangutkar, Partner in CB M/s Unity Cargo Care in his statement dated 21.10.2023 confirmed that he had never interacted with Shri Jumma Hussein, IEC holder of M/s. Vishwas International till date i.e. upto 21.10.2023. Further, CB Shri Milind Karangutkar stated that every importer has to register with shipping line for online loaded container bond in order to get loaded container delivery: that in order to file the said bond, an OTP is sent by the shipping line to importer. The said OTP was sent to Ms. Neha Sharma by the shipping line and the customs broker received OTP/confirmation from Ms. Neha Sharma. Further, as per statements Shri Jumma Hussein, IEC holder of firm M/s. Vishwas International were recorded on dated 08, 09 &11.12.2023, wherein he confirmed his inability to recognize Shri Milind Karangutkar, partner in CB M/s. Unity Cargo Care. Thus, it was amply clear that the said CB did not act efficiently as the said CB failed to ascertain that the correctness of the OTP confirmation was done by importer or not and hence abetted the import of restricted goods. Consequently, failure of the Customs Broker to undertake their responsibilities under the CBLR Rules, 2018, led to smuggling of a total of 31,01,200 cigarettes sticks, which could have been avoided, if they had fulfilled their responsibility as laid down under the said regulations. CB did not act efficiently in discharge of his duty and contravened the provision of Regulation 10(m) of the Customs Broker Licensing Regulations, 2018. Hence, the CB appeared to have violated regulation 10(m) of CBLR, 2018.

5.5 Regulation 10(n) of CBLR, 2018:

"verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information;"

As per offence report, Shri Jumma Hussein, IEC holder of firm M/s. Vishwas International, in his statements dated 08,09 &11.12.2023 confirmed his inability to recognize Shri Milind Karangutkar, partner in CB M/s. Unity Cargo Care. Further, the said CB vide his statement dated 21.10.2023 had confirmed that they were fully aware that the proprietor of the firm i.e. M/s. Vishwas International was Mr. Jumma Hussein but they were always interacting telephonically and acting on the directions of Ms. Neha Sharma; that he had never interacted with Shri Jumma Hussein till date i.e. upto 21.10.2023. Thus, it was amply clear that the CB never met the IEC holder. It was apparent from the statement of the said CB that they had failed to undertake their responsibility of conducting independent verification of the identity of their client i.e. M/s. Vishwas International and its functioning at the address mentioned in the documents. CB's failure to undertake their responsibilities under the CBLR Rules, 2018, led to the attempted smuggling of a total 31,01,200 cigarettes sticks, which could have been avoided, if they had fulfilled their responsibility laid down under the said regulations. The CB also failed to bring the matter to the notice of the Customs Authorities. Thus, it appeared from the above facts that the Customs Broker failed to comply with obligation as mentioned under Regulation 10(n) of the CBLR, 2018 Hence, the CB appeared to have violated regulation 10(n) of CBLR, 2018.

6. Accordingly, the Customs Broker License No. 11/2149 held by the CB M/s. Unity Cargo Care was suspended by the Principal Commissioner of Customs (General) vide Order No. 50/2024-25 dated 31.01.2025 under regulation 16(1) of the CBLR, 2018. An opportunity for a personal hearing was granted to the CB on 13.02.2025. The suspension

of the CB license was further continued vide Order No. 51/2024-25 dated 18.02.2025 under regulation 16(2) of the CBLR, 2018.

6.1 In view of the offence report received from DRI, AZU, the following articles of charges were framed against the CB M/s. Unity Cargo Care (CB No. 11/2149):

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

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

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

(iv) Article of Charge-IV: Violation of Regulation 10(m) of the CBLR, 2018.

(v) Article of Charge-V: Violation of Regulation 10(n) of the CBLR, 2018.

6.2 In light of the above, a Show Cause Notice (SCN) No. 82/2024-25 dated 12.03.2025 was issued to the CB M/s. Unity Cargo Care (CB No. 11/2149) under the provisions of Regulation 17(1) of the CBLR, 2018 wherein, the CB was called upon to show cause, as to why:

a. The Customs Broker License bearing no. 11/2149 issued to them should not be revoked under regulation 14 read with regulation 17 of the CBLR, 2018;
b. Security deposited should not be forfeited under regulation 14 read with regulation 17 of the CBLR, 2018;
c. Penalty should not be imposed upon them under Regulation 18 read with Regulation 17 of the CBLR, 2018.

6.3 Shri Afaq Ahmed Giri, Deputy Commissioner was appointed as Inquiry Officer (IO) to conduct the inquiry proceedings against the CB M/s. Unity Cargo Care (CB No. 11/2149) under Regulation 17 of the CBLR, 2018. However, he was promoted to the grade of Joint Commissioner and transferred out of Mumbai. Hence, Shri Sanjay Singh Pawar, Assistant Commissioner was appointed as the new IO on 25.04.2025 to complete the inquiry proceedings.

INQUIRY REPORT: -

7. The Inquiry Officer (here in after referred to as the 'IO') concluded the inquiry proceedings and submitted the Inquiry Report dated 27.03.2026, wherein, all the charges

levelled against the CB vide Show Cause Notice (SCN) No. 82/2024-25 dated 12.03.2025 were held as “Not Proved”. The IO further stated that the Inquiry could not be completed within the stipulated time because – (i) Apart from the current inquiry proceedings, he was assigned another inquiry proceeding as well under CBLR, 2018. Additionally, he held charge of SVB, Import-II which included sensitive timebound investigations of valuations and SAADHIT target had to be achieved; (ii) the CB made additional submissions on 20.02.2026 further delaying the inquiry proceedings.

FINDINGS OF THE INQUIRY OFFICER: -

8. The IO submitted that he had gone through the Show Cause Notice No. 82/2024-25 dated 12.03.2025 vide F. No. GEN/CB/625/2024-CBS/O/o PR COMMR-CUS-GEN-Zone-I-Mumbai. The IO submitted that he had gone through the records of the Personal Hearings and submissions made during the personal hearings. The IO had also gone through the statements of all the persons taken during the investigation. The IO stated that he had also gone through the alleged Articles of Charges or contraventions mentioned in Show Cause Notice as well as legal provisions reflected in CBLR, 2018. The IO submitted that he had already taken on record the submissions made by the CB and proceeded to discuss all these submissions & examine their merits. The IO also stated that the cross examination of Shri Vikas Gupta and Shri Harekrushna Panda was sought by the CB. Letters to both the persons was issued vide letter F. No. Per/SSP/Misc./01/2025 dated 05.08.2025 and Speed post No. EM742464193IN and EM724264202IN. No one appeared for cross examination on the specified date i.e. 25.08.2025.

8.1 Article of Charge-I - Regulation 10(a) of CBLR, 2018:

The IO submitted that during the course of inquiry proceedings, the charged CB submitted copy of authorization dated 15.05.2023 from the Importer M/s. Vishwas International. Wherein the said importer had given following declaration:

> *"We VISHWAS INTERNATIONAL having our Office/Work place at Khasra no 86, 1st floor, village prahladpur bangar, New Delhi 110042 having the honour to inform you that I/ We have authorized M/S. UNITY CARGO CARE an Approved Custom*

House Agent having CHA Licence No. 11/2149, having their Regd. Office at L-370, DREAMS THE MALL, LBS ROAD, BHANDUP (WEST), MUMBAI - 400078 to transact Custom House Business for and our behalf.

I/We hereby certify that the value, goods, specification, quantity and description of goods being Imported/Exported as mentioned in the application/Invoice and other relevant documents are True to the best of my knowledge and belief and also certify that the quantity/quality/specification of the goods as stated in the application/other relevant documents are in accordance with terms of Export/Import contract entered into with the buyer/shipper in pursuance of which the goods are being Exported/Imported.

We undertake to acknowledge this authorization as if the same was that of our firm for all purpose, in connection with the aforesaid transaction and as if they had in fact been signed by me/our firm. We also undertake to pay all and any demands of differential duties and penalties subsequently made by Customs Authorities as a sequel to these transactions. The contests of the consignment are correct as per Invoice and we are responsible for it if found otherwise. We take full responsibility for any mis-declaration of Value/ Quantity of all Import/Export Consignment. We once again assure that we shall hold ourselves fully responsible for any act of omission/mis-declaration in Value/ Quality/ Quantity or in breach of any Law of the Land".

The IO found that the importer in his authority letter, took responsibility of the any discrepancy and stated that they undertook sole responsibility and were liable for any action that the Department may choose to take in this regard and absolved CB for any responsibility whatsoever. The IO submitted that he had perused statements of Shri Jumma Hussain, IEC holder of M/s. Vishwas International recorded on 08.12.2023, 09.12.2023 and 11.12.2023, under Section 108 of the Customs Act, 1962. The IO found that in his statements he never stated that the said authorization letter dated 15.05.2023 was not signed by him. Thus, the IO submitted that in the absence of any contrary record or finding in the impugned show cause notice, genuineness of the documents produced by the Customs Broker cannot be doubted and allegations of contravention under 10(a) of CBLR are conjectural.

