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

संचिका सं /.F. No. GEN/CB/189/2025–CBS आदेश दिनांक/Date of Order:25.08.2026

CAO No.31/2026-27/CAC/PCC(G)/AKP/Adj-CBS जारी दिनांक/Date of issue:25.08.2026

संख्या:

DIN:-20260877NO0000422982

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

**ORDER-IN-ORIGINAL मूल आदेश**

**ध्यान दीजिए/ N.B. :**

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

2. इस आदेश के विरुद्ध अपील माँगे गए राशी के **7.5%** के भुगतान पर सीमाशुल्क अधिनियम, 1962 129 की धाराA(1B)(i) के संबंधमें सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण में स्वीकार्य है, जहाँ शुल्क या शुल्क एवं जुर्माना विवादित हों, या जुर्माना, जहाँ सिर्फ जुर्माना ही विवादित हो।यह अपील इस आदेश के संप्रेषण की तारीख के तीन महीने के अंदर दायर की जाएगी। यह अपील सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण नियमावली (कार्यविधि), १९८२, के प्रावधानों के अंतर्गत, यथोतखंडपीठ में स्वीकार्य है।
An appeal against this order lies with the Customs, Central Excise and Service Tax Appellate Tribunal in terms of section 129A(1B)(i) of the Customs Act, 1962, on payment of **7.5%** of the amount demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute. It shall be filed within three months from the date of communication of this order. The appeal lies with the appropriate bench of the Customs, Central Excise and Service Tax Appellate as per the applicable provisions of the Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982.

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

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

4. यदि एक ही प्रकरण में उसी पक्षकार के विरुद्द कई कारण बताओ नोटिस लगाकर आदेश पारित किया जाता है तो प्रत्येक प्रकरण में अलग अपील दायर की जाए।

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

5. यह अपील फॉर्म C.A.-3 में दायर की जानी चाहिए जो कि सीमाशुल्क 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 ब्याजवलगाएगए जुर्माने की राशि रु-/1000 .पाँच लाख या इस से कम होतो रु ., (ii)यदि यह राशि रु पाँच लाख से अधिक . ) एवं -/5000 .हो किंतु पचास लाख से अधिक न होतो रुiii) यदि यह राशि रु पचास लाख से अधिक होतो . के शुल्क -/10000 .रु का भुगतान क्रॉस्ड बैंक ड्राफ्ट के माध्यम से अधिकरण की खंडपीठ के सहायक पंजीयक के पक्ष में जिस स्थान पर खंडपीठ स्थित है, के किसी भी राष्ट्रीय क्रत बैंक की शाखा में किया जाए एवं डिमांड ड्राफ्ट अपील के साथ संलग्न किया जाए।

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

7. अपील की एक प्रति में कोर्ट फी अधिनियम, 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.

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

M/s D.V. Shipping Pvt Ltd. (CB No. 11/946), having registered address at 425, Nav Vyapar Bhavan, 49, P.D, Mello Road, Masjid Bunder (E), Mumbai 400009 (hereinafter referred to as the Customs Broker/CB), is the holder of Customs Broker License No. (11/946), 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. A report regarding the offences committed by the CB M/s D.V. Shipping Pvt Ltd., issued by the Assistant Commissioner, Mundra Customs vide letter F.NO. GEN/CB/ACTN/4/2025-A/G-O/o. Pr. Commr-Cus-Mundra dated 02.04.2025 alongwith Order-in-Original No. MCH/ADC/AKM/166/2024-25 dt 24.10.2024 and all the RUDs (relied upon documents) vide email dated 10.12.2025, was received in the Customs Broker Section, NCH, Mumbai Zone-I. The report, inter-alia, conveyed the following information:

2.1 Intelligence was developed by DRI (Directorate of Revenue Intelligence), AZU, Ahmedabad that M/s. Aman Enterprise, was trying to import Chinese toys without BIS certificate in the guise of other items in 05 containers at AP&SEZ, Mundra by mis-declaring the imported goods. Intelligence was passed on that Containers Nos. HJMU1545950, WHSU5808370, GCXU5161490, DFSU6156801 and OOLU7619636 imported by M/s. Aman Enterprise (hereinafter also referred to as "the importer") at APSEZ, Mundra were having goods in violation of the Customs Act, 1962. The same were put on hold as the said containers were lying at various CFS at Mundra. The details of the 05 Containers are as under:

| SI. No. | BL No. & Date | Container No. | Description of the Imported goods declared in Bill of Lading |
|---|---|---|---|
| 1. | OOLU2705372960/31.08.2022 | OOCU7619636 | Decorative Kandil |
| 2. | EPIRCHNSHA221125/10.09.2022 | DFSU6156801 | Bagpack Bag |
| 3. | KMTCNB062933 89/29.08.2022 | HJMU1545950 | Decorative Kandil & Decorative Crown |
| 4. | 031C559318/09.09.2022 | WHSU5808370 | Decorative Kandil & Air Pump |
| 5. | OOLU2705372990/31.08.2022 | GCXU5161490 | Decorative Kandil & Air Pump |

2.2 Acting on the above intelligence, examination was carried out of the above-mentioned containers on 03.11.2022, 15.11.2022, 19.11.2022, 21.11.2022 & 22.11.2022. During the course of investigation, all the 05 containers which were lying at different CFSs of AP&SEZ, Mundra Port were opened and examined by the officers of DRI, RU, Gandhidham/ Jamnagar under panchnama proceedings dated 03.11.2022, 15.11.2022, 19.11.2022, 21.11.2022 & 21/22.11.2022. The examination revealed that the importer had concealed/mis-declared/mis-classified/un-declared huge quantity of Lazer Gun, Friction Car, Squizy Animal, Metal Car, Top with light, Dinosaur with light, Cube Puzzle, Friction Truck, Remote Plane and Plastic Small Truck etc. in contravention to the provisions of the Customs Act, 1962, BIS compliance, undeclared goods were found which were not mentioned in the Bills of Lading. Hence, the goods imported in container nos. HJMU1545950, WHSU5808370, GCXU5161490, and DFSU6156801 were Seized under Panchnama/ Seizure Memo dated 15.11.2022, 19.11.2022, 21.11.2022 & 22.11.2022 respectively and handed over to authorized person of the CFSs for safe custody under Supratnama dated 15.11.2022, 19.11.2022, 21.11.2022 and 22.11.2022 respectively. The imported goods in container No. OOCU7619636 was seized under Seizure Memo dated 14.09.2023 and handed over to authorized person of CFS for safe custody under Supratnama dated 14.09.2023. To ascertain the aspect of technical specifications and valuation, opinion of Chartered Engineer was sought. Shri Kunal Ajay Kumar, Customs Empanelled Chartered Engineer (appointed by the Principal Commissioner of Customs, Customs House, Mundra Port, Gujarat vide Public Notice No. 11/2021 dated 10.11.2021 for valuation of imported goods) vide his five Valuation Reports evaluated the total value of seized goods to Rs.799.93 Lakhs.

2.3 The importer had declared the goods viz. Decorative Kandil (HSN: 95059090), Bagpack Bag (HSN: 42022290), Decorative Crown (950590) and Air Pump (84142020) etc., in the Bill of Lading. However, on detailed examination of the Containers, undeclared goods like Car toys, Belt Buckle, Belt with Buckle, Metal Car, Top with Light, Dinosaur with Light, Plastic Cube Puzzle, Friction Truck, Kids Learning Machine, Remote Dinosaur, Dancing Monkey, Crawling Gudda, Lazer Gun, Friction Car, Squizy Animal, Remote Plane and Plastic Small Truck, etc. were also found apart from the declared items. On enquiry, it was revealed that they were not having any BIS certificate for import of such Chinese toys.

2.4 It appeared that the goods had been imported by mis-declaring the description of goods and did not comply with BIS Standard. Therefore, the imported Chinese goods valued at Rs.7,99,93,020/- were seized based on the reasonable belief that the goods were liable for confiscation under the provisions of the Customs Act, 1962, The details of the container are as under:

| Sr. No. | Container No. | Name of CFS where container was examined | Date of examination | Value of seized goods as per Valuation report (in Rs.) |
|---|---|---|---|---|
| 1. | OOCU7619636 | M/s. Landmark CFS Pvt Ltd., Mundra | 03.11.2022 | 1,41,12,400/- |
| 2. | DFSU6156801 | M/s. Sea Bird CFS, Mundra Port | 15.11.2022 | 1,18,23,100/- |
| 3. | HJMU1545950 | M/s. Saurashtra CFS, Mundra | 19.11.2022 | 1,35,36,720/- |
| 4. | WHSU5808370 | Allcargo Logistics Limited (CFS), Mundra | 21.11.2022 | 2,16,39,400/- |
| 5. | GCXU5161490 | M/s. Landmark CFS Pvt Ltd., Mundra | 22.11.2022 | 1,88,81,400/- |
| | | | **Total** | **7,99,93,020/-** |

