



प्रधान सीमाशुल्क आयुक्त (सामान्य) का कार्यालय
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (GENERAL)
कस्टम ब्रोकर अनुभाग, नवीन सीमाशुल्क भवन, बेलार्ड इस्टेट, मुंबई- 400 001
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F. No. GEN/CB/132/2025-CBS
DIN- 2025067700000000BD03

Order Date: 03.06.2025
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ORDER No. 04/2025-26

UNDER REGULATION 16(2) OF THE CUSTOMS BROKERS LICENSING REGULATIONS, 2018

M/s Oriion Consultancy (CB Code No. AADPA5222DCH001) (CB No. 11/2242) having registered address at "703-B, Om Shraddha Apartments, Opp. Don Bosco School, Link Road, Borivali West, Mumbai-400091 (hereinafter referred to as 'the Custom Broker' or 'the CB') is holder of Customs Broker License No. 11/2242, 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. M/s. Savitri Enterprises (IEC No BJWPK4933N) (hereinafter referred to as 'importer') having registered address at A/P Khed, (Nandgiri), Taluka-Koregaon, Dist.-Satara, Maharashtra-415501 has filed Bills of Entry No. 5517447, 5526631, 5526803 and 5527148 all dated 10.09.2024 through the Custom Broker M/s Oriion Consultancy for clearance of the imported goods declared as "Fresh Mandarin (Soft Citrus)".

3. As per offence report in the form of SCN No. 1773(L)/2024-25/ADC/Gr. I & IA/NS-I/CAC/JNCH dated 10.03.2025, SIIB(I) JNCH put on hold the goods covered under the Bills of Entry Nos. 5517447, 5526631, 5526803 and 5527148 all dated 10.09.2024 vide Hold No. 173/2024-25 SIIB(I) dated 12.09.2024 for potential misdeclaration. Imported goods stuffed inside the containers were examined by officers of SIIB(I) JNCH under Panchanama dated 14-15.09.2024, 15.09.2024 and 17.09.2024. B/Es wise weighment details declared and found during the examination are as below: -

Sr. No.	B.E. No. & date	B.L. No.	Total net weight declared as per B.L (in KGS)	Total gross weight declared as per B.L (in KGS)	Total weight found during examination
1	5517447/10.09.2024	ZSLJEANSA000196	46,000	48,000	55,450
2	5527148/10.09.2024	ZSLJEANSA000214	84,480	93,280	1,07,540
3	5526803/10.09.2024	SCLJEANSA000205	46,000	48,000	54,430
4	5526631/10.09.2024	ZSLJEANSA000212	42,000	46,000	55,700
	Total		2,18,480	2,35,280	2,73,120

4. As per offence report, imported goods were declared as "Fresh Mandarin (Soft Citrus)", however, during examination by SIIB(I) officers, they found that Kiwi Fruits were concealed after 2-3 rows of fresh Mandarin in each of the containers and the same were not declared in the above

said B/Es. Also, SIIB(I) officers found that no marking on Kiwi Fruit as well as on its crates. Weighment details of declared goods and goods found during examination are as below: -

4.1 Net weight of declared goods i.e. mandarin (soft citrus), containers wise: -

Sr.No.	Bill of Entry No. & date	Container No. (40 Ft. refer)	Weight of Mandarin (approx. in KGS including boxes weight)	New weight of Mandarin (Approx. in KGS excluding boxes weight)
1	5517447/10.09.2024	TEMU9211782	1430	1339
2	5527148/10.09.2024	TEMU9224774	1474	1380.2
		TEMU9255693	1430	1339
		TEMU9208691	1232	1153.6
		TEMU9111994	1496	1400.8
		TEMU9212243	1386	1297.8
3	5526803/10.09.2024	MORU1133366	1243	1163.9
		MORU1130109	1309	1225.7
4	5526631/10.09.2024	DFOU6119850	1452	1359.6
		NOWU5092859	1298	1215.4
		Total	13750	12875

4.2 Weight of mis-declared goods i.e. kiwi fruit, containers wise:

Sr.No.	Bill of Entry No. & date	Container No. (40 Ft. refer)	Weight of kiwis (approx. in KGS packed in crates)	New weight of Kiwis (Approx. in KGS without crates)
1	5517447/10.09.2024	TEMU9211782	25790	24655.24
		TEMU9224774	26200	25047.2
2	5527148/10.09.2024	TEMU9255693	26200	25047.2
		TEMU9208691	25220	24110.32
		TEMU9111994	25180	24072.08
		TEMU9212243	25230	24119.88
3	5526803/10.09.2024	MORU1133366	25120	24014.72
		MORU1130109	23210	22188.76
4	5526631/10.09.2024	DFOU6119850	24730	23641.88
		NOWU5092859	25170	24062.52
		Total	252050	240959.8

5. FINDINGS OF THE EXAMINATION CONDUCTED BY THE SIIB(I), JNCH.

(i). As per Bill of Lading total weight of the imported goods was 2,35,280 KGS, while during the examination the gross weight of the imported goods found as 2,73,120 KGS, which is 37,840 kgs more than the declared weight.

(ii). Imported goods were declared as "Fresh Mandarin (Soft Citrus)", but during examination of the imported goods, "Kiwi Fruit" was found as concealed and mis-declared goods, after 2-3 rows of fresh Mandarin in each of the containers. Also, no marking was observed on kiwi fruit and its crates.

(iii). The goods were packed in individual retail packing, however, the marking provision of RE44/LMPC were not complied with. Total Net Weight of Kiwi (approx. in Kgs) without crates was found to be 2,40,959.8 in kgs.

(iv). Total Net Weight of Fresh Mandarin (Soft Citrus) (approx. in Kgs excluding boxes weight) quantity of declared was found to be 12,875 in kgs.

6. INVESTIGATION INTO THE CASE BY SIIB(I), JNCH

6.1 Investigating Agency SIIB(I) JNCH had requested to Customs (Preventive) Commissionerate, Pune vide their letter dated 19.09.2024 to verify the importer's address as mentioned in the said bills of entry as C/o Shri Ganesh Bhanudas Kadam, Savitri Enterprises, Taluka Koregaon, Dist. – Satara (Maharashtra).

In this regard, Pune Preventive Commissionerate has replied stating that a field visit was conducted by their team at the above-mentioned address and upon verification, they confirmed that the mentioned address is accurate and a residential house exists at the location belonging to Shri Ganesh Bhanudas Kadam and his family. They have also collected a copy of electricity bill from the above said address. However, no business premises was found.

6.2 Investigating Agency has sent a letter to Plant Quarantine (PQ) office for inspection and drawing of the samples of the subject goods for testing and providing the test report on whether the subject goods can be cleared for home consumption or otherwise and also to affirm the country of origin of the subject goods.