The IO submitted that the defense submission stated that they used to prepare documents on the basis of documents received from the Freight Forwarder M/s. Falcon India. The IO submitted that the CB relied upon the following case laws.

i. *Seaswan Shipping and Logistics Vs. Commissioner of Cus., Chennai-II, reported in 2022 (380) E.L.T. 358 (Tri. Chennai).*
ii. *Perfectcargo & Logistics Vs. Commissioner of Customs (Airport & General), New Delhi, reported in 2021 (376) E.L.T. 649 (Tri. - Del).*
iii. *Trans Asia Shipping Services Vs. Commissioner of Customs, Bangalore, reported in 2024 18 Centax 230 (Tri. - Bang).*
iv. *Natvar Parkh & Co. Pvt. Ltd. Vs. Commissioner of Customs, Chennai, reported in 2012 (281) ELT 116 (Tri. Chennai)*
v. *Cargo Concept (Bombay) Pvt. Ltd. Vs. Commr. of Cus. (Gen.), Mumbai, reported in 2016 (344) E.L.T. 954 (Tri. Mumbai).*
vi. *HIM Logistics Pvt. Ltd. Vs. Commissioner of Customs, New Delhi, reported in 2016 (338) ELT 725 (Tri. Del)*

The IO submitted that he had taken cognizance of the case laws submitted by the charged Customs Broker. The IO found that what transpires from aforementioned decisions of Hon'ble CESTAT is that merely because the said documents were not obtained directly from the importer, the Customs Broker cannot be said to have violated provisions of Regulation 11(a). The IO submitted that the Hon'ble CESTAT has observed that when the necessary authorization and KYC documents have been obtained and when these documents are proper, merely because the said documents were not obtained directly from the importer, the appellant cannot be said to have violated provisions of Regulation 10(a). The IO found that ratio of the judgements relied upon by the CB were applicable in the instant case.

The IO submitted that regarding interaction of charged CB with beneficiary owner the CB placed reliance upon the following case laws:

i. *Hamid Fahim Ansari v. Commr. of Cus. (Import), Nhava Sheva reported in 2009 (241) E.L.T. 168 (Bom.) = [2010] 3 taxmann.com 272 (Bom.)*
ii. *Proprietor, Carmel Exports & Imports v. Commr. of Cus., Cochin reported in 2012 (276) E.L.T. 505 (Ker.)*
iii. *Gopal Agarwal Vs. Commissioner of Customs, New Delhi reported in 2015 (326) E.L.T. 593 (Tri. - DEI)*

The IO submitted that it is alleged in the show cause notice that Shri Milind Karangutkar, Partner of CB stated that he had received documents from Ms. Neha Sharma, who was beneficiary owner. The IO submitted that the CB placed reliance on Hon'ble CESTAT, Delhi in Final Order No. 50016/2023 dated 06.01.2026 in case of M/s. ICS Cargo Vs. Commissioner of Customs (General), New Delhi. The IO submitted that in the aforementioned case, the Department had preferred an Appeal before Hon'ble High Court, New Delhi against the said Order of Hon'ble CESTAT, New Delhi. Hon'ble High Court, Delhi dismissed the Appeal filed by the Department and upheld the Order of Hon'ble CESTAT, New Delhi.

Under Customs Act, 1962 at Section 2(3a):

"Section 2(3A) of the Customs Act, 1962, defines the "beneficial owner" as any person on whose behalf goods are being imported or exported, or who exercises effective control over such goods. This definition establishes liability for duty payment and compliance, targeting the real party behind transactions rather than just the agent"

The IO found that authorization was signed by the importer and that there is no allegation to the effect that there was no authorization or the authorization produced by the Charged CB was not genuine or that CB did not produce the Authorization. The IO found that in article of charge it has not been alleged that when such authorization was demanded by the Department the charged CB failed to produce the same.

Conclusion: The IO submitted that he had taken cognizance of the various case laws. The IO found that the ratio of the judgements relied upon by the charged CB were applicable in the instant case. The IO submitted that there was nothing on record that the Customs Broker had failed in obtaining Authorization from M/s. Vishwas International or the charged CB had failed to produce such authorization to Customs Department. Accordingly, the IO held that article of charge alleging violation of Regulation 10(a) of the CBLR, 2018 was "Not Proved".

8.2 Article of Charge-II - Regulation 10(d) of CBLR, 2018:

The IO submitted that the CB had stated that they had not physically seen the impugned goods before the same were received in custom area; that they filed the said Bill of Entry No. 7749671 dated 09.09.2023 on behalf of M/s. Vishwas International on the basis of document supplied to them. The IO submitted that the CB placed reliance upon the decision of the following case laws in support of their defence:

i. *Hon'ble Tribunal, Kolkata in the case of Advent Shipping Agency Versus Principal Commissioner of Customs (A & A), Kolkata, reported in (2023) 2 Centax 157 (Tri.-Cal.)*
ii. *M/s. L. M. S. Transport Co. V/s Commissioner of Customs (G) Mumbai, 2014(229) E.L.T.368 (Tri-Mumbai)*
iii. *Akanksha Enterprises Vs. Commissioner of Customs [2006 (203) ELT 125 (Tri-Del)*
iv. *R. S. Kandalkar & Co. V/s. Commissioner of Central Excise, Mumbai reported in 2014 (299) E. L. T. 360 (Tri-Mumbai.)*
v. *Parvath Shipping Agency Vs. Commissioner of Customs (Gen.), Mumbai [2017(357) ELT. 296(Tri. Mumbai)]*
vi. *Bajaj Enterprises Vs. Commissioner of Customs (General), Mumbai reported in 2017 (347) E.L.T. 675 (Tri. Mumbai)*
vii. *Commissioner of Customs (General), Mumbai v. M.D. Shipping Agency, [2014 (299) E.L.T. 257 (Bom.)]*
viii. *Trans Asia Shipping Services Vs. Commissioner of Customs, Bangalore, reported in 2024 18 Centax 230 (Tri. Bang).*

The IO submitted that he had taken cognizance of the aforementioned case law. The IO found that ratio of the judgements relied upon by the CB were applicable in the instant case. Therefore, the IO concluded that charged CB was not responsible for mis-declaration of description in the instant case. The IO found that Hon'ble CESTAT in aforementioned orders has rightly observed that the goods were declared as per import documents furnished by the importers and there is no way to ascertain the veracity or correctness of contents of the consignments without examination. That, there was no evidence or allegation that the appellant CB had any prior knowledge about the actual contents of the consignments. The IO submitted that one cannot peer into mind of other to find out what the intent of that person is. The IO stated that as far as the CB is concerned they have to rely on the documents submitted by the importer or the beneficial owner of the imported goods and conduct his business. The IO submitted that the CB cannot peer into the mind of importer or the beneficial owner and act/react for the offence he was going to commit with respect of the imported goods.

The IO submitted that the CB had further relied upon the decisions of Hon'ble High Court of Bombay in the case of Hamid Fahim Ansari v. Commr. of Cus. (Import), Nhava Sheva reported in 2009 (241) E.L.T. 168 (Bom.), that lending of IE Code, is not an offence under the Customs Act, 1962. The IO found that the case law is about revocation and cancellation of license before issuance of SCN and adjudication proceedings under Customs Act, 1962 but the instant case before him was for causing enquiry and submitting enquiry report of the role of CB under CBLR. Hence the ratio of the CESTAT order was not relevant in the present case.

The IO submitted that the CB also relied upon decision of Hon'ble CESTAT, Mumbai in case of M/s. Total Clearance Vs. Principal Commissioner of Customs (General), Mumbai, reported in (2023) 10 Centax 161 (Tri. Bom.). wherein it was held that any person can be an exporter and any person may act on behalf of the exporter and, thereby, become a client of customs brokers. The IO found that ratio of the aforesaid decisions is applicable in the instant case. The IO found that the Hon'ble CESTAT had rightly observed that *"Consequently, any person can be an exporter and any person may act on behalf of the exporter and, thereby, become a client of customs brokers. What we see here are several loose threads - loose threads that do not curtain off the threshold ingress but, at the same time, these loose threads have been twisted together to form a noose that does not hold"*.

Conclusion: The IO submitted that he had taken cognizance of the various case laws. The IO found that the ratio of the judgements relied upon by the charged CB were applicable in the instant case. The IO submitted that there was nothing on record that the Customs Broker had failed to advise importer M/s. Vishwas International. Accordingly, the IO held that article of Charge alleging violation of Regulation 10(d) of the CBLR, 2018 was "Not Proved".

8.3 Article of Charge-III - Regulation 10(e) of CBLR, 2018:

The IO submitted that the CB in their defence submission had stated that they had filed the said four Bills of Entry as per the invoice/packing list and Bill of Lading given by the importer M/s. Vishwas International. With respect to such allegation the IO submitted that the CB placed reliance upon following case laws:

i. *Kunal Travels (Cargo) Vs. CC (I & G), IGI AIRPORT, 2017 (354) E.L.T. 447 (Del.)*
ii. *N.D. Cargo Movers Vs. Commissioner of Customs (General), New Delhi.*
iii. *Commissioner of Customs (Airport & Admn.) Vs. Shipping & Clearing Agents Pvt. Ltd. reported in 2023 (386) E.L.T. 544 (Cal.)*
iv. *Advent Shipping Agency Versus Principal Commissioner of Customs (A & A), Kolkata, reported in (2023) 2 Centax 157 (Tri.-Cal.)*
v. *Natvar Parkh & Co. Pvt. Ltd. Vs. Commissioner of Customs, Chennai, reported in 2012 (281) ELT 116 (Tri. Chennai).*
vi. *Cargo Concept (Bombay) Pvt. Ltd. Vs. Commr. of Cus. (Gen.), Mumbai, reported in 2016 (344) E.L.T. 954 (Tri. - Mumbai).*
vii. *HIM Logistics Pvt. Ltd. Vs. Commissioner of Customs, New Delhi, reported in 2016 (338) ELT 725 (Tri. Del)*

The IO found that the ratio of the afore-said decisions is applicable in the instant case. The IO submitted that no sooner was the mis-declaration of the cargo content in the container and act of concealment the goods viz cigarette came to the notice of the CB, they denied any further clearance of cargo by the importer. This exhibits the innocence of the CB so far as the said cargo is concerned. The IO found that the article of charge III viz. Violation of regulation 10(e) of CBLR, 2018 is nothing but repetition of Article of Charge -II viz. Regulation 10(d) of CBLR, 2018. The IO submitted that he had already held that article of charge-II i.e. violation of regulation 10(d) of CBLR, 2018 was "Not Proved". Hence, the IO submitted that he was not repeating his findings for the sake of brevity.

