



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

संचिका सं./F. No.- GEN/CB/4/2025-CBS

आदेश दिनांक/Date of Order: 16.02.2026

CAO No. 141/2025-26/CAC/CC(G)/SJS/Adj-CBS जारी दिनांक/Date of issue: 17.02.2026

संख्या:

DIN:- 2026027700000000F5EA

द्वारा जारी : श्रद्धा जोशी शर्मा

Issued By : Shraddha Joshi Sharma

आयुक्त, सीमाशुल्क (सामान्य)

Commissioner of Customs (Gen.)

मुंबई -400 001

Mumbai - 400 001

**ORDER-IN-ORIGINAL मूल आदेश****ध्यान दीजिए/ N.B. :**

1. यह प्रति उस व्यक्ति को निजी उपयोग हेतु निःशुल्क प्रदान की जाती है, जिसे यह जारी की जा रही है।  
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2. इस आदेश के विरुद्ध अपील माँगे गए राशी के 7.5% के भुगतान पर सीमाशुल्क अधिनियम, 1962 की धारा 129A(1B)(i) के संबंध में सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण में स्वीकार्य है, जहाँ शुल्क या शुल्क एवं जुर्माना विवादित हों, या जुर्माना, जहाँ सिर्फ जुर्माना ही विवादित हो। यह अपील इस आदेश के संप्रेषण की तारीख के तीन महीने के अंदर दायर की जाएगी। यह अपील सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण नियमावली (कार्यविधि), 1982, के प्रावधानों के अंतर्गत, यथोत्खंडपीठ में स्वीकार्य है।

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

3. यह सूचित किया जाता है की इस आदेश के अमल में आते ही, न्याय निर्णयन अधिकारी का अधिकार क्षेत्र समाप्त होता है और सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण, पश्चिम क्षेत्रीय खंडपीठ, 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 विरुद्ध कई कारण बताओ नोटिस लगाकर आदेश पारित किया जाता है तो प्रत्येक प्रकरण में अलग अपील दायर की जाए।

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

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

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

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

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

7. अपील की एक प्रति में कोर्ट फी अधिनियम, 50 के तहत निर्धारित रु 6 की अनुसूची मद 1870 का कोर्ट फी स्टैम्प लगा होना चाहिए एवं इसके साथ संलग्न इस आदेश की उक्त प्रति में रु 50 का कोर्ट फी स्टैम्प लगा होना चाहिए।

One copy of the Appeal should bear a Court Fee Stamp of Rs. 50 and said copy of this order attached therein should bear a Court Fee Stamp of Rs. 50 as prescribed under Schedule item 6 of the Court Fee Act, 1870, as amended.

**Brief Facts of the Case:**

M/s Shantilal Devji & Co. (PAN:- AAAFS5142H), having office address at 51, Floor-3, Plot – 56, Ashok Chambers, Devji Ratanshey Marg, Mumbai – 400009 (hereinafter referred to as the Customs Broker/CB) are holding a regular Customs Broker License No. 11/116 issued by the Commissioner of Customs, Mumbai under Regulation 10(1) of the Customs House Agents Licensing Regulations (CHALR), 1984 (now regulation 7(2) of Customs Brokers Licensing Regulations, 2018 (CBLR)) and as such they are bound by the regulations and conditions stipulated therein.

2. An offence report in the form of Show Cause Notice No. 165/AC/EXP.ASSMT/2024-25/ACC(X) dated 18.12.2024 issued by Assistant Commissioner of Customs, Export Assessment Section, ACC, Mumbai – III was received in the Customs Broker Section in case of fraudulent exports by exporter M/s. Dorf Ketal Chemicals India Pvt Ltd (IEC - 0392032937) and involving the Customs Broker, wherein inter-alia the following were informed:

2.1 M/s. Dorf Ketal Chemicals India Pvt Ltd (IEC- 0392032937) (hereinafter referred to as the Exporter) had filed Shipping Bill No. 3159324 dated 12.08.2024 having total FOB of Rs. 82.85/- (Rupees Eighty-Two and paise Eighty-Five only) at INBOM4 (Air Cargo Complex, Mumbai) through their Customs Broker (CB) M/s. Shantilal Devji & Co. (CB License No. - 11/116) for clearance of item declared as “2-(diethylamino)-ethanol” with the country of destination declared as Singapore.

2.2 Upon assessment of the above-mentioned Shipping Bill it was found that the declared item was 2-(diethylamino)-ethanol CAS no: 100-37-8 filed under HSN 38119000. Prima Facie it was found that the said item i.e. 2-(diethylamino)-ethanol CAS no: 100-37-8 was mentioned in the Appendix 3 (List of SCOMET items) to Schedule-2 of ITC(HS) Classification of Export and Import Items, 2018 as mentioned below:

*“1D - Export of chemicals in this category is allowed to countries specified in Table-I without an export licence subject to the condition that the exporter shall notify the Department of Chemicals & Petro-chemicals, Ministry of External Affairs (D&ISA) and the DGFT within 30 days of such export in the prescribed format*

*(Aayat Niryat Form) along with the End-Use Certificate and submit to the DGFT a copy of the bill of entry into the destination country within 30 days of delivery”,*

*Export of chemicals in this category to other countries shall be restricted and will be allowed only against an export license, and in that case the exporter shall submit to the DGFT a copy of the bill of entry into the destination country within 30 days of delivery.*

| Sr. No. | SCOMET Entry | Chemical            | CAS No.  |
|---------|--------------|---------------------|----------|
| 5       | 1D005        | Diethylaminoethanol | 100-37-8 |

2.3 The exporter hadn't filed any Export License and thus it was assessed that the said chemical may be restricted under SCOMET list. The matter was thereafter investigated by SIIB(X), ACC. The goods were examined by SIIB(X) on 23.08.2024 in the presence of an authorized representative of exporter and Sh. Gorakhnath M Gaikwad, H-Card Holder (527/2020) of CB firm M/s. Shantilal Devji & Co. The goods were then seized on the same day.

2.4 During investigation, it was found that SCOMET items are governed by the specific provisions of

- i. Chapter IVA of the FT(D&R) Act, 1992 as amended from time to time,
- ii. Appendix-3 to Schedule 2 of ITC(HS) classification of Export and Import items as amended from time to time and
- iii. Para 2.73-2.82 of Hand Book of Procedures governing export authorisations.

DGFT vide Notification No. 05/2015-20 dated 24.04.2017 made amendments in the then existing Appendix-3 of Schedule 2 of ITC (HS) classification of Export and Import items. Later on, DGFT vide Notification No. 47/2015-20 dated 20.12.2021 made further amendments in the existing Appendix-3 of Schedule-2 of ITC (HS) classification of Export and Import items. As per serial no. 5 of Table-A of Schedule-2 of ITC (HS) classification of Export and Import items, export of SCOMET item is governed as per conditions indicated in Appendix-3 of Schedule 2 of ITC (HS) classification of Export and Import items, 2012.

2.5 Special Chemicals, Organisms, Materials, Equipment and Technologies (SCOMET) are listed in Appendix-3 to Schedule-2 of ITC (HS) classification of Export

and Import items. Appendix-3 contains list of goods/services/technologies which are considered as dual use items, i.e. which potentially have both civil as well as military applications and are capable of being deployed as weapons of mass destruction. Further, items on the SCOMET list are organised in 09 categories (from category 0 to category 8).

2.6 Relevant portion of Appendix-3 to Schedule 2 (Export Policy) of ITC (HS), 2018 is reproduced below:

Category 1 Toxic chemical agents and other chemicals

*1D - Export of chemicals (Excluding Software and Technology) listed in 1D below is allowed to the countries specified in Table 1 on the basis of a one-time General authorization for export of Chemicals and related equipment's (GAEC) issued by DGFT, subject to the following conditions (including those below) and the procedure as prescribed from time to time:*

- I. *The exporter is required to register and obtain General authorization for export of Chemicals and related equipment's only once during the validity period. Subsequent export/re-export is subject to post reporting(s) on quarterly basis to relevant Govt. authorities;*
- II. *General authorization for export of Chemicals and related equipment's issued for export / re-export of SCOMET items under the above Categories / Sub Categories (excluding software and technology) shall be valid for a period of five years from the date of issue of General authorization for export of Chemicals and related equipment's subject to subsequent post reporting(s) on quarterly basis to be reported within 30 days from the last quarter;*

**Table- 1**

|  |
|--|
| <p><i>Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Republic of Korea, Latvia, Lithuania, Luxembourg, Malta, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, United States.</i></p> |
|--|

**Note:** *Export of items under 1D Category to the countries other than those specified in Table 1 and export of 1D category items related Software and Technology to any country*

shall be allowed only against an export authorisation and in compliance to the conditions and documentation specified under the respective Categories of SCOMET List.