In this regard, investigating agency received a deportation/destruction order dated 22.10.2024 from Assistant Director, Plant Quarantine Authority stating that "The above-mentioned consignment/container shall be deported within 14 days from the issue of order for which the importer or his authorised agent shall submit the re-shipping bills for necessary endorsement failing which the same shall be arranged for destruction at his own cost in manner prescribed by plant quarantine Authority".

Further, investigation indicated that Plant Quarantine office had not given any reply regarding the country of origin of the subject goods. It is pertinent to mention that report from Assistant Director (PP) Plant Quarantine has been provided only for the declared goods i.e. for Mandarin (Citrus Reticulata). The PQ office has informed by email on January 16, 2025, that "*Consignment of Mandarin-Fresh Fruits along with undeclared commodity of Kiwi Fresh Fruits samples are examined in pathology Laboratory and found infestation of Quarantine Pathogen i.e. Botrytis Cinerea. This is violation of Plant Quarantine (Regulation of Import into India) order, 2003 and hence consignment is recommended for destruction/deportation*".

6.3 SIIB(I) JNCH had sent a request letter to FSSAI office for inspection and drawing of the samples of the subject goods for testing and further providing the test report whether the subject goods can be cleared for home consumption or otherwise and also to affirm the country of origin of the subject goods. The reports as per their parameters 2.3/2.3.1(Food Products standard and Food Additives) & Table 2.1.1/2.3.1(Contaminants, toxins & residues) of FSSR, 2011 has been provided and in conclusion it has been stated that "The sample conforms to the specifications

outlined in the Food and Safety Standards (FSS) Act, 2006 and the rules and regulations made there under.

Further, investigation indicated that the test reports of laboratory analysis provided by GeoChem India in Test Report No 2410K35699 and 2410K35700 both dated 20.10.2024, it has been observed that the Quality parameters of Copper Oxychloride (Copper determined as per elemental copper), Copper sulphate (Copper determined as elemental copper) and cuprous Oxide (Copper determined as elemental copper) are above the limit of quantification as per test report in respect of fresh Kiwi and also as per the test report of laboratory analysis in respect of Fresh Mandarin provided by Geochem India in Test Report No. 2410K35720 dated 21.10.2024, it has been observed that the quality parameters of copper oxychloride (copper determined as per elemental copper), Copper sulphate (Copper determined as elemental copper) and cuprous Oxide (Copper determined as elemental copper) are above the limit of quantification.

6.4 Further, investigation indicated that the concerned shipping lines, mentioned on the Bills of Lading of the subject Bills of Entry, have been directed to provide the container tracking details of all the ten containers w.r.t. the subject Bills of Entry through e-mail for ascertaining the port of loading, cargo details, stuffing point, vessel details and the container tracking details of the subject goods. In reply of the same only one shipping line i.e. Swen container line has provided the required details (RUD-9) stating that the description of cargo as Fresh Fruits, Stuffing point at B14, Pol point Jebel Ali, ETA Terminal MORU1133366/27.08.2024 ,23.45 and MORU1130109/27.08.2024,23.42, Vessel Eta 02.09.2024, ETD from Jebel Ali 03.09.2024.

7. **Seizure of the goods:** The goods imported by M/s Savitri Enterprises (IEC-BJWPK4933N) vide Bills of Entry Nos. 5517447, 5527148, 5526631 and 5526803 all dated 10.09.2024, filed through Customs Broker M/s Oriion Consultancy (AADPA5222DCH001) for clearance of goods, were examined under panchanama dated 14/15.09.2024, 15.09.2024 and 17.09.2024. During the examination, misdeclaration of goods i.e. fresh Kiwi was found. Consequently, the subject goods were seized by SIIB(I) JNCH under section 110(1) of the Customs Act, 1962 vide seizure memo 082 dated 19.09.2024.

8. Statements of the concerned persons

8.1 Statement of Shri Shivkumar Ramchandra (middle person between CB and importer)] recorded on 20.09.2024, 05.11.2024 under section 108 of the Customs Act, 1962, wherein he inter-alia stated that:-

(i). His mother tongue is Hindi; that he can read, write and understand English; that he has completed his graduation in B.Com. from Bombay University; that he was having Custom Broker's Licence in his name; that at present, his License is suspended and the matter is pending before CESTAT.

(ii). Mr. Ganesh Kadam asked him to help him for filing the Bills of Entry for the subject consignment, so he requested to the CHA M/s Oriion Consultancy to file the Bills of Entry and then after hold of the subject consignments by the SIIB(I), JNCH, the importer M/s Savitri

Enterprises (IEC: BJWPK4933N) has authorised him to get the goods examined in the subject consignment.

(iii). He was introduced to Shri Ganesh Kadam, IEC holder of M/s Savitri Enterprises by some of his friends three to four months back; that he doesn't remember the name of that friend; that he doesn't have any relationship with the importer.

(iv). In last five to six consignments, he had helped the importer but he did not remember exact number of consignments; that he did not know about how the purchase order was placed to supplier and who did the payment to the supplier for the subject consignment; that he used to get one thousand five hundred rupees per container in cash after clearance of the cargo.

(v). He has not signed any agreement or contract with the said importer.

(vi). He agreed that at the time of the examination "Kiwi fruits" were found along with "Mandarin fruits" and it was not in his knowledge; that he didn't know anything about the country of origin of the found concealed kiwi.

(vii). The invoice, packing list, COO Certificate and Phytosanitary certificate for Mandarin were provided by the importer before filing the said Bills of Entry; that he had checked and verified all the documents; that he had verified the phytosanitary certificate COO certificate for Mandarin.

(viii). He hadn't demanded any amount in the clearance of the subject Bills of Entry; that he has done this work so that he can get another job as soon as his licence is activated; that he didn't had any idea about the reason for misdeclaration of goods; that as per his say, at the time of examination, there were no marking found; that therefore, COO could not be ascertained; that in case of clearance of the said Bills of Entry, he has to apply online for taking NOCs from PQ and FSSAI.