Conclusion: The IO submitted that he had taken cognizance of the various case laws. The IO found that the ratio of the judgements relied upon by the charged CB were applicable in the instant case. The IO submitted that there was nothing on record that the Customs Broker had failed in exercising due diligence as they were not aware about mis-declaration of the impugned goods. Accordingly, the IO held that article of charge alleging violation of Regulation 10(e) of the CBLR, 2018 was "Not Proved".

8.4 Article of Charge-IV - Regulation 10(m) of CBLR, 2018:

The IO found that there was not an iota of evidence to prove that due to the lack of speed, efficiency or delay on Customs Broker's part the importer M/s Vishwas International mis-declared the imported goods and that the CB was responsible for import of mis-declared goods. The IO submitted that there was no evidence of any complaint on the part of importer or for that matter from the department that the CB had delayed in filing the said four Bills of Entry for clearance of the said import cargo. Neither there was any allegation from the investigating agency regarding non-cooperation by CB during the course of investigations. The IO found that Allegation of violation of Regulation 10(m) of CBLR, 2018 levelled against the charged Customs Broker is based on assumption and presumption. Accordingly, the IO held that article of charge alleging violation of Regulation 10(m) of the CBLR, 2018 was "Not Proved".

8.5 Article of Charge-V- Regulation 10(n) of CBLR, 2018:

The IO submitted that the CB stated that they had verified the IEC, GSTIN, PAN card etc. of the importer M/s. Vishwas International online in DGFT and GST website. The IO found that the CB had collected following KYC documents from the importer:

- Copy of IEC No. BWNPJ5047A of M/s. Vishwas International
- IDFC First Bank's letter dated 15.05.2023
- Copy of Form GST REG-06 No. 07BNWNPJ5047A1ZO of M/s. Vishwas International with Annexure A and B.
- Copy of PAN Card No. BWNPJ5047A of Shri Jumma, Proprietor of M/s. Vishwas International
- Copy of AADHAR Card no. 426647989862 of Shri Jumma, Proprietor of M/s. Vishwas International
- Copy of FSSAI License No. 13323999000094 issued to M/s. Vishwas International
- Rent Agreement in respect of M/s. Vishwas International
- Copy of letter dated 09.10.2023 issued to M/s. Vishwas International and tracking report of Speed Post against ref. No. EM675193822IN.

The IO submitted that the CB in their defence submission stated that the existence and functioning of the exporter/importer was verified online with the above documents. It has not been alleged in the impugned Show Cause Notice that IEC was forged. Nothing came on record during the investigations that the importer M/s. Vishwas International is non-existent. The IO submitted that the CB relied upon the decision of the Hon'ble CESTAT, New Delhi in the case of M/s. Selected Cargo Services Pvt. Ltd. Vs. Commissioner of Customs (Airport & General), NCH, New Delhi, Final Order No. 57977/2024 dated 06.08.2024 in Customs Appeal No. 50480 of 2024, wherein it was observed that:

> *"25. As has been decided in several orders, Regulation 10(n), verification of the client operating from the address can be done by the Customs Broker through independent and authentic documents, data or information. The importer exporter code (IEC) issued by the Director General of Foreign Trade and the GSTIN issued by the GST department both qualify as authentic documents. They are deemed to be reliable because they are issued be Government officers. Since the officers are not expected to have any bias, they are also independent documents. It is reasonable for the Customs Broker to trust that these documents have been correctly issued by the officers and proceed accordingly.*
>
> *26. If the officers had issued-either fraudulently or carelessly-benami IEC and GSTIN to businesses which did not exist at the addresses, the responsibility for that rests squarely at the doorstep of the officers who issued them and not on those who believed the officers and proceeded on that ground.*
>
> *28. We find that if the appellant was guilty of trusting the address given in the IEC when filing the Shipping Bills, so is the Additional Commissioner who sent his order (which forms the offence report in this case) to that very address. We have no hesitation in concluding that there is no evidence whatsoever that the appellant had violated Regulation 10(n)".*

The IO submitted that as per Regulation 10(n) of the CBLR, 2018, the obligation of the Customs Broker only requires him to verify that he is dealing with the exporter/importer, who is having valid IEC and GST registrations at the time of import/export of the goods. At the time of filing the Bill of Entry No. 7749671 dated 09.09.2023, the IEC and GSTIN of the exporter were very much valid as verified on the online Government portals, which are the reliable source. The IO stated that the CB further submitted that before filing the import document, they had satisfied themselves regarding the authenticity of KYC documents of the exporter since the documents were also verified by the Banker to the importer. The IO submitted that the CB relied upon the decision of the Hon'ble Delhi High Court in the case of KVS Cargo vs. Commissioner of Customs (General), NCH, New Delhi reported in 2019 (365) E.L.T. 392 (Del.), wherein the Hon'ble Court observed that:

4. ....The role of the appellant was merely one of a facilitator. There is no material on record to show that the KYC documents were fraudulent or incorrect or in any manner irregular. In these circumstances, to expect the CB holder to carry out further investigations and independent inquiry not only about the existence of importing firm but also about its real owner is beyond the mandate of the law".

The IO submitted that it is also alleged in the impugned Show Cause Notice that the CB did not meet the importer. In this regard the CB submitted that there is no obligation on the CB casted in Regulation 10(n) of CBLR, 2018 to physically verify the premises of their client and meet them. As regards the allegation of not interacting with Shri Jumma Hussein IEC Holder of M/s. Vishwas International, the CB submitted that they used to prepare documents on the basis of documents received from the Freight Forwarder M/s. Falcon India. The IO submitted that the CB had placed reliance upon the decision in case of Kunal Travels (Cargo) Vs. CC (I & G), IGI AIRPORT, 2017 (354) E.L.T. 447 (Del.). wherein it was held that:

The CHA is not expected to do a background check of the exporter/client who approaches it for facilitation services in export and imports Regulation 13(e) of the CHALR, 2004 requires the CHA to: "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" (emphasis supplied). The CHAs due diligence is for information that he may give to its client and not necessarily to do a background check of either the client or of the consignment. Documents prepared by a CHA are on the basis from of instructions/documents received its client/importer/exporter Furnishing of wrong or incorrect information cannot be attributed to the CHA if it was innocently filed in the belief and faith that its client has furnished correct information and veritable documents. The misdeclaration would be attributable to the client if wrong information were deliberately supplied to the CHA. Hence there could be no guilt, wrong, fault or penalty on the appellant *apropos the contents of the shipping bills. Apropos any doubt about the issuance of the IE Code to M/s. H. S. Impex, it was for the respondents to take appropriate action. Furthermore, the inquiry report revealed that there was no delay in processing the documents by the appellant under Regulation 13(n)".*

The IO submitted that the CB had relied upon the decision in Final Order No.50002/2022 dated 03.01.2022 in the case of Anax Air Services Pvt.Ltd. V/s Commissioner of Customs, New Delhi (Airport and General) wherein the Hon'ble CESTAT, New Delhi held that:

46. Nevertheless, the burden of this very liberal, open, scheme and its potential misuse cannot be put at the doorstep of a Customs Broker. Just as the officer's responsibility ends with doing his part of the job (which may be issuing a registration without physical verification or allowing exports without assessing the documents or examining the goods), the Customs Broker's responsibility ends with fulfilling his responsibilities under Regulation 10 of the CBLR, 2018. In dispute in this case is CBLR 10(n) which, as we have discussed above, does not require any physical verification of the address of the exporter/importer and the appellant has fully met his obligations under Regulation 10(n).

Conclusion: The IO submitted that he had taken cognizance of the afore-mentioned case laws. The IO found that ratio of the judgements was applicable in the instant case. The IO found that the ratio decidendi that emanates from the decision is that KYC documents can be received through intermediary. Accordingly, the IO held that article of charge alleging violation of Regulation 10(n) of the CBLR, 2018 was "Not Proved".

9. <u>SUMMARY OF THE FINDINGS</u>:

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

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

<u>DISAGREEMENT MEMO</u>:

10. The Inquiry Officer in his report dated 27.03.2026 held the all charges levelled against the CB vide SCN No. 82/2024-25 dated 12.03.2025 as “Not Proved’. The Principal Commissioner of Customs (Gen.), Mumbai-I disagreed with the Inquiry Officer’s findings w.r.t Article of Charge V – Regulation 10(n) of the CBLR, 2018 in light of available evidences on record. Therefore, a Disagreement Memo dated 20.05.2026 was issued to the CB. Thereafter, under the provisions of Regulation 17(6) of the CBLR, 2018 a copy of the Inquiry Report dated 27.03.2026 and Disagreement Memo dated 20.05.2026 was shared with the CB and further, to uphold the Principle of Natural Justice an opportunity of personal hearing was granted to the CB on 19.06.2026.