Export of chemicals, related technology and software in this category to other countries shall be allowed only against an export authorisation, and in that case the exporter shall submit to the DGFT a copy of the bill of entry into the destination country within 30 days of delivery.

| <b>Sl. No.</b> | <b>SCOMET Entry</b> | <b>Chemical</b>                | <b>CAS Number</b> |
|----------------|---------------------|--------------------------------|-------------------|
| 1              | 1D001               | 2-Chloroethanol                | (107-07-3)        |
| 2              | 1D002               | 3-Hydroxy-1-methylpiperidine   | (3554-74-3)       |
| 3              | 1D003               | 3-Quinuclidone                 | (3731-38-2)       |
| 4              | 1D004               | Ammonium bifluoride            | (1341-49-7)       |
| 5              | 1D005               | Diethylaminoethanol            | (100-37-8)        |
| 6              | 1D006               | Diisopropylamine               | (108-18-9)        |
| 7              | 1D007               | Dimethylamine                  | (124-40-3)        |
| 8              | 1D008               | Dimethylamine hydrochloride    | (506-59-2)        |
| 9              | 1D009               | Hydrogen fluoride              | (7664-39-3)       |
| 10             | 1D010               | Methyl benzilate               | (76-89-1)         |
| 11             | 1D011               | O,O-Diethyl phosphorothioate   | (2465-65-8)       |
| 12             | 1D012               | O,O-Diethyl phosphorodithioate | (298-06-6)        |
| 13             | 1D013               | Pinacolone                     | (75-97-8)         |
| 14             | 1D014               | Phosphorus pentasulphide       | (1314-80-3)       |
| 15             | 1D015               | Potassium bifluoride           | (7789-23-3)       |
| 16             | 1D016               | Potassium cyanide              | (151-50-8)        |
| 17             | 1D017               | Potassium fluoride             | (7789-23-3)       |
| 18             | 1D018               | Sodium bifluoride              | (1333-83-1)       |
| 19             | 1D019               | Sodium cyanide                 | (143-33-9)        |
| 20             | 1D020               | Sodium fluoride                | (7681-49-4)       |
| 21             | 1D021               | Sodium hexafluorosilicate      | (16893-85-9)      |
| 22             | 1D022               | Sodium sulphide                | (1313-82-2)       |
| 23             | 1D023               | Triethanolamine hydrochloride  | (637-39-8)        |
| 24             | 1D024               | Triisopropyl phosphate         | (116-17-6)        |
| 25             | 1D025               | Diethylamine                   | (109-89-7)        |
| 26             | 1D026               | Methyl dichlorophosphate       | (677-24-7)        |
| 27             | 1D027               | Ethyl dichlorophosphate        | (1498-51-7)       |
| 28             | 1D028               | Methyl difluorophosphate       | (22382-13-4)      |
| 29             | 1D029               | Ethyl difluorophosphate        | (460-52-6)        |
| 30             | 1D030               | Diethyl chlorophosphite        | (589-57-1)        |
| 31             | 1D031               | Methyl chlorofluorophosphate   | (754-01-8)        |
| 32             | 1D032               | Ethyl chlorofluorophosphate    | (762-77-6)        |
| 33             | 1D033               | N,N-Dimethylformamide          | (44205-42-7)      |
| 34             | 1D034               | N,N-Diethylformamide           | (90324-67-7)      |
| 35             | 1D035               | N,N-Dipropylformamide          | (48044-20-8)      |
| 36             | 1D036               | N,N-Diisopropylformamide       | (857522-08-8)     |

|    |       |                                  |                 |
|----|-------|----------------------------------|-----------------|
| 37 | 1D037 | <i>N,N-Dimethylacetamide</i>     | (2909-14-0)     |
| 38 | 1D038 | <i>N,N-Diethylacetamide</i>      | (14277-06-6)    |
| 39 | 1D039 | <i>N,N-Dipropylacetamide</i>     | (1339586-99-0)  |
| 40 | 1D040 | <i>N,N-Dimethylpropanamide</i>   | (56776-14-8)    |
| 41 | 1D041 | <i>N,N-Diethylpropanamide</i>    | (84764-73-8)    |
| 42 | 1D042 | <i>N,N-Dipropylpropanamide</i>   | (1341496-89-6)  |
| 43 | 1D043 | <i>N,N-Dimethylbutanamide</i>    | (1340437-35-5)  |
| 44 | 1D044 | <i>N,N-Diethylbutanamide</i>     | (53510-30-8)    |
| 45 | 1D045 | <i>N,N-Dipropylbutanamide</i>    | (1342422-35-8)  |
| 46 | 1D046 | <i>N,N-Diisopropylbutanamide</i> | (1315467-17-4)  |
| 47 | 1D047 | <i>N,N-Dimethylisobutanamide</i> | (321881-25-8)   |
| 48 | 1D048 | <i>N,N-Diethylisobutanamide</i>  | (1342789-47-2)  |
| 49 | 1D049 | <i>N,N-Dipropylisobutanamide</i> | (13422700-45-1) |

**Technical note to Category 1:**

Chemicals are listed by name, **Chemical Abstract Service (CAS) number** and CWC Schedule (where applicable). Chemicals of the same structural formula (e.g., hydrates) are controlled regardless of name or CAS number. CAS numbers are shown to assist in identifying whether a particular chemical or mixture is controlled, irrespective of nomenclature. However, CAS numbers cannot be used as unique identifiers in all situations because some forms of the listed chemical have different CAS numbers, and mixtures containing a listed chemical may also have different CAS numbers.

2.7 As can be seen in the preceding para, the item 2-(diethylamino)-ethanol is covered under the category of SCOMET, as mentioned at Sr. No. 05, SCOMET Entry No. 1D005 of list of Chemicals covered under ID of Appendix-3 to Schedule-2 (Export Policy) of ITC(HS), 2018. The export of this item 2-(diethylamino)-ethanol to destination country Singapore requires a one-time General authorization for export of Chemicals and related equipment's (GAEC) issued by DGFT.

2.8 Thus, the export of 2-(diethylamino)-ethanol is restricted in view of the Category 1D005 of Appendix-3 (SCOMET) to Schedule-2 (Export Policy) of ITC (HS), 2018. However, no such authorization for SCOMET item was uploaded in e-Sanchit by the exporter while filing the Shipping Bill No. 3159324 dated 12.08.2024.

2.9 Data of past exports from Aug 2019 to Oct 2024 from Air Cargo Complex, Sahar was retrieved from ICES system and it was found that exporter had not exported the item 2-(diethylamino)-ethanol in the past. It was also found that during the period from 2020 to 2024 the exporter has exported 21 shipments in the past from ACC, Sahar. All the BRCs were realised within the stipulated time period.

3. Export of 2-(diethylamino)-ethanol is restricted and permitted only against authorisation/export licence issued by DGFT and in compliance to the conditions and documentation specified under the respective Categories of SCOMET List. Hence, it appeared that goods i.e. 2-(diethylamino)-ethanol (*export of which is restricted subject to export authorisation*) were exported by M/s Dorf Ketal Chemicals India Pvt Ltd through ACC, Sahar without export authorization in violation of the restrictions imposed vide Schedule-2 - Export Policy of ITC(HS), 2018 and Appendix-3 therein.

**4. During the course of investigation, statements of following persons were recorded under Section 108 of the Customs Act, 1962:**

(i). Statement of Mr. Manoj Madhav Puthran, authorized representative of the exporter M/s Dorf Ketal Chemicals India Pvt Ltd was recorded on 29.08.2024 wherein, he inter-alia stated that;

- a) M/s Dorf Ketal Chemicals India Pvt. Ltd is a manufacturer and merchant exporter, established in the year 1992 and the company deals with the export and domestic use of specialty chemicals;
- b) that they were sending the said sample for testing purpose and the said particular sample chemical mixture contained around 82.58 percent water, 7.42 percent 2-(diethylamino)-ethanol and 10 percent Erythorbic acid;
- c) that they were not aware that this small composition of mixture needed export authorisation from DGFT; and
- d) that they had checked the regulation for Strategic Goods being exported to Singapore (their consignee destination), where it was mentioned that concentration

less than 30% by weight was not covered within the scope of Strategic Goods (SCOMET goods).