**2.5 Statements of relevant parties:**

2.5.1 Statement of Shri Amith Momaya, Director of M/s. D.V. Shipping Pvt. Ltd., Mumbai was recorded on 03.01.2023, wherein he interalia stated that:

(i) M/s. D.V. Shipping Pvt. Ltd. provided Broker Services for import/export consignments at JNCH & Mundra Ports and they had only one branch at Mumbai;

(ii) Shri Khursheed Shaikh handed over the documents (bill of lading, Invoice, Packing List) for import of items by M/s. Aman Enterprise and till date they had cleared 16 consignments of M/s. Aman Enterprise, Mumbai and had not received any amount on account of providing broker services from M/s. Aman Enterprise till date.

(iii) Shri Khursheed Shaikh had requested time for paying charges for clearance as he was suffering from money crisis. Shri Khursheed Shaikh had visited their office and asked for clearance of the five consignments of M/s. Aman Enterprise.

(iv) The contents mentioned in the 05 Panchnamas were true and correct. During examination of the consignments imported by M/s. Aman Enterprise, Mumbai, undeclared items were recovered pertaining to BL No. OOLU2705372960 and dated 31.08.2022, B/L No. EPIRCHNSHA221125 dated 10.09.2022, B/L No.

KMTCNB06293389 dated 29.08.2022, BL No. 031CS559318 dated 09.09.2022 and BL No. OOLU2705372990 dated 31.08.2022. Undeclared items, i.e. Chinese toys seized by DRI were found in the consignments of M/s. Aman Enterprise that were to be cleared through their CHA firm.

(v) He was aware that mis-declaring or suppressing the details in Bill of Lading, Invoices, packing list of imported goods is illegal and can attract legal actions under the Customs Act, 1962 and other relevant laws. He knew that import of Chinese toys in India without BIS certificate is banned.

(vi) Only after the containers were opened for examination, he came to know of the fact that the consignments imported by M/s. Aman Enterprise were imported without BIS certificate; that all the items had not been mentioned in the Bill of Lading.

(vii) In the instant case, CFS authority had filed B/Es for warehousing at Mundra. That he agreed to the fact that B/Es for re-export of consignments had been filed after the department held the consignments for examination in respect of M/s. Aman Enterprise. He agreed that none of the previous 16 consignments of M/s. Aman Enterprise cleared by their firm were filed for re-export. In a similar import of Chinese toys at CTIJ, ICD Mulund had booked a case against them for non-submission of BIS certificate.

(viii) They were providing clearance services to M/s. Aman Enterprise and had submitted the documents and the information received from them and that he was not aware of any mis-declaration made by them.

2.5.2 Statement of Shri Khursheedalam Peer Mohammed Shaikh, proprietor of M/s. Aman Enterprise, residing at KEM/96/5/8, Ramji Bhawanji Chai, Andheri Plot, Squtter Colony, Jogeshwari (East), Mumbai - 400060 was recorded on 17.01.2023, 18.01.2023, 30.01.2023 and 17.04.2023 wherein he interalia stated that:

(i) He was in the business of commission agent and import of Chinese items in the proprietary concern M/s. Aman Enterprise since last 03 years. He did not know the name of any Chinese supplier but Shri Bablu, the agent of Chinese supplier took order for the supply of Chinese Goods.

(ii) Shri Amith Momaya of M/s. D.V. Shipping was their Customs Broker at AP&SEZ, Mundra who provided CHA and clearance services at Mundra Port for goods imported by M/s. Aman Enterprise, Mumbai.