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

11. The Personal Hearing (PH) in the matter was held on 19.06.2026. Shri Milind Karangutkar, Partner and Shri Prashant Kubal, Consultant appeared for the hearing on behalf of the CB. The CB reiterated their written submission dated 16.06.2026 during the PH. Accordingly, the oral and written submissions of the CB were taken on record.

<u>WRITTEN SUBMISSIONS OF THE CB</u>:

12. The CB submitted that they once again deny the allegations levelled in the Show Cause Notice No. 82/2024-25 dated 12.03.2025, which is baseless, as the same is not supported with documentary or oral evidences. The CB submitted that the observations made by the Hon'ble Principal Commissioner of Customs (General) in the Disagreement Memo are contrary to the facts of this case and legal position as laid down by various judicial pronouncements given on the issues similar to this case. The CB submitted that the Disagreement Memo seeks to impose the entire burden of the importer’s alleged violations under the Customs Act, 1962 upon the CB, which is not only beyond the scope of the CBLR, 2018 but also traverses beyond the Show Cause Notice.

12.1 The CB submitted that Inquiry Proceedings under provisions of Regulation 17 of CBLR, 2018 were initiated against them on the basis of an Offense Report received from

Directorate of Revenue Intelligence, Mumbai Zonal Unit (DRI, MZU), Mumbai. The CB submitted that the Disagreement Memo 20.05.2026 is completely devoid of merits and does not in any way consider the findings of the Inquiry Report dated 27.03.2026 in the right spirit, wherein it was found that all charges framed under rregulation 10(a), 10(d), 10(e), 10(m), and 10(n) of the CBLR, 2018, were "Not Proved". The CB submitted that the IO, after a thorough evaluation of the evidence and CB's detailed reply rightly concluded that the CB acted with due diligence and that no lapse is attributable to them. The CB submitted that the observations made by learned Inquiry Officer in the aforesaid Inquiry Report are as per the facts of this case and legal position as laid down by various judicial pronouncements given on the issues similar to this case.

12.2 The CB submitted that in para 4 of the said Disagreement Memo, it is observed that the Inquiry Officer's conclusion of regulation 10(n) of CBLR, 2018 does not align with the evidentiary record and the statutory obligations cast upon a Customs Broker under the CBLR, 2018. The CB submitted that the Disagreement Memo dated 20.05.2026 has been communicated to them with communication of adverse material and/or reasons for difference, which enable them to rebut, qualify or explain the adverse material and show cause against the proposed adverse action. The CB submitted that the principles of natural justice requires that the said material/ reasons must be communicated to the Customs Broker to rebut or explain proposed adverse action in Show Cause Notice as well as in Disagreement Memo issued. In this regard, the CB submitted that they placed reliance upon the decision of the Hon'ble High Court, New Delhi in the case of M/s. HIM Logistics Pvt. Ltd. Vs. Commissioner of Customs (General), in WP (C) No. 9660/2015, wherein it was held that mere communication of the inquiry report, which is in favour of the petitioner and without communication of adverse material and/or reasons for difference, would not enable the petitioner to rebut, qualify or explain the adverse material and show cause against the proposed adverse action. Principles of natural justice required that before an adverse decision was taken against the petitioner, the petitioner should have been communicated the adverse material/reasons for disagreement. The CB submitted that they also placed reliance upon the decision of the Hon'ble CESTAT, New Delhi in case of M/s.

P. I. Logistics (India) Pvt. Ltd. Vs. Commissioner of Customs (I &G), New Delhi (Final Order No. 51672016 dated 28.04.2016), wherein it was held that non-issuance of notice on the disagreement of the Original Authority with any part of the Inquiry Report is clear violation of principles of natural justice. In the aforesaid case, on the ground of non-issuance of Disagreement Notice / Memo, order passed by the Original Authority was set aside.

The CB submitted that no disagreement ground on regulation 10(a), 10(d), 10(e), 10(m) of CBLR, 2018 has been communicated to them. Hence, they assumed that there are no adverse material and/or reasons for difference as far as regulation 10(a), 10(d), 10(e), 10(m) of CBLR, 2018 are concerned. Accordingly, the CB stated that they are submitting their reply in respect of regulation 10(n) of CBLR, 2018 only.

12.3 TIME LINE UNDER CBLR, 2018 NOT MAINTAINED:

The CB submitted that the impugned Show Cause Notice No. 82/2024-25 dated 12.03.2025 was issued on the basis of an Offense Report in the form of a letter dated 15.10.2024 vide F. No. DRI/MZU/E/INT-132/2023/10354, issued by the Joint Director, DRI, MZU, Mumbai. The CB submitted that the procedure for revoking a Custom Broker's License or imposing a penalty is governed by Regulation 17(1) of CBLR, 2018. The CB submitted that Regulation 17(1) provides that the Principal Commissioner or Commissioner of Customs/Commissioner of Customs shall issue a notice in writing to the Customs Broker within a period of 90 days from the date of receipt of an Offence Report, stating the ground on which it is proposed to revoke the license. The CB submitted that the Offence Report provided along with the Show Cause Notice is in the form of a letter dated 15.10.2024 vide F. No. DRI/MZU/E/INT-132/2023/10354. The CB submitted that if 90 days is calculated from 15.10.2024, then the last date for issuance of the proceedings under 17 would be 13.01.2025. The word 'shall' has been used for the purposes of issuance of notice, which makes it mandatory for the authority to issue any proceedings within the time period stipulated therein and no mechanism has been provided to condone the same. The CB submitted that the impugned Show Cause Notice No. 82/2024-25-Cus had been issued on 12.03.2025 Hence, the captioned Show Cause Notice which has been issued after 01 month and 27 days (total 58 days) of the expiry of the stipulated period, would make the proceedings time barred. The CB submitted that in view of the provisions of Regulation 17 (1) of the CBLR, 2018, the Principal Commissioner or Commissioner of Customs shall issue a notice in writing to the Customs Broker within a period of ninety days from the date of receipt of an offence report. Thus, the Customs Broker Section have not followed the timeline set forth in Regulation 17 (1) of the CBLR, 2018. On this ground the CB stated that the impugned Show Cause Notice is liable to be dropped. The CB submitted that inquiry proceedings has also not been completed within stipulated 90 days under Regulation 17(5) of CBLR, 2018. The CB submitted that the Inquiry Officer after considering facts of the case and reply filed by them submitted Inquiry Report dated 27.03.2026, which was communicated to them vide a letter dated 20.05.2026. As per the said letter (Disagreement Memo) the Inquiry Report was received in CB Section, NCH, Mumbai on 30.03.2026. In this regard, the CB submitted that the procedure preparation/submission of Inquiry Report is governed by Regulation 17(5) of CBLR, 2018. Hence, the CB submitted that the Inquiry Officer is bound to issue an Inquiry Report within 90 days from 12.03.2025 i.e. from the date issue of said Show Cause Notice i.e. by 10th June, 2025. The Inquiry Officer has not followed the timeline set forth in Regulation 17(5) of the CBLR, 2018. The CB submitted that there is a delay of 09 months and 17 days (290 days).

The CB submitted that they placed reliance upon the decisions of Hon’ble High Court Delhi in case of LEO Cargo Services vs. Commissioner of Customs, Airport & General, New Delhi, reported in 2022 (385) E.L.T. 30 (Del.); Hon’ble High Court, Madras in case of KTR Logistics Solutions Pvt. Ltd. Vs. Commissioner of Customs, Chennai, reported in 2020 (371) E.L.T. 685 (Mad.); Hon’ble High Court, Madras in case of M/s. Sea Queen Shipping Services Pvt. Ltd. Vs. Commissioner of Customs, Chennai, in W. P. Number 27243 of 2025 & WMP.Nos.30622 & 30624 of 2025.

12.4 The CB submitted that the procedure for revoking suspension of the license or revoking the licence of the Customs Broker or imposing penalty is governed by Regulation 17(6) of CBLR, 2018, the relevant extract is set forth below: -

"Regulation 17(6) - *The Principal Commissioner or Commissioner of Customs shall furnish to the Customs Broker a copy of the report of the Deputy Commissioner of Customs or Assistant Commissioner of Customs as the case may be, and shall require the Customs Broker to submit, within the specified period not being less than thirty days, any representation that he may wish to make against the said report".*

The CB submitted that Inquiry Report dated 27.03.2026 was required to be communicated to them by 27.04.2026, however, communicated on 20.05.2026. The CB submitted that there is delay of 23 days in communication of Inquiry Report. The CB submitted that Order-in-Original is required to be passed within 90 days from the date of Inquiry Report as per provisions of Regulation 17(7) of the CBLR, 2018. The CB further submitted that the procedure for revoking suspension of the license or revoking the licence of the Customs Broker or imposing penalty is governed by Regulation 17(7) of CBLR, 2018. The CB submitted that they relied upon the case of Leo Cargo Services Vs. Commissioner of Customs, Airport & General, New Delhi, reported in 2022 (382) E.L.T. 30 (Del.) Hon'ble High Court of Delhi observed that:

"14. It can be seen that the timelines as prescribed under various Regulations in CBLR, 2018, have been consistently held by the Courts as mandatory in nature. Each timeline is sacrosanct and the idea of prescribing a time limit by statute becomes redundant if not adhered to. Therefore, it is not just the overall timeline of 270 days (as set forth in the Circular No. 09/2010, date 8-4-2010) that needs to be followed, but also each and every timeline as prescribed in the CBLR, 2018".