(ii) Statement of Shri Rashesh Dilip Joshi, Partner of Customs Broker M/s. Shantilal Devji & Co. was recorded on 29.08.2024 wherein, he inter-alia stated that;

- a) the exporter had submitted the Non-SCOMET/NDPS declaration along with other documents for filing the Shipping Bill;
- b) they checked the product by its name "2-(diethylamino) ethanol" in the SCOMET list and it did not appear with the said name" and they had been exporting the products for M/s Dorf Ketal Chemical India Pvt Ltd. for the last 10 years and there had been no issues previously;
- c) they were fully aware of the SCOMET list and the items under the categories mentioned in it;

#### **5. Role of the Customs Broker:**

5.1 From the statement recorded under Section 108 of Customs Act, 1962 of the Customs Broker, it appeared that the Customs Broker M/s Shantilal Devji & Co. did not ask for export license as per DGFT Notification No. 05/2015-20 dated 24.04.2017, vide which exporter was required to notify the Department of Chemicals & Petrochemicals, Ministry of External Affairs (D&ISA) and the DGFT within 30 days of such export in the prescribed format (Aayat Niryat Form) along with the End- Use Certificate and submit to the DGFT a copy of the bill of entry into the destination country within 30 days of delivery.

5.2 From the statement recorded under Section 108 of Customs Act, 1962, it appeared that the Customs Broker M/s Shantilal Devji & Co. did not advise their client to comply with the provisions of DGFT Notification No. 47/2015-20 dated 20.12.2021 which came into force on 19.01.2022, the Customs Act, 1962, other allied Acts and the rules and regulations thereof especially and have not exercised due diligence to ascertain the correctness of any information which he imparted to the client with reference to any work related to clearance of cargo and contravened the provisions of Regulations 10(d) and 10(e) of the CBLR, 2018. By their acts of omission and commission the CB M/s Shantilal Devji

& Co., appeared to have rendered the impugned goods liable for confiscation under Section 113(d) and Section 113(i) of Customs Act, 1962, and the Customs Brokers (CB) M/s Shantilal Devji & Co. liable for penal action under Section 114(i) and/or Section 114(iii) and/or 114AA of the Custom Act, 1962.

5.3 It appeared from the offence report that the CB did not exercise due diligence in respect of following SCOMET norms and regulations. It appeared that CB failed to perform their obligations under Regulations 10(d) and 10(e) of the Customs Brokers Licensing Regulations (CBLR), 2018.

5.4 On conclusion of the investigation, the CB was made noticee in the Show Cause Notice dated 18.12.2024 issued under the Customs Act, 1962, calling them to show cause as to why penalty should not be imposed on M/s Shantilal Devji & Co. for the various acts of omission and commission under Section 114(i) and/or Section 114(iii) and/or 114AA of the Customs Act, 1962, read with Regulation 10(d) and 10(e) of the Customs Brokers Licensing Regulations, 2018.

6. In view of the above facts and findings of the investigation, it appeared that the Customs Broker M/s Shantilal Devji & Co. had failed to comply with the following regulations of the Customs Brokers Licensing Regulations, 2018: -

**6.1 Regulation 10 (d) of CBLR, 2018:**

*“A Customs Broker shall 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.”*

a) From the statement of Shri Rashesh Dilip Joshi, Partner of Customs Broker M/s. Shantilal Devji & Co. recorded under Section 108 of Customs Act, 1962, it appeared that the Customs Broker M/s Shantilal Devji & Co. did not ask for mandatory export license as per DGFT Notification No. 05/2015-20 dated 24.04.2017, vide which exporter was required to notify the Department of Chemicals & Petrochemicals, Ministry of External Affairs and the DGFT within 30 days of such export in the prescribed format (Aayat Niryat

Form) along with the End- Use Certificate and submit to the DGFT a copy of the bill of entry into the destination country within 30 days of delivery.

b) In the instant case, the CB appeared to have failed to advise his client to comply with the above-mentioned rules and regulation framed under the provisions of Customs Act, 1962. Moreover, the CB also failed to bring the matter of non-compliance to the notice of the Deputy/Assistant Commissioner of Customs. Hence, it appeared that the CB failed to perform their obligation under regulation 10(d) of CBLR, 2018.

## **6.2 Regulation 10 (e) of CBLR, 2018:**

*“A Customs Broker 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.”*

From the findings of the investigation, it appeared that the Customs Broker M/s Shantilal Devji & Co. did not advise their client to comply with the provisions of DGFT Notification No. 47/2015-20 dated 20.12.2021 which came into force on 19.01.2022, the Customs Act, other allied Acts and the rules and regulations thereof especially. It also appeared that the CB failed to sensitize the exporter to comply with the above-mentioned rules and regulations framed under the provisions of Custom Act, 1962 and thus, failed to exercise due diligence in respect of the said cargo to be cleared. Hence, it appeared that the CB failed to perform their obligation under Regulation 10(e) of CBLR, 2018.

7. In view of the offence report received in the form of Show Cause Notice No. 165/AC/EXP.ASSMT/2024-25/ACC(X) dated 18.12.2024 issued by the Assistant Commissioner of Customs, Export Assessment Section, ACC, Mumbai – III action under the CBLR, 2018 was initiated against the CB M/s. Shantilal Devji & Co. (CB License No. 11/116). Further, in view of the Board’s Instruction No. 24/2023 dated 18.07.2023, the case was not considered appropriate for immediate suspension of the CB license under Regulation 16 of the CBLR, 2018. However, action under Regulation 17 of CBLR, 2018 was initiated against the CB M/s. Shantilal Devji & Co. and accordingly, based on the Offence Report, the following articles of charge were framed against the CB:

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

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

7.1 In light of the above, a Show Cause Notice (SCN) No. 81/2024-25 dated 12.03.2025 was issued to the CB M/s. Shantilal Devji & Co. (CB License No. 11/116) 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. 11/116 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.

7.2 Shri Sanjay Singh Pawar, Assistant Commissioner of Customs, was appointed as Inquiry Officer (IO) to conduct the inquiry proceedings against the CB M/s. Shantilal Devji & Co. under Regulation 17 of the CBLR, 2018.

**INQUIRY REPORT: -**

8. The Inquiry Officer (here in after referred to as the 'IO') concluded the inquiry proceedings and submitted the Inquiry Report dated 30.09.2025 on 01.10.2025, wherein both the charges levelled against the CB of violation of Regulations 10(e) and 10(e) of the CBLR, 2018 were held as "Proved". Further, the IO stated that the prescribed timeline under Regulation 17 for completion of inquiry proceedings could not be adhered to as he was allotted multiple sensitive charges involving time bound compliances.

**FINDINGS OF THE INQUIRY OFFICER: -**

9. The IO submitted that he had gone through the Show Cause Notice No. 81/2024-25 dated 12.03.2025, the records of the Personal Hearings and Defence submissions made during the personal hearings. The IO submitted that he had also gone through the statements of all the persons recorded during the investigation, the alleged Articles of

Charges or contraventions mentioned in the Show Cause Notice as well as legal provisions reflected in CBLR, 2018.

9.1 The IO submitted that he had taken on record the submissions made by the CB and discussed all the submissions & examined their merits.

**9.2 Article of Charge -I- Violation of Regulation 10(d) of CBLR, 2018**

The IO found that the CB submitted that the exporter had submitted a non-SCOMET/NDPS declaration as per their statement recorded under Section 108 of the Customs Act, 1962; that there was no question of advising their client to comply with the provisions of DGFT Notification No. 47/2015-20 dt. 20.12.2021 which came into force on 19.01.2022.

