प्रधानआयुक्त (सामान्य) सीमाशुल्क का कार्यालय

OFFICE OF THE PR. COMMISSIONER OF CUSTOMS (GENERAL)

कस्टम ब्रोकर अनुभाग, नवीन सीमाशुल्क भवन,बेलार्ड इस्टेट, मुंबई– I

CUSTOMS BROKER SECTION, NEW CUSTOM HOUSE, BALLARD ESTATE, MUMBAI – 400001

Email-Id: cbsec.nch@gov.in

F. No. GEN/CB/607/2025-CBS **Date:**

DIN : 20260777000000090381

DISAGREEMENT MEMO

Whereas an inquiry against the Customs Broker (here-in-after referred to as "CB"), **Future Impex (CB No. 11/2395)**, was initiated vide **Show Cause Notice No. 47/2025-26 CBS dated 25.02.2026** in a case involving alleged contravention of **Regulation 10(d), 10(e) & 10(m)** of the CBLR, 2018.

2 . The Commissioner of Customs (General), CBS, NCH, Mumbai in exercise of powers conferred under **Regulation 17 of CBLR, 2018**, had appointed **Ms Anita S. Bagade, Assistant Commissioner of Customs, Import-II, NCH** as the Inquiry Officer to conduct the inquiry proceedings against the said CB, however, Ms Anita S. Bagade was due for retirement in June, 2026 and requested for removal of her name from Inquiry proceedings. Subsequently, **Shri Harishkumar Parmar, Assistant Commissioner of Customs, Import-II, NCH** was appointed as an Inquiry Officer (hereinafter referred to as "I.O.") on dtd. 17.03.2026.

3. The I.O. has submitted the **Inquiry Report dated 03.06.2026** to this office on 04.06.2026, wherein he has held the violation of **Regulations 10(d), 10(e) & 10(m) of CBLR, 2018** framed against the CB as **"Not Proved"**. The I.O. has reached this view on the following grounds:

3.1 Regulation 10(d) of CBLR, 2018:

The IO observed from the CB's submission that the multiple BoEs were generated due to EDI system-related issues and procedural requirements during the conversion of Advance BoEs into a Final BoE. The Customs Broker explained that the subsequent filings were made bonafide to avoid delays in clearance of perishable cargo and that no changes were made to the goods description, quantity, value, classification, duty structure, or Certificate of Origin details. The evidence shows that the earlier BoEs remained unlinked to the Import General Manifest (IGM) and were automatically purged by the EDI system, while only BoE No. 8384938 dated 15.02.2025 was processed for assessment and clearance. Further, the CB had informed the Department through an EDI query response regarding the existence of the earlier BoE and its eventual auto-deletion, thereby, bringing the matter to the Department's notice. No evidence has been brought on record to establish that the CB advised the importer contrary to law, facilitated any violation of the Customs Act, suppressed material facts, attempted duty evasion, misused exemption benefits, or caused any revenue loss to the Government. There is also no allegation of misdeclaration, undervaluation, or wrongful availment of benefits by the importer. It is further observed that Section 46(1) of the Customs Act, 1962 only prescribes the filing of a Bill of Entry for home consumption or warehousing and does not prohibit the filing of multiple BoEs for the same consignment. No specific legal provision has been cited to establish that such filing constitutes an offence. In view of the above facts and absence of any evidence demonstrating non-compliance with Regulation 10(d) of CBLR, 2018, the charge against the Customs Broker is "**Not Proved**".

3.2 Regulation 10(e) of CBLR, 2018:

The IO has observed that two Bills of Entry were automatically purged by the EDI system and only Bill of Entry No. 8384938 dated 15.02.2025 was processed for assessment and clearance. The Inquiry Officer accepted the Customs Broker's contention that intimation regarding the purged Bills of Entry had been provided to the Department through an EDI query response and, therefore, no further action was required. The Inquiry Officer further observed that there was no variation in value, classification, duty liability, or Certificate of Origin benefits, and that no violation of the Customs Act, allied laws, rules, regulations, or notifications had occurred. Reliance was also placed on judicial precedents and an earlier departmental adjudication order wherein charges against Customs Brokers in similar circumstances had been dropped. It was concluded that the Customs Broker had not imparted any incorrect information to the importer regarding cargo clearance, and that there was no evidence of mala fide intent, suppression of facts, wrongful gain, duty evasion, misuse of exemption benefits, or revenue loss. Accordingly, the Inquiry Officer held that the Customs Broker had not contravened Regulation 10(e) of CBLR, 2018 and the charge was held as "**Not Proved**".