The CB submitted that total time line for completion of Inquiry Proceedings from date of the Offense Report upto issuance of Order in Original is 270 days. The Order-in-Original was required to be issued by 12.07.2025 i.e 270 days from offense report dated 15.10.2024. Delay of 11 months 19 days (342 days) from 12.07.2025 upto date of hearing 19.06.2026 (Order-in-Original yet to be issued). The CB submitted that the following are the various time limits as per provisions of Regulation 17 of CBLR, 2018: -

Relevant Regulation of CBLR, 2018	**Statutory Time Limit prescribed under respective Regulation**	**Actual date of receipt of office report, issuance of Show cause Notice and issuance of impugned order.**	**Delay, beyond the statutory time limit mentioned in col. (2)**
(1)	(2)	(3)	(4)

17 (1)	Show-cause Notice to be issued within 90 days from the receipt of report office	Office Report was issued 15.10.2024 and Show Cause Notice No. 82/2024-265 dated 12.03.2025 was required to be issued on or before 13.01.2025	There is delay of 58 days in issuance of Show Cause Notice
17(5)	Inquiry Report to prepared within 90 days from the date Show-cause Notice	Show-cause Notice issued on 12.03.2025 and Inquiry Report dated 27.03.2026 was required to be prepared on or before 10-06-2025	Delay of 290 days. Hence, the proceedings are vitiated.
17(6)	Inquiry Report to be communicated to CB after 30 days from Inquiry report.	Inquiry Report dated 27.03.2026 was required to be communicated by 27.04.2026, however, communicated on 20.05.2026.	Delay of 23 days in communication of Inquiry Report.
17(7)	Total time line for completion of Inquiry Proceedings from date of the Offense Report upto issuance of Order in Original is 270 days.	Order-in-Original was required to be issued by 12.07.2025 i.e 270 days from offense report dated 15.10.2024. Delay of 11 months 07 days (342 days) from 12.07.2025 upto date of hearing 19.06.2026 (Order-in-Original yet to be issued)	Hence, the proceedings are vitiated.

The CB submitted that their Customs Broker License was suspended vide Suspension Order No. 50/2024-25 dated 31.01.2025 and suspension was continued vide order No. 51/2024-25 dated 18.02.2025. The CB submitted that their license is under suspension for more than 01 year and 04 months. The CB submitted that Order-in-Original was required to be issued by 12.07.2025 i.e. 270 days from offense report dated 15.10.2024. Delay of 11 months 07 days (342 days) from 12.07.2025 upto date of hearing 19.06.2026 (Order-in-Original yet to be issued). On this ground itself the impugned Show Cause Notice is liable to be dropped. The CB submitted that in view of the undisputed violation of the mandatory timelines prescribed under Regulation 17 of the Customs Brokers Licensing Regulations, 2018, the impugned proceedings are wholly without jurisdiction, illegal and unsustainable in law. The CB submitted that the statutory safeguards intended to ensure time-bound adjudication and protection of livelihood have been rendered illusory due to departmental inaction. It is a settled position of law, consistently upheld by the Hon’ble High Courts and the Hon’ble Tribunal, that non-adherence to even a single timeline under Regulation 17 vitiates the entire proceedings, irrespective of the nature of allegations or merits of the case. Consequently, the CB submitted that the present proceedings are liable to be quashed and set aside in toto as void ab initio, with all consequential benefits, including restoration of licence and privileges, as continuation of such proceedings would amount to an arbitrary and unconstitutional restriction on the Customs Broker's fundamental right to carry on trade and profession under Article 19(1)(g) of the Constitution of India.

13. Refutation on Article of Charge-IV viz. Regulation 10(n) of CBLR, 2018 and Disagreement Ground in para No. 5.1 of the Disagreement Memo dated 20.05.2026 regarding Violation of Regulation 10(n) of the CBLR, 2018:

The CB submitted that they had verified the IEC, GSTIN, PAN card etc. of the importer M/s. Vishwas International online in DGFT and GST website. In this regard, the CB submitted they enclosed herewith copy of following KYC documents:

- Copy of IEC No. BWNPJ5047A of M/s. Vishwas International
- IDFC First Bank's letter dated 15.05.2023
- Copy of Form GST REG-06 No. 07BNWNPJ5047A1ZO of M/s. Vishwas International with Annexure A and B.
- Copy of PAN Card No. BWNPj5047A of Shri Jumma, Proprietor of M/s. Vishwas International
- Copy of AADHAR Card no. 426647989862 of Shri Jumma, Proprietor of M/s. Vishwas International
- Copy of FSSI License No. 13323999000094 issued to M/s. Vishwas International
- Rent Agreement in respect of M/s. Vishwas International
- Copy of letter dated 09.10.2023 issued to M/s. Vishwas International and tracking report of Speed Post against ref. No. EM675193822IN.

The CB submitted that that the existence and functioning of the exporter/importer was verified online with the above documents. The CB stated that it has not been alleged in the impugned Show Cause Notice that IEC was forged. The CB submitted that nothing came record during the investigations that the importer M/s. Vishwas International is non-existing. The CB submitted that they placed reliance upon the recent decision of the Hon'ble CESTAT, New Delhi in the case of M/s. Selected Cargo Services Pvt. Ltd. Vs. Commissioner of Customs (Airport & General), NCH, New Delhi, Final Order No.

57977/2024 dated 06.08.2024 in Customs Appeal No. 50480 Of 2024 (Copy enclosed), wherein it was observed that:

> *"25. As has been decided in several orders, Regulation 10(n), verification of the client operating from the address can be done by the Customs Broker through independent and authentic documents, data or information. The importer exporter code (IEC) issued by the Director General of Foreign Trade and the GSTIN issued by the GST department both qualify as authentic documents. They are deemed to be reliable because they are issued be Government officers. Since the officers are not expected to have any bias, they are also independent documents. It is reasonable for the Customs Broker to trust that these documents have been correctly issued by the officers and proceed accordingly.*
>
> *26. If the officers had issued-either fraudulently or carelessly-benami IEC and GSTIN to businesses which did not exist at the addresses, the responsibility for that rests squarely at the doorstep of the officers who issued them and not on those who believed the officers and proceeded on that ground.*
>
> *27. What is more interesting in this case is that the Order of the Additional Commissioner which formed the offence report in this case was also sent to the exporter/importer at that very address where it is alleged that the exporter/importer did not exist. On a query from the bench, learned authorised representative submits that the order was sent to this address because it was indicated in the IEC and that a copy was also sent to another residential address of the exporter/importer found during investigation. 28. We find that if the appellant was guilty of trusting the address given in the IEC when filing the Shipping Bills, so is the Additional Commissioner who sent his order (which forms the offence report in this case) to that very address. We have no hesitation in concluding that there is no evidence whatsoever that the appellant had violated Regulation 10(n)".*

The CB submitted that as per Regulation 10(n) of the CBLR, 2018, the obligation of the Customs Broker only requires him to verify that he is dealing with the exporter/importer, who is having valid IEC and GST registrations at the time of import/export of the goods. The CB submitted that at the time of filing the Bill of Entry No. 7749671 dated 09.09.2023, the IEC and GSTIN of the exporter were very much valid as verified on the online Government portals, which are the reliable source. The CB further submitted that before filing the import document, they had satisfied themselves regarding the authenticity of KYC documents of the exporter since the documents were also verified by the Bank. The CB placed reliance upon the following case laws:

i. *Decision of the Hon'ble Delhi High Court in the case of KVS Cargo v. Commissioner of Customs (General), NCH, New Delhi reported in 2019 (365) E.L.T. 392 (Del.),*

ii. *Natvar Parkh & Co. Pvt. Ltd. Vs. Commissioner of Customs, Chennai, reported in 2012 (281) ELT 116 (Tri. Chennai),*

iii. *Hon'ble CESTAT, Mumbai in the case of Cargo Concept (Bombay) Pvt. Ltd. Vs. Commr. of Cus. (Gen.), Mumbai, reported in 2016 (344) E.L.T. 954 (Tri. - Mumbai).*

iv. *The case of HIM Logistics Pvt. Ltd. Vs. Commissioner of Customs, New Delhi, reported in 2016 (338) ELT 725 (Tri. Del),*

v. *APS Freight & Travels Pvt. Ltd. Vs. Commissioner of Customs (General), New Delhi, reported in 2016 (344) ELT 602 (Tri. – Del)*

vi. *the decision in case of Kunal Travels (Cargo) Vs. CC (I & G), IGI AIRPORT, 2017 (354) E.L.T. 447 (Del.)*

vii. *Final Order No.50002/2022 dated 03.01.2022 in the case of Anax Air Services Pvt. Ltd. V/s Commissioner of Customs, New Delhi (Airport and General)*

The CB submitted that no comments/reasons for disagreement had been offered on the conclusion/findings of the Inquiry Officer in the said Disagreement Memo dated 20.05.2026. The CB submitted that as stated in foregoing paras the Inquiry Officer had observed that ratio of the judgement relied upon by them is applicable in the present case. However, no comments/ reasons for disagreement on the various case laws has been offered by the Department on the said case laws. It stated in para 5.1 of the said Disagreement Memo that "…. Further, the reliance placed on judicial pronouncements without adequate examination of the specific facts and attendant risk factors of the present case renders the reasoning less persuasive……….". No disagreement grounds on various individual case laws referred by the Inquiry Officer has been communicated to them. The CB submitted that ratio of the aforesaid decisions is applicable in the instant case as the facts and circumstances of the case are identical. The CB therefore, submitted that they had not failed to comply with the requirement of Regulation 10(n) of CBLR, 2018.