(iii) Shri Bablu provided the relevant import documents i.e. Bills. of lading, Invoice and Packing List once the confirmation from supplier was done and thereafter M/s. D.V Shipping, CHA carried out clearance work pertaining to the import consignments of M/s. Aman Enterprise, Mumbai, at Mundra Port.

(iv) He regularly visited the office of Shri Amith Momaya and handed over the import documents (Bills of lading, Invoice, Packing List) pertaining to the import consignments of M/s. Aman Enterprise.

(v) They had totally imported 22 consignments of M/s. Aman Enterprise, at Mundra and provided details of B/Es filed at Mundra. They had not paid anything to M/s. D.V. Shipping for providing Customs Broker Services at AP&SEZ, Mundra for M/s. Aman Enterprise.

(vi) He had provided import documents to M/s. D.V. Shipping and asked them for clearance of the below mentioned import consignments at Mundra Port.

| SI. No. | BL No. & Date | TGM No. / Date | B/E No./ Date |
|---|---|---|---|
| 1. | OOLU2705372960/ 31.08.2022 | 2322541/219 dated 23.09.2022 | 1014688/17.10.2022 |
| 2. | EPIRCHNSHA221125/ 10.09.2022 | 2323327/372 dated 02.10.2022 | 1014690/17.10.2022 |
| 3. | KMTCNB062933 89/ 29.08.2022 | 2322265/490 dated 20.09.2022 | 1016596/18.11.2022 |
| 4. | 031C559318/ 09.09.2022 | 2322929/5 dated 28.09.2022 | 1014691/17.10.2022 |
| 5. | OOLU2705372990/ 31.08.2022 | 2322265/490 dated 20.09.2022 | 1014689/17.10.2022 |

(vii) After reading all the panchnamas, he confirmed that the contents of the said panchnamas were true and correct. He agreed that during the examination of consignments of M/s. Aman Enterprise pertaining to B/L No. OOLU2705372990 dated 31.08.2022, B/L No. EPIRCHNSHA221125 dated 10.09.2022, B/L No. KMTCNB06293389 dated 29.08.202222 & B/L No. 031CS559318 dated 09.09.2022, undeclared items were recovered. He agreed that during the panchnama proceedings, undeclared items i.e. Chinese toys were found in five consignments of M/s. Aman Enterprise that were to be cleared through M/s. D.V. Shipping but were seized by the DRI officers.

(viii) He was aware that mis-declaring or suppressing the details in Bill of Lading, Invoices, packing list of imported goods was illegal and could attract legal actions under Customs Act, 1962 and other relevant laws. He knew that import of Chinese toys in India without BIS certificate is banned and that M/s. Aman Enterprise were trying to import consignment of toys alongwith other items without BIS certificate.

(ix) He knew that all the items had not been mentioned in the Bill of Lading and he agreed that B/Es for re-export of the consignments had been filed after the department held the consignments for examination in respect of M/s. Aman Enterprise and also agreed that none of the earlier consignments were filed for re-export before the department interfered in the present consignments and he submitted copies of B/Es of import of Chinese goods at Mundra Port by M/s. Aman

Enterprise, Mumbai along with copy of Bank statement. They had filed B/Es for re-export to avoid any litigation, since they did not have any BIS or ISI certificate for import of toys and department had held the imported consignments.

(x) He did not have any contact number of Shri Bablu, agent of the Chinese supplier, but would try to contact Shri Bablu and ask him to come to Jamnagar to further investigation.

(xi) In respect of the impugned 05 B/Es, it had been observed that the details shown in Bill of Lading did not match with the Bills of Entry, Packing List and Invoices and that he did not know the rates of duty of declared imported goods viz "Decorative Kandil, Bagpack Bag, Decorative Crown, Air Pump etc." and that M/s. D.V. Shipping knew about it as they had filed all the B/Es.

(xii) He agreed that a lot of Chinese toys viz. "Doll toys, Metal Car toys, Squizy Animal toys, Elephant toys, Toy Car, Kids Learning Machine, Bay Blade, Remote Plane, Metal Car, Racing Car, Top with light, Friction Kids Toys, Puzzle Cube and Small Plastic Trucks, Metal Car, Top with light, Friction Trucks, Remote Dinosaur, Dinosaur with light, Crawling Gudda, Dancing Monkey, Lazer Gun, Friction Car, Squizy animals etc. were found during examination of the consignments imported by them vide B/L No. OOLU2705372960 dated 31.08.2022, B/L No. EPIRCHNSHA221125 dated 10.09.2022, B/L No. KMTCNB06293389 dated 29.08.2022, BIL. No. 031CS559318 dated 09.09.2022 and B/L No. OOLU2705372990 dated 31.08.2022.