The IO found that the charged CB M/s. Shantilal Devji & Co had filed Shipping Bill No. 3159324 dated 12.08.2024 on behalf of exporter M/s. Dorf Ketal Chemicals India Pvt Ltd (IEC- 0392032937) for clearance of item declared as "2-(diethylamino)-ethanol" with the declared country of destination as Singapore. The IO found that as per the offence report 2-(diethylamino)-ethanol CAS no: 100-37-8 is mentioned in the Appendix-3 (List of SCOMET Items) to Schedule-2 of ITC(HS) Classification of Export and Import Items, 2018 as mentioned below:

| Sr. No. | SCOMET Entry | Chemical            | CAS no   |
|---------|--------------|---------------------|----------|
| 5       | ID005        | Diethylaminoethanol | 100-37-8 |

The IO found from the offence report that the impugned goods viz. 2-(diethylamino)-ethanol is covered under the category of SCOMET, as mentioned at Sr. No. 05, SCOMET Entry No. ID005 of list of Chemicals covered under ID of Appendix-3 to Schedule-2 (Export Policy) of ITC (HS), 2018. The export of this item 2-(diethylamino)-ethanol to destination country Singapore requires a one-time General authorization for export of Chemicals and related equipment's (GAEC) issued by DGFT.

The IO found from the offence report that the DGFT vide Notification No. 05/2015-20 dated 24.04.2017 made amendments in the then existing Appendix-3 of Schedule-2 of ITC (HS) classification of Export and Import items. Later on, DGFT vide Notification No.

47/2015-20 dated 20.12.2021 made further amendments in the existing Appendix 3 of Schedule 2 of ITC (HS) classification of Export and Import items. The IO submitted that as per serial no. 5 of Table-A of Schedule-2 of ITC (HS) classification of Export and Import items, export of SCOMET item is governed as per conditions indicated in Appendix-3 of Schedule-2 of ITC (HS) classification of Export and Import items, 2012. The IO found that the said Shipping Bill was filed much later after the publication of DGFT Notification No. 47/2015-20 dated 20.12.2021 and accordingly, the export of 2-(diethylamino)-ethanol is restricted in view of the Category IDO07 of Appendix-3 (SCOMET) to Schedule 2 (Export Policy) of ITC (HS), 2018.

The defence submission stated that, the exporter vide letter dated 09.10.2024 had already submitted an application to DGFT, Delhi for authorization. In support of the said contention, they craved leave to refer to and rely upon the said SCN dt. 18.12.2024 when produced. The CB further submitted that the CB had no reasons to advise the client as the exporter had filed an application for the authorization. The IO found that the CB had filed the shipping Bill 3159324 dated 12.08.2024 on 12.08.2024, whereas exporter had submitted an application to DGFT vide letter dated 09.10.2024, much after filing the Shipping Bill. The IO found that authorization for SCOMET was required to be uploaded in e-Sanchit by the exporter while filing the Shipping Bill No. 3159324 dated 12.08.2024 whereas, it was found during the investigations that no such authorization was uploaded by the exporter. Thus, it is apparent that the CB did not advise the exporter M/s. Dorf Ketal Chemicals India Pvt. Ltd. that such authorization from DGFT was required prior to filing of Shipping Bills.

The IO submitted that the CB did not ask for export license in view of DGFT Notification No. 05/2015-20 dated 24.04.2017, vide which exporter was required to notify the Department of Chemicals & Petrochemicals, Ministry of External Affairs and the DGFT within 30 days of such export in the prescribed format (Aayat Niryat Form) along with the End-Use Certificate and submit to the DGFT a copy of the bill of entry into the destination country within 30 days of delivery and that they communicated the same to the

exporter as well. The IO found that such advise was required prior-to filing of the said Shipping Bill, which the charged customs broker failed.

The IO submitted that the CB relied in the case of Jaiswal Import Cargo Services Ltd versus Commissioner of Customs., New Delhi reported in 2019 (370) E.L.T.1366 (Tri.-Del.) The IO found that Shri Rashesh Dilip Joshi, Partner of M/s. Shantilal Devji & Co. in his statement recorded on 29.08.2024, under Section 108 of the Customs Act, 1962 stated that that they had checked the product by its name "2-(diethylamino)-ethanol" in the SCOMET list and it was not showing with the said name. The IO found that charged CB M/s. Shantilal Devji & Co. was unaware about the mandatory compliance for export of the clearance of SCOMET items. The IO found that the CB failed to advise the exporter M/s. Dorf Ketal Chemicals India Pvt. Ltd. about the afore-mentioned compliance, as they were unaware about the same. The IO also found from their statement that the exporter M/s. Dorf Ketal Chemicals India Pvt. Ltd. was not sensitized by them regarding DGFT Notification No. 05/2015-20 dated 24.04.2017. The IO found that such sensitization was required prior-to filing of the said Shipping Bill, which the charged customs broker failed. Hence, the IO submitted that the ratio of the judgement relied upon by the charged CB was not applicable in the instant case.

The IO found that it was the responsibility of the CB to advise their client regarding compliance of the SCOMET items. Thus, the IO found that CB had neither advised the exporters about aforesaid compliance nor brought the non-compliance to the notice of the Customs Authorities. Accordingly, the IO held the Article of Charge alleging violation of Regulation 10(d) of the CBLR, 2018 as "Proved".

### **9.3 Article of Charge –II- Violation of Regulation 10(e) of CBLR, 2018**

The IO stated that the defence submission stated that the SCN alleged that the CB failed to advise their client to comply with the DGFT Notification; that the exporter in his statement recorded under Section 108 inter-alia stated that the goods were not covered under SCOMET; that in the statement of the CB recorded under Section 108 of the Customs Act, 1962, the CB stated that the exporter had submitted a non SCOMET/NDPS declaration

on the basis of which they filed the Shipping Bills after due diligence. The IO found that the article of charge II i.e. violation of Regulation 10(e) of CBLR 2018 was identical to Article of Charge-I i.e. violation of Regulation 10(d) of CBLR, 2018. Hence, the IO submitted that his findings on this article of charge were similar. and stated his findings as under:

The IO found from the statement Shri Rashesh Dilip Joshi, Partner of M/s. Shantilal Devji & Co, recorded on 29.08.2024 that he did not ask for export license in view of DGFT Notification No. 05/2015-20 dated 24.04.2017, vide which exporter was required to notify the Department of Chemicals & Petrochemicals, Ministry of External Affairs and the DGFT within 30 days of such export in the prescribed format (Aayat Niryat Form) along with the End-Use Certificate and submit to the DGFT a copy of the bill of entry into the destination country within 30 days of delivery and that they communicated the same to the exporter as well. The IO found that such advice was required prior-to filing of the said Shipping Bill, which the charged customs broker failed.

The IO found that it was the responsibility of the CB to sensitize their client regarding compliance of the SCOMET items. Thus, the IO found that CB had neither advised the exporter about aforesaid compliance nor brought to the notice of the Customs Authorities in case of non-compliance. Accordingly, the IO submitted that the CB failed to exercise due diligence while filing the Shipping Bill for the subject export consignment and accordingly, Article of Charge alleging violation of Regulation 10(e) of the CBLR, 2018 was "Proved".

9.4 The IO submitted that the CB requested to cross examine the persons whose statements were relied upon in the SCN including the officers of SIIB(X) who investigated the matter and thereafter be allowed to file further reply to the SCN. The CB relied upon the judgment in the case of Shasta Freight Services Pvt Ltd versus Pr. Commr of Cus., Hyderabad reported in 2019 (368) E.L.T. 41 (Telangana). The said judgment was upheld by the Hon'ble Supreme Court reported in 2022 (381) E.L.T. 436 (S.C.)

In this regard, the IO submitted that he relied on the decision of the Hon'ble Tribunal in the case of *Onida Saka Ltd. v/s Commissioner of Central Excise, Noida (2011 (267) E.L.T. 101 (Tri. Del))* in para 4 of its order held that since the statements of the persons whose cross-examination has been sought, has not been retracted, there was no necessity for permitting their cross-examination;

The IO found that ratio of the above case law is applicable in the instant case as the Charged CB had not produced any retraction of any person whose statements were recorded. The IO relied upon the following case laws:

i) In the case of *Union of India Vs. Rajendra Bajaj [2010(253) E.L.T.165 (Bom.)]*, Hon'ble Bombay High Court, stated in Para 6, which is reproduced herein below –

"the Supreme Court held in *K.L. Tripathi v. State Bank of India (1984) 1 SCC 43* that where there is no dispute as to the facts, or the weight to be attached on disputed facts but only an explanation of the acts, absence of opportunity to cross-examination does not create any prejudice in such cases and does not vitiate the decision."

ii). In the case of *Suman Silk Mills Pvt. Ltd. Vs. Commissioner of Customs & C.Ex., Baroda (2002 (142) E.L.T. 640 (Tri. -Mumbai))*, Tribunal observed at Para 17 that-

"Natural Justice - Cross-examination - Confessional statements - No infraction of principles of natural justice where witnesses not cross-examined when statements admitting evasion were confessional."