14. Law of proportionality of punishment:

The CB submitted that the punishment meted out to the Customs Broker should be commensurate with omission. It is a settled law that penalty should be proportionate to the offence committed. It would be too harsh to revoke their license and to leave the right to livelihood of the Customs Broker as well as his employees. The CB submitted that for the said proposition they placed reliance upon the following caselaws:

(i) *HIM Logistics Pvt. Ltd.* v. *CC, New Delhi* - 2016 (338) E.L.T. 725 (Tri. - Del.)

(ii) *R.S.R. Forwarders* - 2018 (364) E.L.T. 541 (Tri. - Del.),

(iii) *Ashiana Cargo Services* v. *CC (I &G), Delhi* in Final Order No. Cus.AA. 24/2012, C.M. APPL. 19694/2012, dated 14-3-2014 [2014 (302) E.L.T. 161 (Del.)

14.1 The CB submitted that they have deposited a Security Deposit of Rs.5 Lacs (copy enclosed) with the Department. Forfeiture of entire security deposit will put extra financial burden on them and hence requested to take a lenient view. The CB further submitted that the suspension of their licence has gravely endangered their livelihood and of all the families dependent upon this business. In these circumstances, the CB humbly requested to take a lenient and sympathetic view in the matter and to kindly restore the licence forthwith, in the interest of justice and equity and drop the charges levelled in the Show Cause Notice.

<u>DISCUSSIONS AND FINDINGS</u>: -

15. I have gone through the facts and records of the case; the offence report DRI/MZU/E/INT-132/2023/10354 dated 15.10.2024 issued by the Joint Director, DRI, MZU; Suspension Order No. 50/2024-25 dated 31.01.2025 and Suspension Continuation Order No. 51/2024-25 dated 18.02.2025 issued under Regulation 16 of CBLR, 2018; Show Cause Notice No. 82/2024-25 dated 12.03.2025 issued under Regulation 17(1) of CBLR, 2018; Inquiry Report dated 27.03.2026, PH records dated 19.06.2026 and the CB's written submission dated 16.06.2026.

15.1 To summarize in brief, The case originated from an investigation by the Directorate of Revenue Intelligence (DRI), Mumbai Zonal Unit, against the importer M/s. Vishwas International (IEC: BWNPJ5047A). The importer filed Bill of Entry No. 7749671 dated 09.09.2023 through the Customs Broker (CB) M/s. Unity Cargo Care (CB No. 11/2149) for a consignment declared as "Fresh Longans" originating from Thailand. The DRI officers conducted a 100% examination of the goods imported under the aforementioned

Bill of Entry. While the front rows contained perforated boxes of fresh longans, officers discovered white thermocol boxes concealed behind them containing 31,01,200 foreign-brand cigarette sticks (Marlboro, 303, and SIGN). Consequently, the DRI seized the concealed cargo i.e. cigarettes along with the cover cargo (1770 boxes of fresh longans valued at Rs. 79,57,667) under Section 110 of the Customs Act, 1962, vide Seizure Memo dated 03.11.2023. Statement of Shri Milind Karangutkar, Partner of the CB firm recorded under Section 108 of the Customs Act, 1962, revealed that the CB never met or directly interacted with the actual IEC holder/proprietor, Shri Jumma Hussein. Instead, the clearance job was routed through a freight forwarder (M/s. Falcon Airsea Logistics Pvt. Ltd.) and managed entirely via telephonic/email communication with an unauthorized person, Ms. Neha Sharma, who acted as the beneficial owner. Shri Jumma Hussein (a former domestic help/employee of Ms. Neha Sharma) confirmed he was not running the company and was unable to recognize the CB. Based on these facts, it was evident that the CB failed to conduct independent physical or background verification of the client. Consequently, the CB's License was suspended vide Order dated 31.01.2025 (continued vide Order dated 18.02.2025) and issued Show Cause Notice No. 82/2024-25 dated 12.03.2025 under Regulation 17 of CBLR, 2018 charging the CB for violation of Regulations 10(a), 10(d), 10(e), 10(m), and 10(n) of CBLR, 2018.

16. I find that 05 articles of charges have been framed against the CB i.e. violation of Regulations 10(a), 10(d), 10(e), 10(m) and 10(n) of the CBLR 2018. Now, I proceed to discuss the charges, sequentially.

16.1 Violation of Regulation 10(a) of the CBLR, 2018:

(a) I find that the charge of violation of Regulation 10(a) of the CBLR, 2018 has been levelled against the CB on the grounds that the Customs Broker did not produce any evidence to prove that he had obtained proper authorization from the importer. Also, the importer/IEC holder of firm M/s. Vishwas International, Shri Jumma Hussein, in his statements recorded on dated 08,09 & 11.12.2023 confirmed his inability to recognize Shri Milind Karangutkar, partner in CB M/s. Unity Cargo Care. Also, Shri Milind Karangutkar, partner in CB M/s. Unity Cargo Care in his statement dated 21.10.2023 stated that he had never interacted with him (Mr. Jumma Hussein) till date. Thus, it was clear that CB was never in touch with importer by any means of communication or contact which indicated that the CB filed the bills of entry without taking proper authorization from importer/IEC holder and did not verify the genuineness of the importer. Hence, the CB appeared to have violated provisions of regulation 10(a) of CBLR, 2018.

(b) I find that the inquiry officer, in this regard has observed that during the course of inquiry proceedings, the charged CB submitted copy of authorization dated 15.05.2023 from the importer M/s. Vishwas International. The IO found that the importer in his authority letter, took responsibility of the any discrepancy and stated that they undertook sole responsibility and were liable for any action that the Department may choose to take in this regard and absolved the CB for any responsibility whatsoever. The IO submitted that he had perused statements of Shri Jumma Hussain, IEC holder of M/s. Vishwas International recorded on 08.12.2023, 09.12.2023 and 11.12.2023, under Section 108 of the Customs Act, 1962. The IO found that in his statements he never stated that the said authorization letter dated 15.05.2023 was not signed by him. Thus, the IO submitted that in the absence of any contrary record or finding in the impugned show cause notice, genuineness of the documents produced by the Customs Broker cannot be doubted and allegations of contravention under 10(a) of CBLR are conjectural. The IO submitted that the defense submission stated that they used to prepare documents on the basis of documents received from the Freight Forwarder M/s. Falcon India. The IO submitted that he had taken cognizance of the case laws submitted by the charged Customs Broker. The IO found that what transpires from aforementioned decisions of Hon'ble CESTAT is that merely because the said documents were not obtained directly from the importer, the Customs Broker cannot be said to have violated provisions of Regulation 10(a). The IO submitted that the Hon'ble CESTAT has observed that when the necessary authorization and KYC documents have been obtained and when these documents are proper, merely because the said documents were not obtained directly from the importer, the appellant cannot be said to have violated provisions of Regulation 10(a). The IO found that ratio of the judgements relied upon by the CB were applicable in the instant case. The IO submitted that there was nothing on record that the Customs Broker had failed in obtaining Authorization from M/s. Vishwas International or the charged CB had failed to produce such authorization to Customs Department. Accordingly, the IO held that article of charge alleging violation of Regulation 10(a) of the CBLR, 2018 is not proved.

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

(a) I find that the charge of violation of Regulation 10(d) of the CBLR, 2018 has been levelled against the CB on the grounds that as per statement of Shri Milind Karangutkar, Partner in CB M/s. Unity Cargo Care recorded by the DRI, MZU officials, they never met the importer and received documents through a person Ms. Neha Sharma. It was evident that the CB did not advise their client to comply the provisions of the Act, other allied acts and rules and regulations thereof as they never met the importer. Further, on examination of goods by DRI, MZU officers, it was found that imported goods were declared as 'Fresh longans', however, upon examination by the DRI, MZU officials, restricted/prohibited goods were found which the CB should have highlighted to the Customs Authority but it appeared that the Customs Broker failed to do so. Thus, it appeared that the Customs Broker not only failed to advise their client to comply with provisions of the act, other allied acts and the rules regulations thereof but they also did not bring such violation to the notice of the customs authorities, which is non-compliance on the part of the Customs broker. Such negligence committed by the CB, led to the smuggling of a total 31,01,200 cigarettes sticks, which could have been avoided, if they had fulfilled their responsibility laid down under the said regulations. Hence, it appeared that the CB had violated the provisions of Regulation 10(d) of CBLR, 2018.

(b) I find that the inquiry officer, in this regard has observed that the CB had stated that they had not physically seen the impugned goods before the same were received in custom area; that they filed the said Bill of Entry No. 7749671 dated 09.09.2023 on behalf of M/s. Vishwas International on the basis of document supplied to them. The IO submitted that he had taken cognizance of caselaws cited by the CB and found that ratio of the judgements relied upon by the CB were applicable in the instant case. Therefore, the IO concluded that charged CB was not responsible for mis-declaration of description in the instant case. The IO found that Hon'ble CESTAT in aforementioned orders has rightly observed that the goods were declared as per import documents furnished by the importers and there is no way to ascertain the veracity or correctness of contents of the consignments without examination. That, there was no evidence or allegation that the appellant CB had any prior knowledge about the actual contents of the consignments. The IO stated that as far as the CB is concerned, they have to rely on the documents submitted by the importer or the beneficial owner of the imported goods and conduct his business. The IO submitted that the CB cannot peer into the mind of importer or the beneficial owner and act/react for the offence he was going to commit with respect of the imported goods. The IO submitted that there was nothing on record that the Customs Broker had failed to advise importer M/s. Vishwas International. Accordingly, the IO held that article of Charge alleging violation of Regulation 10(d) of the CBLR, 2018 is not proved.