8.2 Statement of Shri Ganesh Bhanudas Kadam, (IEC Holder in case of M/s Savitri Enterprises) recorded on 23.09.2024, 14.11.2024 under section 108 of the Customs Act, 1962, wherein he *inter-alia* stated that:-

(i). The Bills of Entry for the subject consignment have been filed by Shri Shiv Kumar Gupta on his request; that he had provided him copies of Bill of Lading and proforma invoice; that he is active in transport business also in APMC Market Vashi for transportation of goods; that one of his known introduced him with Shri Shiv Kumar Gupta there;

(ii). On being asked about how did he came in contact of the said overseas supplier, he replied that Mr. Rafik Bhai is overseas supplier there in UAE; that there are two partners in M/s Qamar Al Madina Trading LLC; that he had known only Mr Rafik for the last one and half years; that one of his known in APMC Market, Vashi has provided him his mobile number one and half years back; that he wanted to import Fruits from UAE; that they used to talk on Botim App regarding their Fruit business; that the import order regarding the present shipment was also put on Botim App during their conversation;

(iii). On being asked about whether he placed purchase order for Fresh Mandarin or Kiwi, he replied that he has placed the purchase order for Soft Citrus (Fresh Mandarin);

- (iv). On being asked about that he had any documental proof in support of his claim that order was placed for Fresh Mandarin, he replied that he had made payment against the order of Fresh Mandarin; that he can provide his Bank Transaction details in support of the same;
- (v). On being asked about was there any Official/Unofficial Agreement/MOU between him and his overseas supplier, he replied that there is not any such agreement;
- (vi). On being asked about what was the reason for import of misdeclared goods, he replied that he had placed order for Fresh Mandarin; that the supplier had told that he had not that much of quantity of Fresh Mandarin at the time of stuffing, therefore he stuffed Kiwi in place of Fresh Mandarin in all the ten containers.
- (vii). On being asked about did he had any document in support of his claim that the goods were wrongly stuffed at the part of overseas supplier, he replied that the supplier had told that he had wrongly stuffed Kiwis instead of Fresh Mandarin; that he is ready to accept his mistake through a written submission; that he has assured that he is ready to pay the fine and penalty amount accrued on behalf of him as this was due to supplier's mistake;
- (viii). On being asked about what is the country of origin of the found concealed Kiwi in the subject consignment, he replied that he didn't know about this; that he would be tried to ask from the supplier;

8.2.1 Further statement of Shri Ganesh Bhanudas Kadam (IEC Holder in case of M/s Savitri Enterprises) recorded on 14.11.2024 under section 108 of the Customs Act, 1962, wherein he *inter-alia* stated that: -

- (i). He agreed with his responses/answers made in his earlier statement dated 23.09.2024;
- (ii). He is importer/IEC holder of M/s Savitri Enterprises, there are no other partners/beneficiaries in case of subject shipment; that the Bills of Entries for the subject consignment has been filed by Shri Shivkumar Gupta on his request; that he has provided him copies of Bill of Lading and Proforma Invoice, packing list, Phytosanitary Certificates and County of Origin Certificates before filing the Bill of Entries; that he has received all these documents by Courier; that he didn't have any record of the same till then.
- (iii). On being asked about whether it is feasible that the purchase order for import for such an amount can be placed in absence of any agreement/MOU and payment conditions, even when he submitted that this was the first shipment from Qamar Al Madina, he replied that they place purchase order verbally in their Business without any agreement/MOU;
- (iv). On being asked about his statement dated 23.09.2024, whereas he claimed that this was the first shipment from M/s Qamar Al Madina, while in Bank Transaction there was one transaction earlier also in favour of Qamar Al Madina, he accepted that there was one shipment earlier also from Qamar Al Madina;
- (v). On being asked about how could the bank transaction details provided could be related with his claim that the order was place only for Soft Citrus (Fresh Mandarin), he agreed that the

transaction amount details cannot be related with the description of commodity, however he placed as per market rate of the commodity only;

(vi). On being asked about his submission of copy of communication, whereas the supplier has claimed that he misdeclaration was at their part, while the date of e-mail is after the hold date of the subject shipment, which appears to be afterthought, he replied that he has been informed by supplier only after examination of the goods;

(vii). On being asked about did he had any export related document in support of his claim that goods were misdeclared at part of supplier, had he been provided by a copy of shipping Bill or any export related document from the supplier, did supplier provided any photographs at the time of container stuffing, he replied that he had not been provided with the export shipping Bill from the supplier; that however he had received proforma invoice, packing list, phytosanitary certificates and Country of Origin from the supplier. The supplier did not provide any photograph related to said consignment;

(viii). On being asked about whether he is aware with the provisions of Arrest in Customs Act, 1962 as in section 135 and also Board's Circular No 13/2022, as the value of misdeclared items is more than two crores and also duty evasion is more than fifty lakhs in subject shipment, he replied that he is aware with the arrest provisions of Customs Act, 1962. He is solely responsible for the import made by M/s Savitri Enterprises.

8.3 Statement of Shri Shambhu Dayal Agrawal, Proprietor in Customs Broker M/s Oriion Consultancy recorded on 24.09.2024, wherein he *inter-alia* stated that: -

(i). He has completed his LL.B., LL.M. from Mumbai University. He is proprietor of CB licence No 11/2242 (Kardex No:A-998) valid upto 16.11.2026 of M/s Oriion Consultancy;

(ii). Mr Shiv Kumar Gupta requested him that he wanted to file the subject Bill of Entries w.r.t. M/s Savitri Enterprises through his CB firm because Mr Shiv Kumar Gupta's licence got suspended; that he didn't know the importer directly; that they both are Customs Broker and they used to meet occasionally at BCBA meetings, therefore, he readily agreed to file the Bills of Entry of the subject consignment;

(iii). On being asked about the responsibilities of Custom Broker before filing a Bill of Entry, he replied that Customs Broker has to take all KYC Documents and Authority letter from the importer; that CB has to verify documents as per the CBLR Regulations, 2018;

(iv). On being asked about how did he came in contact with Shri Shiv Kumar Gupta, he replied that Shri Shiv Kumar Gupta used to come to him to take legal advice on custom related issues;

(v). On being asked about how was the KYC done in case of importer M/s Savitri Enterprises, he replied that KYC done as per CBLR regulations, 2018 i.e. verifying GST Filing and IEC through the portal, copies of all KYC documents along with the import documents of the above said Bills of Entry has been provided by Mr. Shiv Kumar Gupta;

- (vi). On being asked about how many import shipments have been cleared for M/s Savitri Enterprises by his firm till now, he replied that they have cleared two shipments before the subject Bills of Entry;
- (vii). On being asked about is there any Official/Unofficial agreement between him and Mr. Gupta/Importer, he replied that there is no such agreement between them;
- (viii). On being asked about his consideration amount for clearance of the Bills of Entry which he has filed for importer M/s Savitri Enterprises, he replied that he agreed to charge Rs 2000/- per Bill of Entry from Mr Shiv Kumar Gupta;
- (ix). On being asked whether he has any other benefit/consideration except his CB brokerage, he replied that he didn't have any other benefit/consideration apart from his service charge.
- (x). On being asked about what the reason for import of misdeclared goods was, he replied that he had no knowledge about that; that he came to know only after SIIB(I) examination; that the goods were declared as fresh Mandarin, as per the invoice of above Bills of Entry;
- (xi). On being asked about how did the importer place purchase order for the subject shipment, and how was the payment done, he replied that he didn't get any documents/information regarding this;
- (xii). On being asked about which documents he had been provided before filing Bills of Entry, he replied that for filing the Bills of Entry, he received invoice, Bill of Lading, Packing list, Phytosanitary certificate from the Republic of South Africa and Dubai;
- (xiii). On being asked about what is the country of origin of goods in case of the subject shipment, he replied that he doesn't have any knowledge about the country of origin of the said goods.