(xiii) He did not know the rate of Customs duty on Chinese toys but it was approximately 60% of assessable value and that as per his knowledge, there was no difference in the rate of IGST duty between Decorative Kandil, Backpack bag, Decorative Crown, Air Pump" and Chinese toys.

(xiv) He agreed to the fact that he intended to file Bills of Entry for home consumption at AP&SEZ, Mundra for the said consignments, but when they came to know that the department had put on hold the consignments for examination, they filed Bills of Entry for re-export to Dubai to avoid any further litigation.

(xv) He admitted that he was well aware that the said consignments had Chinese toys which were not declared in the Bill of Lading, hence they filed Bills of Entry for re-export along with the packing list and invoice with all the actual items expected to be present in the containers. He had misdeclared the goods and suppressed some items in the Bill of Lading and IGM and he also admitted that Chinese toys attracted higher rate of duty and required BIS certificate/compliance, hence he had not declared in the Bill of Lading and IGM.

(xvi) He admitted that he had attempted to evade higher rate of duty by mis-declaring and suppressing the information of imported goods and also admitted that he knew that import of toys without BIS certificate is banned in India and also admitted that he did not have any BIS certificate and that he imported Chinese toys alongwith other items which did not require BIS certificate. He had not imported any Chinese toys or similar items at AP&SEZ Mundra and that he was aware that mis-declaring or suppressing the details in Bill of Lading, Invoices, packing list of imported goods is illegal and could attract legal actions under Customs Act, 1962 and other relevant laws.

(xvii) He admitted that he was ready to pay Customs duty, fine, penalty etc. for illegal import of Chinese goods without BIS certificate and mis-declaring the imported goods and that he intended to re-export the said consignment as per Bills of Entry filed at AP & SEZ Mundra.

(xviii) He admitted that he had sent an email dated 07.02.2023 for release of containers and de-stuffing of seized goods and that he had received an email from DRI to contact Customs Authority for release of containers and de-stuffing of seized goods.

(xix) He admitted that he had wrongly stated the facts in his email dated 15.02.2023 stating that during examination of the goods, the same were found to be as declared and that their CHA M/s. D.V. Shipping had contacted Customs authority at Custom House, Mundra who in turn instructed to contact DRI, Jamnagar for release of containers and de-stuffing of seized goods. He stated that he did not remember the password of their email address and Shri Amith Momaya of M/s. D.V. Shipping had access to his email id kpshaikhofficial@gmail.com.

(xx) He stated that previously a case had been registered against them at Mumbai and the same had been adjudicated imposing penalty of Rs. 11,15,236/- under Section 114A and penalty of Rs. 4,00,000/- under Section 114AA of Customs Act, 1962 and some amount of penalty has already been paid by him.

(xxi) Recently, 11 containers imported by M/s. Shine Creations, Tirunelveli (Proprietor Ms. Arasilan Kumari) were held by DRI Chennai for examination in which they had imported plastic toys without BIS certificate and declared as Wall hook/ Photo Frame/ Birthday decoration items. The said firm was created by him to import Chinese toys. Since, the Chinese companies had not given credit in the name of single firm, they imported Chinese toys in different names/firms.

**3. Valuation of goods by Chartered Engineer:**

M/s. Suvikaa Associates, Gandhidham carried an Inspection of the impugned consignments on and submitted a detailed valuation report in respect of the goods covered under the consignments imported by M/s. Aman Enterprise as below:

| Sr. No. | B/E No./ Date | Container No. | Date of Inspection/Valuation | Value of seized goods as per Valuation report (in Rs.) |
|---|---|---|---|---|
| 1. | 1014688/17.10.2022 | OOCU7619636 | 14.09.2023 | 1,41,12,400/- |
| 2. | 1014690/17.10.2022 | DFSU6156801 | 15.12.2022 | 1,18,23,100/- |
| 3. | 1016596/18.11.2022 | HJMU1545950 | 19.11.2022 | 1,35,36,720/- |
| 4. | 1014691/17.10.2022 | WHSU5808370 | 21.11.2022 | 2,16,39,400/- |
| 5. | 1014689/17.10.2022 | GCXU5161490 | 22.11.2022 | 1,88,81,400/- |
| **TOTAL** | | | | **7,99,93,020/-** |