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

(a) I find that the charge of violation of Regulation 10(e) of the CBLR, 2018 has been levelled against the CB on the grounds that as per his statement dated 21.10.2023, Shri Milind Karangutkar, partner in CB M/s. Unity Cargo Care stated that every importer has to register with shipping line for online loaded container bond in order to get loaded container delivery; that in order to file the said bond, an OTP is sent by the shipping line to importer; that the said OTP was sent to Ms. Neha Sharma by the shipping line and the customs broker received OTP/confirmation from Ms. Neha Sharma. Further, as per statements Shri Jumma Hussein, importer/IEC holder of firm M/s. Vishwas International were recorded on dated 08, 09 &11.12.2023, he had confirmed his inability to recognize Shri Milind Karangutkar, partner in CB M/s. Unity Cargo Care. Furthermore, the said CB also accepted that he had never interacted with Shri Jumma Hussein. Thus, it was amply clear that the CB was never in touch with the importer and hence they did not exercise due diligence to ascertain the correctness of the information imparted and hence abetted the import of restricted goods. It appeared that the CB had tacitly connived with middlemen and fraudulently tried to clear the consignments from custom authorities. Hence, the CB appeared to have violated regulation 10(e) of CBLR, 2018.

(b) I find that the inquiry officer, in this regard, has observed that the CB in their defence submission had stated that they had filed the said four Bills of Entry as per the invoice/packing list and Bill of Lading given by the importer M/s. Vishwas International. The IO submitted that no sooner was the mis-declaration of the cargo content in the container and act of concealment the goods viz cigarette came to the notice of the CB, they denied any further clearance of cargo by the importer. This exhibits the innocence of the CB so far as the said cargo is concerned. The IO submitted that he had taken cognizance of the various case laws. The IO found that the ratio of the judgements relied upon by the charged CB were applicable in the instant case. The IO submitted that there was nothing on record that the Customs Broker had failed in exercising due diligence as they were not aware about mis-declaration of the impugned goods. Accordingly, the IO held that article of charge alleging violation of Regulation 10(e) of the CBLR, 2018 is not proved.

16.4 Violation of Regulation 10(m) of the CBLR, 2018:

(a) I find that the charge of violation of Regulation 10(m) of the CBLR, 2018 has been levelled against the CB on the grounds that as per the offence report, it appeared, the said CB did not discharge their duties with utmost speed and efficiency. Shri Milind Karangutkar, Partner in CB M/s Unity Cargo Care in his statement dated 21.10.2023 confirmed that he had never interacted with Shri Jumma Hussein, IEC holder of M/s. Vishwas International till date i.e. upto 21.10.2023. Further, CB Shri Milind Karangutkar stated that every importer has to register with shipping line for online loaded container bond in order to get loaded container delivery: that in order to file the said bond, an OTP is sent by the shipping line to importer. The said OTP was sent to Ms. Neha Sharma by the shipping line and the customs broker received OTP/confirmation from Ms. Neha Sharma. Further, as per statements Shri Jumma Hussein, IEC holder of firm M/s. Vishwas International were recorded on dated 08, 09 &11.12.2023, wherein he confirmed his inability to recognize Shri Milind Karangutkar, partner in CB M/s. Unity Cargo Care. Thus, it was amply clear that the said CB did not act efficiently as the said CB failed to ascertain that the correctness of the OTP confirmation was done by importer or not and hence abetted the import of restricted goods. Consequently, failure of the Customs Broker to undertake their responsibilities under the CBLR Rules, 2018, led to smuggling of a total of 31,01,200 cigarettes sticks, which could have been avoided, if they had fulfilled their responsibility as laid down under the said regulations. CB did not act efficiently in discharge of his duty and contravened the provision of Regulation 10(m) of the Customs Broker Licensing Regulations, 2018. Hence, the CB appeared to have violated regulation 10(m) of CBLR, 2018.

(b) I find that the inquiry officer, in this regard stated that that there was not an iota of evidence to prove that due to the lack of speed, efficiency or delay on Customs Broker's part the importer M/s Vishwas International mis-declared the imported goods and that the CB was responsible for import of mis-declared goods. The IO submitted that there was no evidence of any complaint on the part of importer or for that matter from the department that the CB had delayed in filing the said four Bills of Entry for clearance of the said import cargo. Neither there was any allegation from the investigating agency regarding non-cooperation by CB during the course of investigations. The IO found that Allegation of violation of Regulation 10(m) of CBLR, 2018 levelled against the charged Customs Broker is based on assumption and presumption. Accordingly, the IO held that article of charge alleging violation of Regulation 10(m) of the CBLR, 2018 is not proved.

16.5 I have gone through the CB’s submission and find that the CB has not furnished any defence w.r.t the charges of violation of Regulations 10(a), 10(d), 10(e) and 10(m) of the CBLR, 2018. I observe the CB stated that no disagreement ground on regulation 10(a), 10(d), 10(e), 10(m) of CBLR, 2018 has been communicated to them against the IO’s findings. Hence, they assumed that there are no adverse material and/or reasons for difference as far as regulation 10(a), 10(d), 10(e) and 10(m) of CBLR, 2018 are concerned.

Accordingly, the CB stated that they are submitting their reply in respect of regulation 10(n) of CBLR, 2018 only.

16.6 I have perused the facts and records of the case and gone through the IO's findings in detail w.r.t the findings against charges of violation of Regulations 10(a), 10(d), 10(e) and 10(m) of the CBLR, 2018. I observe that the IO held the charges as "Not Proved" for reasons elaborated in the preceding paras which I abstain from reiterating for the sake of brevity. Upon meticulous examination of the Inquiry Report I find the IO's findings cogent, convincing and well-grounded. Furthermore, I find the IO's reliance on the judicial precedents cited in his report reasonable, sound and applicable to matrix of the present case. I do not find any reason to differ with the IO's findings against the said charges and hence I concur with and accept the same. Consequently, I drop the charges of violation of Regulations 10(a), 10(d), 10(e) and 10(m) of the CBLR, 2018.

16.7 Violation of Regulation 10(n) of the CBLR, 2018:

(a) I find that the charge of violation of Regulation 10(n) of the CBLR, 2018 has been levelled against the CB on the grounds that as per the offence report, Shri Jumma Hussein, IEC holder of firm M/s. Vishwas International, in his statements dated 08,09 &11.12.2023 confirmed his inability to recognize Shri Milind Karangutkar, partner in CB M/s. Unity Cargo Care. Further, the said CB vide his statement dated 21.10.2023 had confirmed that they were fully aware that the proprietor of the firm i.e. M/s. Vishwas International was Mr. Jumma Hussein but they were always interacting telephonically and acting on the directions of Ms. Neha Sharma; that he had never interacted with Shri Jumma Hussein till date i.e. upto 21.10.2023. Thus, it was amply clear that the CB never met the IEC holder. It was apparent from the statement of the said CB that they had failed to undertake their responsibility of conducting independent verification of the identity of their client i.e. M/s. Vishwas International and its functioning at the address mentioned in the documents. CB's failure to undertake their responsibilities under the CBLR, 2018, led to the attempted smuggling of a total 31,01,200 cigarettes sticks, which could have been avoided, if they had fulfilled their responsibility laid down under the said regulations. The CB also failed to bring the matter to the notice of the Customs Authorities. Thus, it appeared from the above facts that the Customs Broker failed to comply with obligation as mentioned under Regulation 10(n) of the CBLR, 2018 Hence, the CB appeared to have violated regulation 10(n) of CBLR, 2018.

(b) I find that the inquiry officer, in this regard observed that the CB submitted that they had verified the IEC, GSTIN, PAN card etc. of the importer M/s. Vishwas International online in DGFT and GST website. The IO found that the CB had collected various KYC documents from the importer. The IO submitted that as per Regulation 10(n) of the CBLR, 2018, the obligation of the Customs Broker only requires him to verify that he is dealing with the exporter/importer, who is having valid IEC and GST registrations at the time of import/export of the goods. At the time of filing the Bill of Entry No. 7749671 dated 09.09.2023, the IEC and GSTIN of the exporter were very much valid as verified on the online Government portals, which are the reliable source. The IO stated that the CB further submitted that before filing the import document, they had satisfied themselves regarding the authenticity of KYC documents of the exporter since the documents were also verified by the Banker to the importer. The IO submitted that he had taken cognizance of the caselaws relied upon by the CB and found that ratio of the judgements was applicable in the instant case. The IO found that the ratio decidendi that emanates from the decisions is that KYC documents can be received through intermediary. Accordingly, the IO held that article of charge alleging violation of Regulation 10(n) of the CBLR, 2018 is not proved.