3.3 Regulation 10(m) of CBLR, 2018

The IO submitted that the allegation of contravention of Regulation 10(m) of the CBLR, 2018 is not sustainable. As discussed above, two Bills of Entry were automatically purged by the EDI system, and only Bill of Entry No. 8384938 dated 15.02.2025 was processed. The Customs Broker had duly informed the Department of the purging through a reply to the query in the EDI system, and therefore no further request for cancellation of the purged Bills of Entry was required to be made. Further, the processed Bill of Entry involved no variation in value, classification, duty, or misuse of exemption/Certificate of Origin, and no violation of any statutory provision has been established. The allegation that the Customs Broker failed to cancel the Bills of Entry within the prescribed time is unsupported, as no specific legal provision prescribing such a time limit has been cited. There is also no evidence of any lapse in discharge of duty, non-cooperation with the investigation, suppression of facts, wrongful gain, duty evasion, revenue loss, or complaint from the importer. The charge is based merely on presumption without any substantive evidence. Accordingly, the IO held that the Article of Charge alleging violation of Regulation 10(m) of the CBLR, 2018 is **"Not Proved"**.

4. EXAMINATION OF THE IO REPORT:

I have carefully examined the Inquiry Report, the case records, the SCN, and various statements recorded under Section 108 of the Customs Act, 1962, as contained in the file, including the detailed notings placed on record.

It is observed that the IO's conclusion of Regulation 10(d) of CBLR, 2018 does not align with the evidentiary record and the statutory obligations cast upon a Customs Broker under the CBLR, 2018.

Accordingly, I am inclined to **disagree** with the Regulation 10(d) "Not Proved" findings for the reasons stated below:

5. GROUNDS OF DISAGREEMENT:

5 . 1 Disagreement on the IO's finding of "Not Proved" under Regulation 10(d) of CBLR, 2018:

The IO's conclusion under Regulation 10(d) is not justified and not aligned with settled legal position. Regulation 10(d) casts a positive and continuing obligation upon a Customs Broker to advise the client to comply with the provisions of the Customs Act, 1962 and, in case of non-compliance, to bring the matter to the notice of the Deputy Commissioner/Assistant Commissioner of Customs. The responsibility extends beyond mere filing of documents and requires the Customs Broker to exercise due diligence in ensuring legal compliance. It is an admitted fact that multiple Bills of Entry were filed for the same consignment. The Customs Broker, being a licensed professional conversant with Customs procedures, was expected to identify such irregularity and take immediate corrective action. There is no evidence on record to establish that the importer was formally advised regarding the implications of multiple filings or that appropriate guidance was provided to ensure compliance with statutory requirements. The contention that the duplicate Bills of Entry were generated due to EDI-related issues does not absolve the Customs Broker of his regulatory obligations. In situations involving procedural anomalies or system-related discrepancies, the Customs Broker was required to promptly bring the matter to the notice of the proper Customs authorities through a clear and formal communication by itself and not after raising the system query. Reliance on an EDI query response cannot be equated with the discharge of the obligation envisaged under Regulation 10(d). The obligation under Regulation 10(d) arises at the stage when the Customs Broker becomes aware of the irregularity and requires proactive reporting of the matter to the Department. No evidence has been produced to demonstrate that such reporting was made to the Deputy Commissioner or Assistant Commissioner of Customs. The Inquiry Officer's reliance on the absence of revenue loss, misdeclaration, duty evasion, or wrongful availment of benefits is misplaced. Regulation 10(d) deals with the Customs Broker's duty to advise compliance and report instances of non-compliance. Proof of revenue loss or fraudulent intent is not a prerequisite for establishing a violation of this Regulation. The statement of the Customs Broker that the importer was not informed about the multiple Bills of Entry indicates a failure to adequately advise the client regarding a material procedural irregularity. Such omission is inconsistent with the standard of care and diligence expected from a licensed Customs Broker. Therefore, it was a failure on the part of the CB and constitutes a violation of Regulation 10(d) of the CBLR, 2018. In view of the above, the analysis and findings of the IO appear to be improper and are liable to be rejected.

6. Conclusion:

In view of the above, the violation under Regulation 10(d) of the CBLR, 2018 stands proved, contrary to the Inquiry Officer's conclusion.

Accordingly, this Disagreement Memo, along with a copy of the Inquiry Report, is hereby served upon CB Future Impex (CB No. 11/2395). The CB is hereby called upon to give the submissions in their support within 30 days of the receipt of the Inquiry Officer's report and this Disagreement Memo. A personal hearing is scheduled on the 7th August, 2026 at 01:00 PM before the undersigned with the option of video conferencing facility as per instruction dated 27.04.2020 issued vide F. No. 390/Misc/3/2019-JC by the Govt. of India, Ministry of Finance, Deptt. of Revenue, CBIC.

10.7.26

(AJAY KUMAR PANDEY)
Pr. Commissioner of Customs, CBS (General)
New Customs House, Zone-I, Mumbai.

To,

Future Impex (11/2395),

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Navi Mumbai-400614

Cont. No.: 9819856465.

Copy to:

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

2. The Commissioner of Customs, Mumbai Zone I, II, III.
3. CIU's of NCH, ACC & JNCH.
4. EDI of NCH, ACC & JNCH.
5. Bombay Custom House Agent Association.