9. Valuation of the goods: - From the investigation, it appeared that the reassessed value of the misdeclared goods i.e. 'Fresh Kiwi' amounts to Rs. 2,37,05,625/- while the declared value of the subject goods was Rs. 1,05,32,551/- and the duty calculation of the misdeclared goods was calculated to Rs. 78,22,856/-. Thus, the declared value of Rs. 1,05,32,551/- appears liable for rejection under Rule 12 of Customs Valuation Rules, 2007. The value has been redetermined under Rule 7, Deductive value method, of the Customs Valuation Rules, 2007 as discussed above.

10. Arrest of the importer: From the investigation it appeared that the value of the misdeclared goods i.e. Fresh Kiwi amounts to Rs. 2,37,05,625/- and the duty calculation of the misdeclared goods was calculated to Rs. 78,22,856/-.

Further, investigation revealed that the importer by the above acts of omissions and commissions stands liable for arrest under provisions of Section 135- "Evasion of duty or Prohibitions, para (i), as under: -

(A) any goods the market price of which exceeds one crore of rupees; or

(B) the evasion or attempted evasion of duty exceeding [fifty lakh] of rupees;"

and also As per circular No. 13/2022-Customs issued vide F. No. CBIC-21/209/2022-INV-CUSTOMS-CBEC, para (c),

"Cases related to importation of trade goods (i.e. appraising cases) involving wilful mis-declaration in description of goods/concealment of goods/goods covered under section 123 of Customs Act, 1962 with a view to import restricted or prohibited items and where the market value of the offending goods is Rs 2,00,00,000/- (Rupees Two Crore) or more".

In view of the above, the importer was arrested under above provisions as he has accepted that he is the sole importer/beneficiary in the subject case.

11. Findings of the Investigation:

From the investigation it appeared that;

11.1 M/s. Savitri Enterprises attempted to import goods by way of mis-declaration in terms of description and quantity of the goods as they failed to provide the substantial documents in support of their claim that the misdeclaration was due to mistake of the supplier; that the copy of e-mail submitted in support of this claim is generated only after examination of the subject goods by SIIB (I) JNCH and also having date only after hold/examination of the subject goods, which appears to be afterthought only; that in the instant cast the importer has submitted copies of invoice, packing list, Bills of Lading, country of origin and also filed Bills of Entry only declaring one item i.e. Soft Citrus (Fresh Mandarin), he had failed to produce any export related document or photographs at the time of stuffing from the supplier in support of his claim that mis-declaration was done at the part of supplier.

11.2 At the time of examination, it was also observed that Kiwi fruit was concealed after 2-3 rows of declared item i.e. fresh Mandarin; that the stuffing pattern also supports that intention of concealment of the misdeclared items; that the importer had submitted Phytosanitary certificates and country of origin certificates only declaring one item; that it also appeared that intent of import of misdeclared goods for duty evasion and also absence of non-fulfilment of necessary compliances; that the Swift copy w.r.t. the subject shipment submitted by the importer against the purchase order produced by the importer also did not justify his claim of payment against the declared item i.e. Soft Citrus (Fresh Mandarin) as the transaction details of the related account of the importer as provided also not sufficient for his claim, as there is earlier transaction also for debit advice for the same supplier.

11.3 Importer is responsible to provide accurate and complete information in Bill of Entry, which he failed to do, therefore importer violated Section 46 (4) of the Customs Act, 1962 read with Section 11(1) of Foreign Trade (Development & Regulation) Act 1992 & Rule 11 of Foreign Trade (Regulation) Rules, 1993. By the above acts of omission & commission on the part of the importer, they rendered the goods liable for confiscation under Section 111(d), Section 111(e), Section 111(l), Section 111(m) and Section 119 of the Customs Act, 1962 and consequently rendered himself liable for penal action under Section 112(a), 112(b) and/ or 114A and section 114AA of the Customs Act, 1962.

11.4 The proprietor of Custom Broker firm M/s Oriion Consultancy has stated that he filed the subject Bills of Entry through his licence as per request by authorised person of importer Shri Shiv Kumar Gupta; that the proprietor of Custom Broker M/s Oriion Consultancy Shri Shambhu Dayal

Agrawal has accepted that for filing the Bills of Entry he received invoice, Bill of Lading, packing list, phytosanitary certificates from Republic of South Africa and Dubai, further he has added that he has no idea about the country of origin of the subject goods; that he has also stated that KYC documents along with the import documents of the said Bill of Entries has been provided by Shri Shiv Kumar Gupta;

From the investigation it appeared that customs broker failed to perform his role as per Custom Broker Licencing Regulations, 2018 and is liable for penal action under Custom Broker Licencing Regulations, 2018.

11.5 The middleman Shri Shiv Kumar Gupta had also stated in his statement that the Importer Shri Ganesh Kadam asked him to help him for filing the Bills of Entry for the subject goods and he was authorized for examination of the subject goods by the importer; that Shri Shiv Kumar Gupta had added that he had cleared five to six consignment for the same importer in past and he also not able to count the exact number of shipments cleared while the Custom Broker has stated that he has cleared only two shipments in the past; that it appeared that the importer, the middleman and the custom broker have willfully colluded to import the misdeclared goods in order to evade customs duty in the absence of the documents required for CCR compliance; that in view of the above it appeared that Shri Shiv Kumar Gupta is liable for penal action under Custom Broker Licencing Regulations, 2018.

11.6 By the above acts of omissions and commissions the middleman Shri Shiv Kumar Gupta, and the custom broker firm M/s Oriion Consultancy rendered themselves liable for penal action under section 112(a), 112(b) and/ or 114A and section 114AA of the Customs Act, 1962.

11.7 By the above acts of omissions and commissions the middleman of importer Shri Shiv Kumar Gupta is liable for penalties under Section 117 of the Customs Act, 1962.

12. Therefore, in view of the above said offence report, it is observed that violations of following provisions of CBLR, 2018 have been committed by the Customs Broker.

12.1 Regulation 10(a) of the CBLR, 2018 which reads as *“obtain an authorisation from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Broker and produce such authorisation 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. Shri Shambhu Dayal Agrawal, Proprietor in CB M/s. Oriion Consultancy in his statement dated 24.09.2024 stated that he did not know importer directly; that there is no official agreement between him and importer. No agreement between the CB and importer indicates that proper authorization was not obtained in the instant case. Further, importer Shri Ganesh B. Kadam in his statement dated 23.09.2024 stated that the subject consignment was filed by Shri Shiv Kumar Gupta on his request.