## 4. Findings of The Adjudicating Authority:

4.1 The importer M/s Aman Enterprise imported various items declaring them as Decorative Kandil (HSN: 95059090), Bagpack Bag (HSN: 42022290), Decorative Crown (950590) and Air Pump (84142020) etc., covered under the B/L No. 1014688/17.10.2022, B/L No.1014690/17.10.2022, B/L No. 1016596/18.11.2022, B/L No. 1014691/17.10.2022 and B/L No. 1014689/ 17.10.2022 in container Nos. OOCU7619636, DFSU6156801, HJMU1545950, WHSU5808370 and GCXU5161490 respectively. On detailed examination of the Containers based on the intelligence developed by DRI, RU, Gandhidham undeclared goods like Car toys, Belt Buckle, Belt with Buckle, Buck Metal Car, Top with Light, Dinosaur with Light, Plastic Cube Puzzle, Frication Truck, Kids Learning Machine, Remote Dinosaur, Dancing Monkey, Crawling Gudda, Laser Gun, Friction Car, Squizy Animal, Remote Plane and Plastic Small Truck etc., were also found. On enquiry, it was revealed that they did not have any BIS certificate for import of such Chinese toys which were cumulatively valued at Rs.799.93 Lakhs by the Customs Empanelled Chartered Engineer.

4.2 Shri Amith Momaya, Director of M/s. D.V. Shipping Pvt. Ltd., and Shri Khursheedalam Peer Mohammed Shaikh, Proprietor of M/s. Aman Enterprise, in their respective statements acknowledged that the documents for the re-export of consignments were filed only after the department had detained the consignments for examination which were imported by M/s. Aman Enterprise. Shri Amith Momaya confirmed that none of the previous consignments imported by M/s. Aman Enterprise, were cleared for re-export by their firm. Additionally, Shri Khursheedalam Peer Mohammed Shaikh admitted that the documents for re-export were submitted to avoid litigation, as they did not possess the necessary BIS or ISI certificates for the import of toys, leading the department to hold the import consignments. This indicated that the filing of the re-export documents was merely an afterthought by both the Customs Broker and the importer to conceal their intentions. The goods being restricted and/or prohibited in nature, could not be released for domestic clearance. Further, they had not submitted any application or request letter for re-export of the impugned goods during the adjudication proceedings.

4.3 M/s Aman Enterprise was fully aware of the true nature of the goods. Nevertheless, they imported those goods, which required a valid BIS certificate, resorting to concealment and wilful misrepresentation of the facts. Therefore, it appeared that the importer had wilfully violated the provisions of Section 17(1) of the Act, as they failed to properly self-assess the contested goods. Additionally, they had violated sub-sections (4) and (4A) of Section 46 of the Act. The import of toys is regulated by Import Policy Condition-2 of Chapter 95, as amended by the DGFT via Notification No. 26/2015-2020 dated September 1, 2017. The toys imported by M/s Aman Enterprises lacked a valid BIS certificate, as required under Section 15 of the BIS Act, 2016. This violation constituted smuggling under Section 2(39) of the Customs Act, 1962, particularly since no application for re-export had been submitted. Consequently, the Adjudicating Authority found that the goods imported by M/s Aman Enterprise, valued at Rs. 7,99,93,020/- (Rupees Seven Crores Ninety-Nine Lakhs Ninety-Three Thousand Twenty only), as assessed by the Customs Empanelled Chartered Engineer, being restricted and/or prohibited in nature in the absence of valid and mandatory BIS certification, could not be released for domestic clearance and hence were liable for absolute confiscation under Sections 111(d), 111(f), 111(i), 111(l), 111(m) and 111(o) of the Customs Act, 1962.

**5. <u>Order of the Adjudication Authority (AA)</u>:**

(i) The AA vide Order-in-Original No. MCH/ADC/AKM/166/2024-25 dated 23.10.2024 ordered for absolute confiscation of the impugned imported goods having assessable value of Rs.7,99,93,020/- under Section 111(d), 111(f), 111(i), 111(l), 111(m) and 111(0) of the Customs Act, 1962.