(iii) In the case of *Liyakat Shah Vs. Commissioner of C.Ex., Indore-II (Bhopal) [2000(120) E.L.T.556(Tribunal)]*. Relevant portion of the above judgment contained in Para 12, is reproduced herein below-

"Natural justice - Cross-examination is not a mandatory procedure to be allowed in all cases - When the adjudicating authority took the view that cross-examination of seizing officer, where goods seized from godown of assessee when no allegation that officers had not followed proper procedure for effecting seizure, was sought only by way of delaying tactics to avoid justice, his order refusing to allow cross-examination not violative of the principles of natural justice..."

(iv) In the case of *Commissioner of Customs, Hyderabad V. Tallaja Impex* reported in 2012(279) ELT 433 (Tri.), it was held that-

*"In a quasi-judicial proceeding, strict rules of evidence need not to be followed. Cross examination cannot be claimed as a matter of right."*

(v) In the case of *Patel Engg. Ltd. vs UOI* reported in 2014 (307) ELT 862 (Bom.) Hon'ble Bombay High Court held that *"Adjudication - Cross-examination - Denial of, held does not amount to violation of principles of natural justice in every case, instead it depends on the particular facts and circumstances - Thus, right of cross-examination cannot be asserted in all inquiries and which rule or principle of natural justice must be followed depends upon several factors - Further, even if cross-examination is denied, by such denial alone, it cannot be concluded that principles of natural justice had been violated."* [Para 23]

Accordingly, the IO denied request of the charged Customs Broker for cross-examination under the provisions of Regulation 17(4) of the CBLR, 2018.

#### 10. SUMMARY OF THE FINDINGS:

The IO concluded the findings of the inquiry as under:

|    |   |        |
|----|---|--------|
| 1. | Violation of Regulation 10(d) of CBLR, 2018 | Proved |
| 2. | Violation of Regulation 10(e) of CBLR, 2018 | Proved |

10.1 Under the provisions of Regulation 17(6) of the CBLR, 2018, a copy of the Inquiry Report dated 30.09.2025 was shared with the CB vide letter dated 24.10.2025 and further, to uphold the Principle of Natural Justice an opportunity of personal hearing was granted to the CB on 27.11.2025.

#### RECORDS OF PERSONAL HEARING: -

11. An opportunity of Personal Hearing was granted to the CB on 27.11.2025 and the same was intimated vide letter dated 24.10.2025. However, the CB vide email dated 26.11.2025 sought an adjournment on medical grounds. In view of the same, the 2<sup>nd</sup> P.H. was scheduled on 30.12.2025. The CB vide email dated 29.12.2025 stated that

they couldn't attend the P.H. on 30.12.2025 due to some urgent official work and sought adjournment. The Adjudicating Authority acceded to the CB's request and granted the 3<sup>rd</sup> opportunity for P.H. to the CB on 13.01.2026 at 01:00 p.m. Further, the CB vide email dated 13.01.2026 at 11:00 AM, requested to defer the hearing to 3:00 PM on the same day. However, the CB again failed to appear at 3:00 PM. However, the CB vide letter dated 11.02.2026 addressed to the Commissioner of Customs (Gen.) explained the reasons for their inability to attend the Personal Hearing scheduled on all three previous occasions and requested a fourth and final personal hearing opportunity. The Adjudicating Authority acceded to the CB's request and granted a 04<sup>th</sup> Personal Hearing opportunity to the CB on 13.02.2026 at 12.30 p.m. Shri Rashesh D. Joshi, partner of CB firm M/s. Shantilal Devji & Co. appeared for the PH on 13.02.2026 at 12.30 p.m. before the Commissioner of Customs (Gen.). He submitted a written reply dated 11.02.2026 and reiterated the facts of the same. His submission was taken on record. Consequently the matter was taken up for adjudication based on facts, his written submission and evidence available on record.

**WRITTEN SUBMISSION OF THE CB: -**

12. The CB made a written submission dated 11.02.2026 during the PH, the main contentions and defence of which is summarized below:

12.1 Firstly, the CB submitted that they would like to cross examine the persons whose statements are relied upon in the SCN including the officers of SIIB(X) who investigated the matter and thereafter be allowed to file further reply to the SCN. In support of this contention the CB relied on the judgment in the case of Shasta Freight Services Pvt Ltd versus Pr. Commr of Cus., Hyderabad reported in 2019 (368) E.L.T. 41 (Telangana); that the said judgment was upheld by the Hon'ble Supreme Court reported in 2022 (381) E.L.T. 436 (S.C.); that being so the SCN is not maintainable, bad in law and liable to be withdrawn.

12.2 Further, the CB submitted that they filed a Shipping Bill for and on behalf of M/s. Dorf Ketal Chemicals India Pvt Ltd for export of 'Diethylamino ethanol' vide Shipping Bill No. 3159324 dt.12.08.2024 having total FOB Rs. 82.85/- from ACC, Sahar, Mumbai.

The CB submitted that the said consignment was a sample for testing purpose and was being exported to Singapore. The matter was investigated by SIIB(X) on 20.08.2024. The CB submitted that the goods were examined in presence of the employee of the CB on 23.08.2024 and seized on the same day as the goods was found to be restricted under SOMET list.

12.3 The CB submitted that the statement of the Authorized Representative of the exporter was recorded on 29.08.2024 under Section 108 of the Customs Act, 1962., wherein, he inter-alia stated that the said goods are not covered under SCOMET. Further, the CB stated that the statement of the partner of the CB was also recorded on 29.08.2024 wherein, he inter-alia stated that the exporter had submitted a non-SCOMET/NDPS declaration along with other documents for filing of the Shipping Bills.

12.4 The CB further stated that the shipping Bill was filed on 12.08.2024 and SCN under Section 124 of the Customs Act, 1962 was issued on 18.12.2024 by the Asst. Commissioner of Customs, (Export Assessment Section) ACC, Mumbai which was received by the CB section. Therefore, the CB stated that the SCN under Regulation 17 of CBLR, 2018 had been issued on 12.03.2025 which is after a period of 7 months from the date of receipts of the offence report/ SCN. Therefore, the CB stated that the SCN is barred by limitation. In this context the CB submitted that they had placed reliance upon the judgement of the Hon'ble High Court in the case of the Principal Commissioner of Customs (General) versus Mehul & Co reported in 2022 (5) TMI 30- Bombay High Court.

12.5 The CB mentioned that it is pertinent to note that this was the first export of the exporter and the exporter had submitted non-SCOMET/NDPS declaration which is on record. Further, 'the DGFT Notification requires to notify the department of Chemical & Petrochemicals, Ministry of External Affairs (D&ISA) and the DGFT within 30 days of delivery'. In the present case the goods were not exported before which the officer of SIIB(X), ACC export seized the goods. i.e. on 23.08.2024. The Shipping Bill was filed on 12.08.2024. The CB further submitted that they had preferred an appeal on 11.04.2025 against the order of Penalty dt. 21.01.2025.

12.6 With respect to charge of violation of Regulation 10(a):

The CB submitted that one Shipping Bill was filed for export of 'Diethylaminoethanol' to declared country of destination as Singapore. Upon assessment it was found the declared goods under (list of SCOMET Items) to schedule-2 of ITC(HS). The goods were seized on 23.08.2024. The exporter had submitted a non SCOMET/NDPS declaration as per his statement recorded under Section 108 of the Customs Act, 1962. Therefore, the CB submitted that there was no question of advising their client to comply with the provision of DGFT Notification No.47/2015-20 dt. 20.12.2021 which came into force on 19.01.2022. The CB submitted that the exporter vide letter dt. 09.10.2024 had already submitted an application to DGFT, Delhi for authorization.

The CB further submitted that they had no reasons to advise the client as the exporter had filed an application for the authorization and therefore, the charge under regulation 10(d) of CBLR, 2018 does not sustain and merits to be withdrawn. The CB submitted that they placed reliance upon the case of Jaiswal Import Cargo Services Ltd versus Commissioner of Customs., New Delhi reported in 2019 (370)E.L.T.1366 (Tri. - Del.)