It is pertinent to mention that Shri Shiv Kumar Gupta in his statement dated 20.09.2024 has stated that after hold of the subject consignments by the SIIB(I), JNCH, the importer M/s

Savitri Enterprises has authorised him to get the goods examined in the subject consignment; that he has not signed any agreement or contract with the said importer. Thus, it appears that Shri Shiv Kumar Gupta was not an authorised person of the importer, this role was only assigned to him after the hold of the subject consignment by the SIIB(I), JNCH, which clearly indicates that Shri Shiv Kumar Gupta was acting as a middleman at the time of filing of the subject Bills of Entry Nos. 5517447, 5526631, 5526803 and 5527148 all dated 10.09.2024 and not an authorised person at the time of filing of these bills of entry.

Thus, it is amply clear that CB was never in touch with importer by any means of communication or contact which indicates that the subject bills of entry filed through CB license without taking proper authorisation from importer/IEC. Hence, it appeared that the CB has failed to comply with the Regulation 10(a) of CBLR, 2018.

12.2 Regulation 10(d) of the CBLR, 2018 which reads as “advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be”;

As per offence report, M/s. Savitri Enterprises attempted to import goods by way of mis-declaration in terms of description and quantity of the goods as they failed to provide the substantial documents in support of their claim that the misdeclaration was due to mistake of the supplier. Further, as per examination of the imported goods under Panchanama dated 14.09.2024, 15.09.2024 & 17.09.2024 by the SIIB(I), JNCH, violations of LMPC Rules, RE-44 Notification, potential mis-declaration w.r.t. description of the goods, gross mis-declaration w.r.t. weight of the goods were observed. It is the responsibility of the CB to inquire about the condition (i.e. pre-packed or bulk), specification of the goods etc. with the importer and advise the importer to comply with the extant rules which was not done in the instant case. Thus, it is amply clear that the said CB has failed to properly advise their client M/s. Savitri Enterprises regarding Rules and Regulations of Customs and Allied Act. Hence, it appeared that the CB has failed to comply with the Regulation 10(d) of CBLR, 2018.

12.3 Regulation 10(e) of the CBLR, 2018 which reads as “exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage”;

From the offence report, it appeared that on examination of the imported goods under Panchanama dated 14.09.2024, 15.09.2024 & 17.09.2024 by the SIIB(I), JNCH, violations of LMPC Rules, RE-44 Notification, potential mis-declaration w.r.t. description of the goods, gross mis-declaration w.r.t. weight of the goods were observed. It appeared that the CB did not enquire about the condition of goods i.e. pre-packed with the importer. Investigation shows that the Custom Broker was aware of the said requirement as per the law. However, while filing the documents, it appeared that the CB has not exercised due diligence as mandated under regulation 10(e) of the CBLR, 2018.

It is also noticed that as per the Bills of Lading total weight of the imported goods was 2,35,280 KGS, while during the examination the gross weight of the imported goods found as 2,73,120 KGS, which is 37,840 kgs more than the declared weight. Thus, it is amply clear that the CB M/s. Oriion Consultancy filed the said Bills of Entry without ascertained the correct information. It was only after examination by SIIB(I), JNCH, violation of LMPC Rules/RE-44 Notification as well as mis-declared goods were found, If SIIB(I), JNCH had not intervened, the mis-declared and non-compliant of LMPC Rules & RE-44 goods would have been cleared. Hence, the CB has not exercised due diligence and it appeared that the CB has failed to comply with the provisions of Regulations 10(e) of the CBLR, 2018.

12.4 Regulation 10(f) of the CBLR, 2018 which reads as *“not withhold information contained in any order, instruction or public notice relating to clearance of cargo or baggage issued by the Customs authorities, as the case may be, from a client who is entitled to such information”;*

From the offence report, it appears that on examination of the imported goods under Panchanama dated 14.09.2024, 15.09.2024 & 17.09.2024 by the SIIB(I), JNCH, violations of LMPC Rules, RE-44 Notification, potential mis-declaration w.r.t. description of the goods, gross mis-declaration w.r.t. weight of the goods were observed. Investigation shows that the Custom Broker was aware of the said requirement as per the law. However, it appears that the CB withheld the information reg. LMPC Rules, RE-44 notification etc. Hence, it appeared that the CB has failed to comply with the provisions of Regulations 10(f) of the CBLR, 2018.

12.5 Regulation 10(m) of the CBLR, 2018 which reads as *“discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay”*

From the offence report, it appeared that during examination goods in violation of non-compliance of Customs act and allied acts as well as potential mis-declaration was found. If SIIB(I) JNCH had not intervened the mis-declared and non-compliant goods would have been cleared. Further, Shri Shambhu Dayal Agrawal, Proprietor in CB M/s. Oriion Consultancy in his statement dated 24.09.2024 stated that he did not have any knowledge about Country of Origin of the said goods. Also, Shri Shambhu Dayal Agrawal in his statement dated 24.09.2024 stated that no agreement between him and Mr. Gupta (Middleman) or importer. Hence, customs broker appears to have intentionally involved in customs clearance work to aid the illegal imports. This clearly shows that the CB has worked in the inefficient manner. Hence, it appeared that the CB has failed to discharge his duties efficiently and violated the regulation 10(m) of CBLR, 2018.

12.6 Regulation 10(n) of the CBLR, 2018 which reads as *“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, Investigating Agency SIIB(I) JNCH has requested to Customs (Preventive) Commissionerate, Pune vide their letter dated 19.09.2024 to verify the importer's address as mentioned in the said bills of entry as C/o Shri Ganesh Bhanudas Kadam, Savitri Enterprises, Taluka Koregaon, Dist. – Satara (Maharashtra). In this regard, Pune Preventive Commissionerate has replied stating that a field visit was conducted by their team at the above-

mentioned address and upon verification, they confirmed that the mentioned address is accurate and a residential house exists at the location belonging to Shri Ganesh Bhanudas Kadam and his family. However, Pune Preventive Commissionerate had confirmed that no business premises was found at the declared address.

Thus, it appeared that Customs Broker had failed to undertake responsibility of conducting independent verification of the identity of their client functioning at the declared address. Hence, it appeared that the CB has failed to comply with the provisions of Regulation 10(n) of CBLR, 2018.

13. In view of the above, it appeared that the CB M/s Oriion Consultancy has failed to comply with the Regulation 10(a), 10(d), 10(e), 10(f), 10(m) & 10(n) of the Customs Broker Licensing Regulations, 2018, which has made them unfit to transact any business at Mumbai Customs and also in other Customs Stations. Customs Broker M/s Oriion Consultancy has committed grave offence and their negligence may not be ignored.