(c) I have gone through the CB’s submission in detail and find the CB submitted that they had verified the IEC, GSTIN, PAN card etc. of the importer M/s. Vishwas International online in DGFT and GST website. The CB submitted copies of the documents for reference. The CB submitted that that the existence and functioning of the exporter/importer was verified online with the above documents. The CB stated that it has not been alleged in the impugned Show Cause Notice that IEC was forged. The CB submitted that nothing came record during the investigations that the importer M/s. Vishwas International is non-existing. The CB submitted that as per Regulation 10(n) of the CBLR, 2018, the obligation of the Customs Broker only requires him to verify that he is dealing with the exporter/importer, who is having valid IEC and GST registrations at the time of import/export of the goods. The CB submitted that at the time of filing the Bill of Entry No. 7749671 dated 09.09.2023, the IEC and GSTIN of the exporter were very much valid as verified on the online Government portals, which are the reliable source. The CB further submitted that before filing the import document, they had satisfied themselves regarding the authenticity of KYC documents of the exporter since the documents were also verified by the Bank. The CB placed reliance upon various judicial precedents cited supra under the CB's submission segment. The CB submitted that as stated in foregoing paras, the Inquiry Officer had observed that ratio of the judgement relied upon by them is applicable in the present case. However, no comments/ reasons for disagreement on the various case laws has been offered by the Department on the said case laws. The CB therefore, submitted that they had not failed to comply with the requirement of Regulation 10(n) of CBLR, 2018.

(d) I have perused the facts and records of the case, the findings of the inquiry officer and the defence arguments of the CB. I observe that Regulation 10(n) of the CBLR, 2018, requires a CB to verify the identity and functioning of his client at the declared address by using reliable, independent, and authentic sources. I find that the CB admitted that they never physically verified the importer or their address. Regulation 10(n) explicitly requires the CB to verify the "identity of his client". In his statement under Section 108 of the Customs Act, 1962, recorded on 21.10.2023, Shri Milind Karangutkar (Partner of CB) admitted that he was fully aware that the sole proprietor of M/s. Vishwas International was Mr. Jumma Hussein, yet he never met, spoke to, or interacted with Mr. Jumma Hussein till date. This clearly establishes the CB's failure to verify the client's identity which is a preliminary step in establishing a business relationship. I observe that the CB admitted to accepting instructions, documents, and even shipping line OTP confirmations exclusively from an unauthorized third person, Ms. Neha Sharma, purely on telephonic/WhatsApp interactions and via a freight forwarder (M/s. Falcon Airsea Logistics). The DRI investigation revealed that Shri Jumma Hussein was merely a dummy/benami IEC holder who was a former domestic helper whose Aadhar/PAN were fraudulently taken by Ms. Neha Sharma to create a dummy firm. In his statements recorded before the investigating agency Shri Jumma Hussein failed to recognize the photo of the CB Partner Shri Milind Karangutkar and stated he had no operational role in the firm. The CB's defence that collecting digital copies of KYC documents and checking portal validity fulfills Regulation 10(n) reduces a vital statutory safeguard to a mere mechanical formality. Merely collecting photocopies from an intermediary does not satisfy the "reliable and independent" check envisaged under Regulation 10(n). By accepting a client without meeting them, relying on an intermediary, and failing to verify the functioning of the entity which later turned out to be a bogus IEC/ front used by unscrupulous elements violated the trust placed in the CB by the Department. In the era of trade facilitation and RMS enabled clearance where Customs relies heavily on the integrity of the Customs Broker as a gatekeeper of economic borders, the CB is mandated to exercise basic diligence to ensure that the legitimacy of their client. The caselaws relied upon by the CB (*Natvar Parkh & Co. Pvt. Ltd.*, *KVS Cargo*, etc.) apply to standard commercial transactions where a genuine client operates for conducting legitimate trade. They do not extend protection to cases where a CB completely abdicates its obligation by dealing exclusively with an unverified, unauthorized individual (Ms. Neha Sharma). Shri Milind Karangutkar explicitly admitted in his statement dated 21.10.2023 that *"he had not conducted any independent verification of the importer and that this was a mistake on their part"* **-** a direct admission of lapse under Regulation 10(n). The deliberate failure of the CB to verify the true identity and actual functioning of its client at the declared address directly enabled fraudsters to operate a benami IEC firm and the attempted smuggling of 31,01,200 cigarette sticks into the country. Accordingly, the findings of the Inquiry Officer w.r.t. Regulation 10(n) are rejected and the charge of violation of Regulation 10(n) of CBLR, 2018 stands fully proved against the CB M/s. Unity Cargo Care.

17. I find that a Customs Broker occupies a very important position in the Custom House and is supposed to safeguard the interests of both the importers/exporters and the Customs Department. A lot of trust is kept in CB by the Government Agencies; however,

by their acts of omission and commission, the Customs Broker M/s. Unity Cargo Care (CB No. 11/2149) has violated Regulation 10(n) of the CBLR, 2018. I find that for the violation of obligations provided under the CBLR, 2018 and for their acts of omission and commission, the Customs Broker M/s. Unity Cargo Care have rendered themselves liable for penal action under the CBLR, 2018. Hence, while deciding the matter, I rely on the following caselaws:

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

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

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

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

18. As discussed above, I conclude that the CB M/s. Unity Cargo Care (CB No. 11/2149) is guilty of violating Regulation 10(n) of the CBLR, 2018. In conclusion, while I find that the Customs Broker (CB) did not strictly adhere to the high standard of proactive verification required under Regulation 10(n) of the CBLR, 2018, there is no evidence on record of the CB's active connivance in the current smuggling attempt. Therefore, while the charge of technical negligence in failing to verify the client's identity and functioning is upheld to emphasize the gatekeeper responsibility of the CB, a balanced approach is warranted to allow the CB an opportunity to rectify their internal KYC protocols. Hence, under the factual matrix of the case and considering the defence arguments of the CB as well as applying the principle of proportionate punishment I am not inclined to revoke the License of the CB as the punishment of revocation of license is much harsher and disproportionate to the offences committed. Also, it is pertinent to note here that the license of the CB is already under suspension for more than 18 months i.e. since 31.01.2025 and thus has been already penalised in this manner. However, I am of the considered view that the ends of justice will be met by forfeiture of security deposit and imposing a penalty on the CB which suffices both as a punishment for the infraction and as a deterrent to future violations. In this regard, I place reliance on the following caselaws:

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

"13. By order dated 15-7-2000, licence was revoked. It is not clear how there could be revocation when the licence itself was not functional after 13-1-2000. Licence can be suspended or revoked on any of the grounds as mentioned in Regulation 21. It is, therefore, clear that if any of the grounds enumerated existed, two courses are open to the Commissioner. One is to suspend the licence and the other is to revoke it. Suspension would obviously mean that licence would be for a particular period inoperative. An order of revocation would mean that licence is totally inoperative in future, it loses its currency irretrievably. Obviously, suspension/revocation, as the case may be, has to be directed looking to the gravity of the situation in the background of facts. For minor infraction or infraction which are not of very serious nature order of suspension may suffice. On the contrary, when revocation is directed it has to be only in cases where infraction is of a very serious nature warranting exemplary action on the part of the authorities, otherwise two types of actions would not have been provided for. Primarily it is for the

Commissioner/Tribunal to decide as to which of the actions would be appropriate but while choosing any of the two modes, the Commissioner/Tribunal has to consider all relevant aspects and has to draw a balance sheet of gravity of infraction and mitigating circumstances. The difference in approach for consideration of cases warranting revocation or suspension or non-renewal has to be borne in mind while dealing with individual cases. In a given case the authorities may be of the view that non-renewal of licence for a period of time would be sufficient. That would be in a somewhat similar position to that of suspension of licence though it may not be so in all cases. On the other hand, there may be cases where the authorities may be of the view that 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”.

19. Further, I find that the Inquiry Officer concluded the Inquiry proceedings and furnished the Inquiry Report dated 27.03.2026 which was received on 30.03.2026. The Inquiry Officer explained the reasons for the delay which have been elaborated in Para 7 above. In this regard, with respect to the timelines prescribed under Regulation 17 of the CBLR, 2018, relying on the following caselaws, I observe that the timelines under CHALR/CBLR are directory in nature and not mandatory:

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

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

provisions contained in Regulation 20 can be effectively implemented in the interest of both parties, namely, the Revenue and the Customs House Agent."

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

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

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

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

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

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

21. In view of the above-discussed facts and for their acts of omission and commission, the Customs Broker M/s. Unity Cargo Care (CB No. 11/2149) is held liable and guilty for

violating the provisions of the CBLR, 2018. I hold that the CB has failed to discharge the duties cast upon them with respect to Regulation 10(n) of the CBLR, 2018 and is liable for penal action. Accordingly, I pass the following order:

ORDER

22. 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 revoke the suspension of CB License held by M/s. Unity Cargo Care (CB No. 11/2149), which was suspended vide Order No. 50/2024-25 dated 31.01.2025 and continued vide Order No. 51/2024-25 dated 18.02.2025.

(ii) I hereby order for forfeiture of Rs. 1,00,000/- (Rs. One Lakh Only) from the security deposit furnished by the furnished by the CB M/s. Unity Cargo Care (CB No. 11/2149) under Regulation 14 of the CBLR, 2018.

(iii) I hereby impose a penalty of Rs. 50,000/- (Rupees Fifty Thousand only) on the CB M/s. Unity Cargo Care (CB No. 11/2149) under Regulation 18(1) of the CBLR, 2018.

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

5.8.26

(AJAY KUMAR PANDEY)
Pr. Commissioner of Customs (Gen.)
NCH, Mumbai-I

To,
M/s. Unity Cargo Care (PAN: AABFU2837N)
(CB No. 11/2149)
14/A Ground floor,
Ecstasy Business Park Co-op Soc. Ltd.
Mulund, Mumbai – 400080.

Copy to:

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