12.7 With respect to charge of violation of Regulation 10(e):

The CB submitted that the SCN has alleged that they had not advised their client to comply with the DGFT Notification; that the exporter in his statement recorded under Section 108 has inter-alia stated that the goods are not covered under SCOMET. Further, the CB stated that in their statement recorded under Section 108 of the Customs Act, 1962, they stated that the exporter had submitted a non SCOMET/NDPS declaration on the basis of which they had filed the Shipping Bills after due diligence. That being so there is no violation Regulation 10(e) of CBLR, 2018. The CB submitted that all the relevant documents were given by the exporter and after due verification/compliance of KYC the Shipping Bills were filed. Therefore, the CB stated that the charge under Regulation 10(e) does not survive and merits to be withdrawn.

12.8 The CB submitted that the SCN is unsustainable in law and the CB is liable to be discharged and the SCN dropped and Your Honour is requested to do so.

**DISCUSSIONS AND FINDINGS: -**

13. I have gone through the facts and records of the case; the offence report received in the form of Show Cause Notice No. 165/AC/EXP.ASSMT/2024-25/ACC(X) dated 18.12.2024 issued by the Assistant Commissioner of Customs, Export Assessment Section, ACC, Mumbai – III; Show Cause Notice No. 81/2024-25 dated 12.03.2025 issued under Regulation 17(1) of the CBLR, 2018; the Inquiry Report dated 30.09.2025 and the CB's written submission dated 11.02.2026.

14. Briefly stating, the case involved an investigation into the attempted re-export of a restricted chemical by M/s Dorf Ketal Chemicals India Pvt Ltd through their Customs Broker, M/s Shantilal Devji & Co. (CB License No. - 11/116). The exporter M/s Dorf Ketal Chemicals India Pvt Ltd filed a Shipping Bill No. 3159324 dated 12.08.2024 for the export of 01 litres (250 ml x 04 bottles) of "2-(diethylamino)-ethanol" totally valued at Rs. 82.85 (Rupees Eighty-Two and paise Eighty-Five only) to Singapore, declaring it under HSN 38119000. Upon assessment, it was determined that the item is a restricted SCOMET chemical as per Appendix-3 of Schedule-2 of ITC (HS) classification of Export and Import items. Under the relevant DGFT notifications, such exports to Singapore require a one-time General Authorization for export of Chemicals and related equipment (GAEC). The exporter failed to upload this authorization in e-Sanchit, leading to the seizure of the goods by SIIB(X) for violating the restrictions imposed by Schedule-2 of the ITC(HS) Export Policy. During statement recording, the partner of M/s Shantilal Devji & Co. admitted they were aware of the SCOMET list but claimed the product did not appear under its specific name during their search. However, the SCN alleges the CB failed to advise their client to comply with updated DGFT Notification No. 47/2015-20, and failed to exercise due diligence to verify the correctness of information regarding the cargo. Consequently, the CB is charged with violating Regulations 10(d) and 10(e) of the CBLR, 2018.

14.1 I observe that an Order-in-Original No. AC/JVK/1281/2024-25//Exp.Assmt/ACC(X) dated 21.01.2025 was passed against the Offence Report i.e. Show Cause Notice No. 165/AC/EXP.ASSMT/2024-25/ACC(X) dated 18.12.2024 wherein, the

Adjudicating Authority has observed that, 'I find that Customs Broker M/s Shantilal Devji & Co. did not advise their client to comply with the provisions of DGFT Notification No. 47/2015-20 dated 20.12.2021 which came into force on 19.01.2022, the Customs Act, other allied Acts and the rules and regulations thereof especially and have not exercised 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 and contravened the provisions of Regulation 10(d) and 10(e) of the CBLR, 2018. For the various acts of omission and commission by Customs Brokers (CB) M/s Shantilal Devji & Co., which appear to have rendered the impugned goods liable for confiscation under Section 113(d) and Section 113(i) of Customs Act, 1962, Customs Broker (CB) M/s Shantilal Devji & Co. rendered themselves liable for penal action under Section 114(i) and/or Section 114 (il) and/or 114AA of the Custom Act, 1962'. Consequently, a penalty of Rs. 83/- (Rupees Eighty-Three only) was imposed on the CB M/s. Shantilal Devji & Co.

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

#### **15.1 Violation of Regulation 10(d) of the CBLR, 2018:**

(a) I find that the charge of violation of Regulation 10(d) of the CBLR, 2018 has been levelled against the CB on the grounds that, from the statement of Shri Rashesh Dilip Joshi, Partner of Customs Broker M/s. Shantilal Devji & Co. recorded under Section 108 of Customs Act, 1962, it appeared that the Customs Broker M/s Shantilal Devji & Co. did not ask for mandatory export license as per DGFT Notification No. 05/2015-20 dated 24.04.2017, vide which exporter was required to notify the Department of Chemicals & Petrochemicals, Ministry of External Affairs and the DGFT within 30 days of such export in the prescribed format (Aayat Niryat Form) along with the End- Use Certificate and submit to the DGFT a copy of the bill of entry into the destination country within 30 days of delivery. In the instant case, the CB appeared to have failed to advise his client to comply with the above-mentioned rules and regulation framed under the provisions of Customs

Act, 1962. Moreover, the CB also failed to bring the matter of non-compliance to the notice of the Deputy/Assistant Commissioner of Customs and hence, it appeared that the CB failed to perform their obligation under regulation 10(d) of CBLR, 2018.

(b) I find that the Inquiry Officer, in this regard, has observed that, the defence submission of the CB stated that, the exporter vide letter dated 09.10.2024 had already submitted an application to DGFT, Delhi for authorization. The CB further submitted that the CB had no reasons to advise the client as the exporter had filed an application for the authorization. The IO found that the CB had filed the shipping Bill 3159324 on 12.08.2024, whereas exporter had submitted an application to DGFT vide letter dated 09.10.2024, much after filing the Shipping Bill. The IO observed that authorization for SCOMET was required to be uploaded in e-Sanchit by the exporter while filing the Shipping Bill No. 3159324 dated 12.08.2024 whereas, it was found during the investigations that no such authorization was uploaded by the exporter. Thus, it was apparent that the CB did not advise the exporter M/s. Dorf Ketal Chemicals India Pvt. Ltd. that such authorization from DGFT was required prior to filing of Shipping Bills.

The IO observed that Shri Rashesh Dilip Joshi, Partner of M/s. Shantilal Devji & Co. in his statement recorded on 29.08.2024, under Section 108 of the Customs Act, 1962 stated that that they had checked the product by its name "2-(diethylamino)-ethanol" in the SCOMET list and it was not found in the list. The IO found that charged CB M/s. Shantilal Devji & Co. was unaware about the mandatory compliance for export of the clearance of SCOMET items. The IO found that the CB failed to advise the exporter M/s. Dorf Ketal Chemicals India Pvt. Ltd. about the mandatory compliance, as they were unaware about the same. The IO also found from their statement that the exporter M/s. Dorf Ketal Chemicals India Pvt. Ltd. was not sensitized by them regarding DGFT Notification No. 05/2015-20 dated 24.04.2017. The IO found that such sensitization was required prior to filing of the said Shipping Bill, which the charged customs broker failed. The IO found that it was the responsibility of the CB to advise their client regarding compliance of the SCOMET items. Thus, the IO found that CB had neither advised the exporter about the

SCOMET compliance nor brought the non-compliance to the notice of the Customs Authorities. Accordingly, the IO held the Article of Charge alleging violation of Regulation 10(d) of the CBLR, 2018 as proved.

(c) The CB in this regard submitted that the exporter had submitted a non-SCOMET/NDPS declaration as per his statement recorded under Section 108 of the Customs Act, 1962 and therefore, there was no question of advising the client to comply with the provision of DGFT Notification No.47/2015-20 dt. 20.12.2021 which came into force on 19.01.2022. The CB submitted that the exporter vide letter dt. 09.10.2024 had already submitted an application to DGFT, Delhi for authorization. The CB further submitted that they had no reasons to advise the client as the exporter had filed an application for the authorization and therefore, the charge under regulation 10(d) of CBLR, 2018 does not sustain and merits to be withdrawn. The CB submitted that they placed reliance upon the case of Jaiswal Import Cargo Services Ltd versus Commissioner of Customs., New Delhi reported in 2019 (370) E.L.T.1366 (Tri. - Del.)