14. Accordingly, the Customs Broker license no. 11/2242 of M/s Oriion Consultancy (CB Code No. AADPA5222DCH001) was put under suspension vide Order No. 02/2025-26 dated 06.05.2025 and opportunity for personal hearing was granted to the CB on 19.05.2025 at 01:00 PM. However, due to administrative reasons personal hearing could not be conducted on 19.05.2025 and the same was re-scheduled on 02.06.2025 @ 12:45 PM.

Record of Personal Hearing and written submission of the CB

15. An opportunity for personal hearing was given to the Customs Broker M/s Oriion Consultancy on 02.06.2025 at 12:45 PM. The said opportunity was availed by the CB. Shri S.D. Agrawal, Proprietor of CB M/s Oriion Consultancy and Shri Prashant V. Kubal, Advocate were appeared for personal hearing. As the part of proceedings, they have reiterated their reply/submission dated 13.05.2025 at the time of PH and also submitted FAQ of DGFT.

16. During Personal Hearing, Representative of CB reiterated their written submission dated 13.05.2025, summary of submission by the customs broker is as under: -

16.1 The CB has submitted that at the outset, they deny all the contentions and allegations levelled against them in the impugned Suspension Order and submitted that the allegations and charges are baseless, imaginary and non-sustainable both on facts of the case and on position of law; that nothing that is alleged in the said Suspension Order is admitted or deemed to have been admitted unless specifically stated and are thus denied; that they have not violated any provisions of Law, Rules or Regulations under the Act ibid

16.2. The CB relied upon the decisions of the Hon'ble Calcutta High Court in the case of N.C. Singha & Sons Vs. UOI [1998(104) E.L.T. 11 (cal)] wherein it was held that: -

"5. A perusal of the order dated 9th June, 1998 ...

... what we see from the impugned order dated 9th June, 1998 is that the expression "immediate action" itself is missing. That apart, what we find from the preamble, recitals and facts stated in the order is that the circumstances did not warrant the taking of immediate action in terms of Regulation 21 (2) of the 1984 Regulation".

16.3 *M/s. Babaji Shivram Clearing & Carriers Pvt. Ltd. Vs. UOI [2011(269) E.L.T. 222 (Bom.)], para 9 and 11 of the judgement read as under:-*

"9. Apart from the above suspension of a CHA license under Regulation 20(2) of the 2004 Regulation

..., however, the impugned order has been passed belatedly on 28.03.2011.

"11. In these circumstances, in our opinion, it is a fit case to revoke the suspension of licence and permit the customs authorities to take appropriate action as deemed fit after the completion of investigation".

The CB submitted that there was a delay of two and half months in Suspension of Customs Broker licence; that, the case was investigated in the month of the September, 2024 (Hold No. 173/2024-25 dated 12.09.2024 was issued, panchanmas were drawn on 15/17 September, 2024, goods were seized vide seizure memo dated 19.09.2024) and our Customs Broker License has been suspended on 06.05.2025 i.e after seven month from date of investigation. Hence, ratio the aforesaid judgement is applicable in the instant case.

16.4 *The CB submitted that as regards to the allegation of violation of Regulation 10(a) of CBLR 2018, we submit there has been no violation of Regulation 10(a) of CBLR, 2018 in the instant case, CB has submitted a copy of authorization dated 02.04.2024.*

Further, CB submitted that we have collected all KYC papers and Authority Letter from importer M/s. Savitri Enterprises; that during the course of investigations, premises of the importer M/s. Savitri Enterprises were searched by officers of Customs (Preventive) Commissionerate, Pune and the said address was found to be accurate; that that Shri Shivkumar Ramchandra Gupta, (Authorised person in case of M/s Savitri Enterprises) interacted with us on behalf of M/s. Savitri Enterprises for clearance of impugned consignment covered under said 4 Bills of Entry; that from the above, it is evident that they have interacted with authorized person of M/s. Savitri Enterprises; that it is not practically possible to interact with proprietor, Directors, Partners of IEC holder; Also, it is not stipulated in Regulation 10(a) of CBLR, 2018 that a Customs Broker has to obtain authorization from IEC holder only; that in many cases Customs Broker interacts with Authorized Persons of importer/exporter; It is undeniable fact that we have been authorized by importer M/s. Savitri Enterprises as authorizations dated 02.04.2024 from the Importer M/s. Savitri Enterprises is on record, which was submitted to the SIIB(I), JNCH while recording statement of our proprietor Shri Shambhu Dayal Agrawal.

16.5 *As regards to the allegation of violation of Regulation 10(d) of CBLR 2018, CB submitted that there has been no violation of Regulation 10(d) of CBLR, 2018 in the instant case. CB has submitted that there is no default on their part as they have filed the said four Bills of Entry as per*

the Invoice/Packing List, Bill of Lading and other documents submitted by the importer M/s. Savitri Enterprises; that advising their client M/s. Savitri Enterprises regarding RE-44/LMPC do not arise in absence of violation of RE-44/LMPC in offence report i.e. impugned Show Cause Notice No. 1773(l)/2024-25/ADC/Gr.I & 1A/CAC/JNCH dated 10.03.2025;

16.6 The CB relied upon the decision in the case of *Dipankar Sen Vs. Commissioner of Customs, Kolkata* [2003(159)ELT 260(Tri. Kolkata)], wherein it was held that merely acting as a Customs House Agent for the exporters, does not, ipso facto, lead to an inevitable conclusion that he was in hand in glove with the exporters in absence of any record to that effect. Further, CB relied upon decision in case of *Bajaj Enterprises* [2017 (347) ELT 675 (Tri)] observed that:

“12. Customs House Agent ...

13. It is clear that the ...

14. The need to advice a client would arise only if the agent was aware of any intent to misdeclare. We note that there is no evidence or finding that the appellant was aware of such an intent on the part of the client. There was, therefore, be no reason for the appellant to believe that the client was in need to advice the client to desert from their proposed action”.

The CB has submitted that no evidence on record to show that we were aware of the intent or modus adopted by the exporter M/s. Savitri Enterprises; that they did not physically see the impugned goods;

Further, the CB relied upon the decision of the 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, wherein the Kolkata bench of Hon'ble Tribunal has held that:

"it is apparent that a...

... find any merit in confirmation of charge under Regulation 10(d) of the CBLR 2018. The same is dropped”.

16.7 As regards to the allegation of violation of Regulation 10(e) of CBLR 2018, they submitted there has been no violation of Regulation 10(e) of CBLR, 2018 in the instant case. The CB relied upon the decision in the case of *Kunal Travels (Cargo) Vs. CC (I & G), IGI AIRPORT*, 2017 (354) E.L.T. 447 (Del.), *G.N.D. Cargo Movers Vs. Commissioner of Customs (General), New Delhi*, decision of the Hon'ble High Court Calcutta in case of *Commissioner of Customs (Airport & Admn.) Vs. Shipping & Clearing Agents Pvt. Ltd.* reported in 2023 (386) E.L.T. 544 (Cal.) etc.

16.8 As regards to the allegation of violation of Regulation 10(f), 10(m) of CBLR 2018, CB has submitted there has been no violation of Regulation 10(f) of CBLR, 2018 in the instant case; that allegation levelled against them based on assumption and presumption, specifically violation of LMPC Rules and RE-44 Notification, which was never levelled against the importer in the impugned Offence Report, the Department has levelled such allegations against us beyond travelling offence report, that they have not failed to comply with the requirement of Regulation 10(f)& 10(m) of CBLR, 2018.

16.9 As regards to the allegation of violation of Regulation 10(n) of CBLR 2018, they submitted that there has been no violation of Regulation 10(n) of CBLR, 2018 in the instant case; that Pune, Preventive Commissionerate verified the address and they have stated that it is accurate. Also, they have taken photograph of premises of M/s. Savitri Enterprises on 26.09.2024, which are Relied Upon Documents to Show Cause Notice..... Directorate General of Foreign Trade, who is Competent Authority to issue IEC permits residential address to be considered as 'Business Address' then Customs Authorities cannot raise any objection that it was 'residential premises' and not 'business premises'. Thus, there is no violation of regulation 10(n) of CBLR, 2018.

16.10 the CB has submitted that the suspension does not meet the threshold of urgency or necessity as envisaged under Regulation 16 of the CBLR; that it is respectfully submitted that the immediate suspension of the license be revoked, and due process under the appropriate provisions be allowed to proceed in a fair and transparent manner.

DISCUSSIONS AND FINDINGS:

17. I have carefully gone through the records of the case, rules, regulations & the written submissions by the Customs Broker. The facts of the case and findings of the investigation have been mentioned in above paras and are not being repeated for brevity.

18. The issue before me at present is limited to determining whether the continuation of suspension of CB license is warranted or otherwise in the instant case in the light of the material on record.

19. The power under Regulation 16(1) of the CBLR, 2018 confers power to the Principal Commissioner of Customs/Commissioner of Customs to suspend the license of the Customs Broker where an inquiry against such Customs Broker is pending or contemplated. In the instant case, since an inquiry was contemplated against the said CB as intimated by the investigating agency, hence, I found it an appropriate case for suspension where immediate action was necessary in order to stop all customs clearance related work to safeguard the revenue. In terms of Regulation 16(2) of CBLR, 2018, an opportunity of hearing was granted to the CB on 02.06.2025 at 12:45 PM and same has been availed by the said Customs Broker. Further, orders issued under Regulations 16(1) and 16(2) of the CBLR, 2018 are temporary measures and final order is to be issued under Regulation 17 of CBLR, 2018 after issuance of Show Cause Notice and due inquiry.

20. In respect of Regulation 10 (a) of the CBLR, 2018, it is responsibility of the customs broker to obtain an authorisation from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Broker and produce such authorisation whenever required by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be. The offence report indicates that the CB failed to obtain proper authorization from the importer, CB did not meet with them and also no agreement signed between them, which signifies non-compliance with Regulation 10(a) of CBLR, 2018.

I find that the CB under defence reply has submitted that there has been no violation of Regulation 10(a) of CBLR, 2018 in the instant case, CB submitted a copy of authorization dated

02.04.2024. In this regard, it is pertinent to mention that Shri Shiv Kumar Gupta in his statement dated 20.09.2024 has stated that after hold of the subject consignments by the SIIB(I), JNCH, the importer M/s Savitri Enterprises has authorised him to get the goods examined in the subject consignment; that he has not signed any agreement or contract with the said importer. Thus, it appears that Shri Shiv Kumar Gupta was not an authorized person of the importer, this role was only assigned to him after the hold of the subject consignment by the SIIB(I), JNCH, which is clearly indicates that Shri Shiv Kumar Gupta was acting as a middleman at the time of filing of the subject Bills of Entry Nos. 5517447, 5526631, 5526803 and 5527148 all dated 10.09.2024 but not an authorized person. Shri S.D. Agrawal, Proprietor in CB firm M/s. Oriion Consultancy has stated vide his statement dated 24.09.2024, that he did not know importer; that there is no such agreement between them, that he was only interacted with the Shri Shiv Kumar Gupta. Therefore, the CB's defence reply appears to be afterthought. Further, I find that ratio of the judgements relied upon by the CB are not applicable in the instant case. Thus, I hold that the violation of Regulation 10(a) cannot be denied in the instant case.

21. In respect of Regulation 10 (d) of the CBLR, 2018, it is responsibility of the customs broker *to advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be; and i.r.o. Regulation 10 (e), the CB shall, "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";*

I find that the offence report indicates that the CB failed to advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof also the CB has not exercised due diligence as mandated under regulation 10(e) of the CBLR, 2018. Further, investigation revealed the violations of RE-44 Notification and LMPC Rules. The offence report suggests that the Customs Broker did not engage with the actual IEC holder/Importer and failed to provide evidence of having advised the importer regarding proper declarations. Further, CB has submitted case laws in reference to violation of various regulations of the CBLR, 2018, however, the quoted case laws are not relevant to subject case as CB involvement in the said case cannot be denied as the offence report indicates that CB had failed to comply with the said provisions of the CBLR, 2018. Thus, the violation under Regulation 10(d) and 10(e) of the CBLR, 2018 appears to be substantiated.

22. In respect of Regulation 10 (f) of the CBLR, 2018, it is responsibility of the customs broker *"not withhold information contained in any order, instruction or public notice relating to clearance of cargo or baggage issued by the Customs authorities, as the case may be, from a client who is entitled to such information";*

I find that the offence report indicates the violations of LMPC Rules, RE-44 Notification. Investigation shows that the Custom Broker was aware of the said requirement as per the law. However, it appeared that the CB withheld the information reg. LMPC Rules, RE-44 notification etc. I find that the CB failed to bring the matter to Customs Authorities, it is only after the hold by

the SIIB(I), JNCH, if the investigating agency i.e. SIIB(I), JNCH did not intervene the subject consignment, the misdeclared and concealed goods would have been cleared. The offence report suggests that the Customs Broker did not engage with the actual IEC holder/Importer and failed to provide evidence of having advised the importer regarding proper declarations. Further, CB has submitted case laws in reference to violation of various regulations of the CBLR, 2018, however, the quoted case laws are not relevant to subject case as CB involvement in the said case cannot be denied as the offence report indicates that CB had failed to comply with the said provisions of the CBLR, 2018. Thus, the violation under Regulation 10(f) of CBLR, 2018 appears to be substantiated.