(d) Regulation 10(d) mandates that a Customs Broker shall advise his client to comply with the provisions of the Act and allied Acts, and in case of non-compliance, shall bring the matter to the notice of the Deputy/Assistant Commissioner of Customs. Having gone through the facts and records of the case, I find that the investigation revealed that the CB filed Shipping Bill No. 3159324 dated 12.08.2024 for export of "2-(diethylamino)-ethanol". This item is restricted under SCOMET Category as per Appendix-3 to Schedule-2 of the ITC(HS) Classification. I find that the CB's partner admitted in his statement dated 29.08.2024 that they were unaware of the mandatory SCOMET compliance for this item, claiming it did not appear under that name in their search. Consequently, they failed to advise the exporter, M/s. Dorf Ketel Chemicals India Pvt. Ltd., regarding the requirement of the mandatory authorization from the DGFT. I find that the CB contended that the exporter applied for authorization on 09.10.2024. However, as the IO correctly observed, this application was made nearly two months after the Shipping Bill was filed. The obligation to advise compliance is a proactive duty that must be performed prior to the

clearance process. The CB's ignorance of DGFT Notifications No. 05/2015-20 and 47/2015-20 does not absolve them of their statutory duty.

Further, I find the CB's reliance on upon the case of Jaiswal Import Cargo Services Ltd versus Commissioner of Customs., New Delhi reported in 2019 (370) E.L.T.1366 (Tri. - Del.) as misplaced. The judgement pertains to a case of misclassification whereas, the present case concerns the requirement of DGFT Authorization regarding a chemical "2-(diethylamino)-ethanol" which appears in the SCOMET list without any ambiguity around the fact and can be verified from Appendix-3 to Schedule-2 of the ITC(HS) Classification. Hence, I find that the ratio of the judgement relied upon by the CB is not applicable in the instant case. Accordingly, I am of the firm opinion that the CB's actions were negligent in advising the exporter with respect to the necessary compliance requirement before filing a Shipping Bill for a chemical classified under the SCOMET List. Accordingly, I uphold the charge of violation of Regulation 10(d) of the CBLR, 2018.

#### **15.2 Violation of Regulation 10(e) of the CBLR, 2018:**

(a) I find that the charge of violation of Regulation 10(e) of the CBLR, 2018 has been levelled against the CB on the grounds that, from the findings of the investigation, it appeared that the Customs Broker M/s Shantilal Devji & Co. did not advise their client to comply with the provisions of DGFT Notification No. 47/2015-20 dated 20.12.2021 which came into force on 19.01.2022, the Customs Act, other allied Acts and the rules and regulations thereof especially. It also appeared that the CB failed to sensitize the exporter to comply with the above-mentioned rules and regulations framed under the provisions of Custom Act, 1962 and thus, failed to exercise due diligence in respect of the said cargo to be cleared. Hence, it appeared that the CB failed to perform their obligation under Regulation 10(e) of CBLR, 2018.

(b) I find that the Inquiry Officer, in this regard, has observed that, as per the statement of Shri Rashesh Dilip Joshi, Partner of M/s. Shantilal Devji & Co, recorded on 29.08.2024, the CB did not ask the exporter for export license in view of DGFT Notification No. 05/2015-20 dated 24.04.2017, vide which exporter was required to notify the Department

of Chemicals & Petrochemicals, Ministry of External Affairs and the DGFT within 30 days of such export in the prescribed format (Aayat Niryat Form) along with the End-Use Certificate and submit to the DGFT a copy of the bill of entry into the destination country within 30 days of delivery and that they communicated the same to the exporter as well. The IO found that such advice was required prior-to filing of the said Shipping Bill, which the charged customs broker failed. The IO further observed that it was the responsibility of the CB to sensitize their client regarding compliance of the SCOMET items. Thus, the IO found that CB had neither advised the exporter about aforesaid compliance nor brought to the notice of the Customs Authorities in case of non-compliance. Accordingly, the IO submitted that the CB failed to exercise due diligence while filing the Shipping Bill for the subject export consignment and accordingly, Article of Charge alleging violation of Regulation 10(e) of the CBLR, 2018 was proved.

(c) The CB in this regard submitted that the exporter in his statement recorded under Section 108 has inter-alia stated that the goods are not covered under SCOMET. Further, the CB stated that in their statement recorded under Section 108 of the Customs Act, 1962, they had stated that the exporter had submitted a non SCOMET/NDPS declaration on the basis of which they filed the Shipping Bills after due diligence. That being so there was no violation Regulation 10(e) of CBLR, 2018. The CB submitted that all the relevant documents were given by the exporter and after due verification/compliance of KYC the Shipping Bills were filed. Therefore, the CB stated that the charge under Regulation 10(e) does not survive and merits to be withdrawn.

(d) I have meticulously perused the Offence report, the IO's findings, the CB's submission and the available facts and evidences on record. On perusal of the same I observe that the IO has held this charge as proved. I find that the CB argued during the Inquiry that they exercised due diligence by obtaining a non-SCOMET/NDPS declaration from the exporter. I find this argument untenable. A Customs Broker is expected to be diligent in their filing process, peruse the document submitted by the client and apply their mind so as to tender proper advice to spot deficiencies and non-compliance at the initial

stage itself. They cannot blindly rely on a client's declaration when the item is explicitly listed in the SCOMET Appendix. The CB's failure to identify "2-(diethylamino)-ethanol" (CAS No. 100-37-8) as a restricted item despite it being listed under SCOMET Category 1D demonstrates a lack of due diligence mandated under Regulation 10(e). By failing to verify the restricted status of the cargo and subsequently failing to upload the required authorization for clearance of an item classified under the SCOMET list, the CB failed to exercise the degree of diligence required during the clearance process. Consequently, I find that the IO has rightly held the charge as proved. In light of the facts on records and the associated findings, I concur with the IO's findings and hold the CB guilty of violation of Regulation 10(e) of the CBLR, 2018.

16. The CB vide submission dated 11.02.2026 requested to cross examine the persons whose statements are relied upon in the SCN including the officers of SIIB(X) who investigated the matter and thereafter be allowed to file further reply to the SCN. The CB relied upon the judgment in the case of Shasta Freight Services Pvt Ltd versus Pr. Commr of Cus., Hyderabad reported in 2019 (368) E.L.T. 41 (Telangana) adding that the said judgment was upheld by the Hon'ble Supreme Court reported in 2022 (381) E.L.T. 436 (S.C.).

I have gone through the facts and records of the case in detail and observe that cross-examination is not a mandatory right in quasi-judicial proceedings when facts are not in dispute. Since, the CB has not produced any retraction of the statements, and the violation is evidenced by the ICES filing itself, no prejudice is caused by this denial. Accordingly, I do not find merit in the CB's request for cross-examination. In this regard, I place reliance on the following caselaws:

*i) In the case of Union of India Vs. Rajendra Bajaj [2010(253) E.L.T.165 (Bom.)], Hon'ble Bombay High Court, stated in Para 6, which is reproduced herein below – "the Supreme Court held in K.L. Tripathi v. State Bank of India (1984) 1 SCC 43 that where there is no dispute as to the facts, or the weight to be attached on disputed facts but only an explanation of the acts, absence of opportunity to cross-examination does not create any prejudice in such cases and does not vitiate the decision."*

(ii) *In the case of Patel Engg. Ltd. vs UOI reported in 2014 (307) ELT 862 (Bom.) Hon'ble Bombay High Court held that "Adjudication - Cross-examination - Denial of held does not amount to violation of principles of natural justice in every case, instead it depends on the particular facts and circumstances - Thus, right of cross-examination cannot be asserted in all inquiries and which rule or principle of natural justice must be followed depends upon several factors - Further, even if cross-examination is denied, by such denial alone, it cannot be concluded that principles of natural justice had been violated." [Para 23]*

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. Shantilal Devji & Co. (CB License No. 11/116) has violated Regulations 10(d) and 10(e) 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. Shantilal Devji & Co. has rendered itself liable for penal action under the CBLR, 2018. Hence, while deciding the matter, I rely on the following caselaws:

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

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

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

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

18. As discussed above, I conclude that the CB M/s. Shantilal Devji & Co. (CB License No. 11/116) is guilty of violating Regulations 10(d) and 10(e) of the CBLR, 2018. In view of the detailed discussion and analysis above, it is established that the CB, M/s. Shantilal Devji & Co. has failed to discharge the professional and statutory obligations mandated under the Customs Brokers Licensing Regulations, 2018. The evidence on record confirms that the Customs Broker did not advise the exporter regarding the mandatory SCOMET compliance for "2-(diethylamino)-ethanol" prior to filing the Shipping Bill. Furthermore, by blindly relying on the client's non-SCOMET declaration and failing to independently verify the restricted status of the chemical which was clearly listed in the SCOMET Appendix, the Customs Broker failed to exercise the requisite due diligence.