23. In respect of Regulation 10 (m) of the CBLR, 2018, it is responsibility of the customs broker *“discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay”*

The CB under defence reply has submitted that there has been no violation of Regulation 10(m) of CBLR, 2018 in the instant case; that allegation levelled against them based on assumption and presumption, specifically violation of LMPC Rules and RE-44 Notification. In this regard, I find that during examination of the goods, there were violation of non-compliance of Customs act and allied acts viz. LMPC Rules/RE-44 Notification as well as potential mis-declaration was found. This clearly shows that the CB has worked in the inefficient manner. Hence, it appeared that CB failed to discharge his duties efficiently and violated the regulation 10(m) of CBLR, 2018.

24. In respect of Regulation 10 (n) of the CBLR, 2018, it is the responsibility of the CB to verify the accuracy of the IEC number, GST Identification Number (GSTIN), the identity of their clients, and the operational status of clients at the declared address using reliable documents. I find that the offence report indicates that the CB failed to verify the Know Your Customer (KYC) information of the importer and did not meet with them. I also find that the Pune Preventive Commissionerate has confirmed that no business premise was found at the declared address. Thus, the functioning of his client at the declared address was not found, which signifies non-compliance with Regulation 10(n). The CB's assertion that KYC was conducted lacks supporting documentation to substantiate their claim. The cited case laws are also not relevant, as the case involves significant negligence and failure to verify the importing entity's credentials.

25. Considering the observations made above, it is to mention that the CB has a very important role in Customs clearance and lot of trust has been placed by the department on the CB. In the context of trade facilitation, where an increasing number of goods are processed through RMS without Customs examination, the role of the Customs Broker (CB) has become even more critical in ensuring that the country's economic borders are effectively protected. But in the instant case, by their acts of omission and commission, it appears that CB was actively involved and rented his license on some monetary benefits which is against the regulations of CBLR, 2018. In the instant case, CB appears to have violated the provisions of Regulation 10(a), 10(d), 10(e), 10(f), 10(m) and 10(n) of the CBLR, 2018 and rendered themselves for penal action under CBLR, 2018.

In this regard, I rely on the judgement of the Hon'ble Supreme Court in case of the Commissioner of Customs vs M/s K.M. Ganatra & Co. has held that: -

"the Customs House Agent (CHA) occupies a very important position in the customs house. The customs procedures are complicated. The importers have to deal with a multiplicity of agencies namely carriers, custodians like BPT as well as Customs. The importer would find it impossible to clear his goods through its agencies of both the importers and the customs. A lot of trust is kept in CHA by the importers/exporters as well as by the government agencies..."

Further, I rely on the judgement of the Hon'ble High Court of Madras in case of Cappithan Agencies vs. Commissioner of Customs, Chennai-VIII, 2015 (326) E.L.T. 150 (Mad.), has held that:

"...Therefore, the grant of license to act as a Custom House Agent has got a definite purpose and intent. On a reading of the Regulations relating to the grant of license to act as a CHA, it is seen that while CHA should be in a position to act as agent for the transaction of any business relating to the entry or departure of conveyance or the import or export of goods any customs station, he should also ensure that he does not act as an Agent for carrying on certain illegal activities of any of the persons who avail his services as CHA. In such circumstances, the person playing the role of CHA has got greater responsibility. The very description that one should be conversant with the various procedures including the offences under the Customs Act to act as a Custom House Agent would show that while acting as CHA, he should not be a cause for violation of those provisions. A CHA cannot be permitted to misuse his position as CHA by taking advantage of his access to the Department. The grant of licence to a person to act as CHA is to some extent to assist the Department with the various procedures such as scrutinizing the various documents to be presented in the course of transaction of business for entry and exit of conveyances or the import or export of the goods. In such circumstances, great confidence is reposed in a CHA. Any misuse of such a position by the CHA will have far reaching consequences in the transaction of business by the customs house officials. Therefore, when, by such malpractices, there is loss of revenue to the custom house, there is every justification for the Respondent in treating the action of the Petitioner Applicant as detrimental to the interest of the nation and accordingly, final order of revoking his licence has been passed."

In view of the discussion held above, I have no doubt that the suspension of the CB licence vide Order No. 52/2024-25 dated 25.03.2025 under regulation 16 of the CBLR, 2018 was just and proper. The said regulation reads as: -

"16. Suspension of license. - (1) Notwithstanding anything contained in regulation 14, the Principal Commissioner or Commissioner of Customs may, in appropriate cases where immediate action is necessary, suspend the license of a Customs Broker where an enquiry against such Customs Broker is pending or contemplated."

26. From the above facts, prima-facie, the Customs Broker M/s Oriion Consultancy (CB Code No. AADPA5222DCH001) (CB No. 11/2242) appeared to have failed to fulfil their obligations under Regulations 10(a), 10(d), 10(e), 10(f), 10(m) & 10(n) of CBLR, 2018 and contravened the

same. Therefore, for their acts of omission and commission as above, CB M/s Oriion Consultancy appears to be liable and guilty.

27. Accordingly, I pass the following order: -

ORDER

27.1 I, Principal Commissioner of Customs (General), in exercise of powers conferred upon me under the provisions of Regulation 16 (2) of CBLR, 2018 order that the suspension of the Customs Broker Licence of M/s Oriion Consultancy (CB Code No. AADPA5222DCH001) (CB No. 11/2242) ordered vide Order No. 02/2025-26 dated 06.05.2025 shall continue pending inquiry proceedings under Regulation 17 of CBLR, 2018.

27.2 This order is being issued without prejudice to any other action that may be taken or purported to be taken against the CB or any other person(s)/firms) etc. under the provisions of the customs Act, 1962 and Rules/Regulations framed there under or any under law for the time being in force.


(RAJAN CHAUDHARY)

Principal Commissioner of Customs (General)
New Custom House, Mumbai

To,

M/s Oriion Consultancy (CB No. 11/2242) (PAN No. AADPA5222D)
703-B, Om Shraddha Apartments,
Opp. Don Bosco School, Link Road,
Borivali West, Mumbai-400091

Copy to:

1. The Pr./Chief Commissioner of Customs, Mumbai Zone I, II, III.
2. The Pr./Commissioner of Customs, Mumbai Zone I, II, III.
3. The DC/SIIB(I), JNCH,
4. The DC/ Group-I/IA, JNCH
5. CIU's of NCH, ACC & JNCH, Mumbai
6. EDI of NCH, ACC & JNCH, Mumbai
7. BCBA
8. Office copy.
9. Notice Board.