Further, the investigating agency found that that no export of "2-(diethylamino)-ethanol" was made by M/s. Dorf Ketal Chemicals India Pvt. Ltd. in the past. Thus, the attempted export in the instant case does not seem to be a systemic fraud but an error committed due to lapse in judgement. Accordingly, I find no connivance angle but an act of diminished diligence on the part of the CB during the clearance process. Further, I find that the attempted export comprised of 01 litres (250 ml x 04 bottles) of the said chemical totally valued at Rs. 82.85 (Rupees Eighty-Two and paise Eighty-Five only). Considering, the small quantity and miniscule value of the consignment being exported for the first time,

I find the extreme action of revocation of the Customs Broker's License unwarranted. Also, I find that the Adjudicating Authority vide Order-in-Original No. AC/JVK/1281/2024-25//Exp.Assmt/ACC(X) dated 21.01.2025 passed against the Offence Report i.e. Show Cause Notice No. 165/AC/EXP.ASSMT/2024-25/ACC(X) dated 18.12.2024 imposed a meagre penalty of Rs. 83/- (Rupees Eighty-Three only) on the CB. Hence, under the factual matrix of the case and applying the principle of proportionate punishment I am not inclined to revoke the License and forfeit the security deposit of the CB as the punishment of revocation of license and forfeiture of security deposit is much harsher and disproportionate to the offence committed. However, I am of the considered view that the ends of justice will be met by imposing a penalty on the CB, under Regulation 18 of the CBLR, 2018 which suffices both as a punishment for the infraction and as a deterrent to future violations. In this regard, I place reliance on the following caselaws:

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

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

*non-renewal of licence for a period of time would be sufficient. That would be in a somewhat similar position to that of suspension of licence though it may not be so in all cases. On the other hand, there may be cases where the authorities may be of the view that licensee does not deserve a renewal either. Position would be different there. Though we have not dealt with the question of proportionality, it is to be noted that the authorities while dealing with the consequences of any action which may give rise to action for suspension, revocation or nonrenewal have to keep several aspects in mind. Primarily, the effect of the action vis-a-vis right to carry on trade or profession in the background of Article 19(l)(g) of the Constitution has to be noted. It has also to be borne in mind that the proportionality question is of great significance as action is under a fiscal statute and may ultimately lead to a civil death."*

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

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

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

*"6. We are unable to appreciate such a peremptory conclusion. The CBLR, 2013 lays down that stepwise procedures are to be followed before ordering any punishment to the Customs broker. True, the said regulations do contain provisions for revocation of the license and for forfeiture of full amount of security deposit, however these are maximum punishments which should be awarded only when the culpability of the Customs broker is established beyond doubt and such culpability is of very grave and extensive nature. In case of such fraudulent imports, for awarding such punishment, it has to be established without doubt that the Customs*

*broker had colluded with the importer to enable the fraud to take place. No such culpability is forthcoming in respect of the appellant herein.....”*

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

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

19. I find that the Inquiry Report against the SCN dated 12.03.2025 in the present case was received on 01.10.2025. The IO attributed the delay in submitting the Inquiry Report to the significant workload since he was allotted multiple sensitive charges involving time bound compliances. Further, on receipt of the Inquiry Report, the CB was granted Personal Hearing opportunities on three occasions but the CB did not appear on any of the scheduled dates and the sequence of events has been elaborated in para 11 above. Consequently, the matter was taken up for adjudication on the basis of facts and evidences available on record. However, the CB vide letter dated 11.02.2026 explained the reasons for their inability to attend the Personal Hearing scheduled on all three previous occasions and requested for a fourth and final personal hearing opportunity. The CB’s request was acceded to and a fourth Personal Hearing opportunity was granted to the CB on 13.02.2026 at 12.30 p.m. Shri Rashesh D. Joshi, partner of CB firm M/s. Shantilal Devji & Co. appeared for the Personal Hearing on 13.02.2026 at 12.30 p.m. The CB’s repeated non-appearance at the first three Personal Hearing opportunities delayed the adjudication proceedings significantly. Further, 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.), observed that:

*"15. In view of the aforesaid discussion, the time limit contained in Regulation 20 cannot be construed to be mandatory and is held to be directory. As it is already observed above that though the time line framed in the Regulation need to be rigidly applied, fairness would demand that when such time limit is crossed, the period subsequently consumed for completing the inquiry should be justified by giving*

*reasons and the causes on account of which the time limit was not adhered to. This would ensure that the inquiry proceedings which are initiated are completed expeditiously, are not prolonged and some checks and balances must be ensured. One step by which the unnecessary delays can be curbed is recording of reasons for the delay or non-adherence to this time limit by the Officer conducting the inquiry and making him accountable for not adhering to the time schedule. These reasons can then be tested to derive a conclusion whether the deviation from the time line prescribed in the Regulation, is "reasonable". This is the only way by which the provisions contained in Regulation 20 can be effectively implemented in the interest of both parties, namely, the Revenue and the Customs House Agent."*

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

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

*(iii) that the object of the Regulations, the nature of the power and the language employed do not give scope to conclude that the time limit prescribed is mandatory. Hence, we hold that the time limit prescribed in Regulation 20 (7) is not mandatory but only directory."*

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

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

*14. A reading of the Regulation 17 would also go to show that the Inquiry Officer during the course of his inquiry is not only required to record the statement of the parties but also to give them an opportunity to cross-examine and produce oral and documentary evidence. In the event of the respondents not co-operating, it would be difficult for the Inquiry Officer to complete the inquiry within the prescribed period of 90 days, as provided under Regulation 17(5). Therefore, we find force in*

*the argument of the learned counsel for the appellant that the Regulation No. 17 is required to be considered as directory and not mandatory. Though the word "shall" has been used in Regulation 17, an overall reading of the said provision of law makes it very clear that the said provision is procedural in nature and non-compliance of the same does not have any effect. If there is no consequence stated in the Regulation for non-adherence of time period for conducting the inquiry or passing an order there afterwards, the time line provided under the 22 statute cannot be considered as fatal to the outcome of inquiry.*

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

**(d) The Hon'ble CESTAT Mumbai in the matter of M/s. Muni Cargo Movers Pvt. Ltd. Vs. Commissioner of Customs (General), Mumbai [Order No. A/996/13CSTB/C-1 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 role of the CB, though marked by negligence and lack of professional caution, appears to be one of omission and failure to adhere to prescribed standards rather than a thought after modus operandi to effect illegal exports. 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 the 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 the

licence would have severe and disproportionate consequences on the livelihood of the CB and its employees, the extreme penalty of revocation or forfeiture of security deposit is not warranted.

21. In view of the above judgements and the “Doctrine of Proportionality” which propagates the idea that a punishment for an offence should be proportional to the gravity of the offence, I am not inclined to revoke the license and forfeit the security deposit of the CB. However, for their acts of omission and commission, the Customs Broker M/s. Shantilal Devji & Co. (CB License No. 11/116) is held liable and guilty for violating the provisions of the CBLR, 2018, as mentioned above. I hold that the CB has failed to discharge their duties cast upon them with respect to Regulations 10(d) & 10(e) of the CBLR, 2018 and the interest of justice would be met by imposition of penalty under Regulation 18 of the CBLR, 2018. Accordingly, I pass the following order:

**ORDER**

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

(i) I, hereby impose a penalty of Rs. 20,000/- (Rupees Twenty Thousand only) on the Customs Broker M/s. Shantilal Devji & Co. (CB License No. 11/116) 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.

  
 16/2/26  
**(Shraddha Joshi Sharma)**  
 Commissioner of Customs (Gen.)  
 NCH, Mumbai-I

To.

**M/s. Shantilal Devji & Co. (CB License No. 11/116)**  
 51, Floor-3, Plot – 56, Ashok Chambers,

Devji Ratanshey Marg,  
Mumbai-400009.

**Copy to:**

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

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