(ii) The AA imposed a penalty of Rs. 75,00,000/- (Rs. Seventy-Five Lakh only) on M/s Aman Enterprise under section 112 (a) of the Customs Act 1962.

(iii) The AA imposed a penalty of Rs. 35,00,000/- (Rs. Thirty-Five Lakh only) on Aman Enterprise under section 114AA of the Customs Act1962.

(iv) A penalty of Rs. 75,00,000/- (Rs. Seventy-Five Lakh only) under section 112(a) and a penalty of Rs. 35,00,000/- (Rs. Thirty-Five Lakh only) under section 114AA of the Customs Act, 1962 was imposed on Shri Amith Momaya, Director of M/s. D.V. Shipping, CB of the importer firm M/s. Aman Enterprise.

**6. Role of the Customs Broker:**

6.1 In the current instance, it was evident that Shri Amith Momaya, Director of M/s. D.V. Shipping, Mumbai had been in constant touch with Shri Khursheedalam Peer Mohammad Shaikh, the proprietor of M/s Aman Enterprise throughout for communication with the department and others which appeared to show that the Customs broker was one of the masterminds in the instant import of Chinese Toys without BIS certificate. In his statement dated 03.01.2023, Shri Amith Momaya of M/s. D.V. Shipping denied any role in the import of Chinese Toys by way of mis-declaration. Shri Amith Momaya had access to the e- mail id of Shri Khursheedalam Peer Mohammad Shaikh and the re-export BE filed by the importer through the CB M/s D.V. Shipping, Mumbai was only an afterthought to avoid litigation post hold of the impugned containers. In view of the above, it was clear that Shri Amith Momaya, Director of M/s. D.V. Shipping Pvt. Ltd., Mumbai in connivance with Shri Khursheedalam Peer Mohammad Shaikh attempted to smuggle restricted goods by mis-declaring and mis-classifying the same, with an intent to escape from the stringent import conditions and from the payment of appropriate Customs Duties.

6.2 In view of the above, it appeared that CB M/s D.V. Shipping Pvt Ltd. (Licence No. 11/946, CB code AAECD0782BCH001) failed to comply with the following regulations of the Customs Brokers Licensing Regulations, 2018:

**(a) Regulation 10(d) of the CBLR, 2018:**

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

(i) In his statement dated 17.04.2023, Shri Khursheedalam Peer Mohammad Shaikh admitted that he knew that all the items had not been mentioned in the Bill of Lading and he agreed that B/Es for re-export of consignments had been filed after the department held the consignments for examination in respect of M/s. Aman Enterprise and also agreed that none of the earlier consignments were filed for re-export before the department held the present consignments and he submitted copies of B/Es of import of Chinese goods at Mundra Port by M/s. Aman Enterprise, Mumbai alongwith copy of Bank statement. They had filed B/Es for re-export to avoid any litigation, since they did not have any BIS certificate for import of toys and department had held the imported consignments.

(ii) Further, Shri Khursheedalam Peer Mohammad Shaikh agreed to the fact that he intended to file Bills of Entry for home consumption at AP&SEZ, Mundra for the said consignments, but when they came to know that the department had put on hold the consignments for examination, they filed Bills of Entry for re-export to Dubai to avoid any further litigation. He admitted that he was well aware that the said consignments had Chinese toys which were not declared in the Bill of Lading, hence they filed Bills of Entry for re-export along with the packing list and invoice with all the actual items expected to be present in the containers and that he had mis-declared the goods and suppressed some items in the Bill of Lading and IGM and he also admitted that Chinese toys attracted higher rate of duty and required BIS certificate/ compliance, hence he had not declared in the Bill of Lading and IGM. He admitted that he had attempted to evade higher rate of duty by mis-declaring and suppressing the information of imported goods and also admitted that he knew that import of toys without BIS certificate is banned in India and also admitted that he did not have any BIS certificate and that he imported Chinese toys alongwith other items which did not require BIS certificate/ compliance.

(iii) He stated that he did not remember the password of their email address and Shri Amith Momaya of M/s. D.V. Shipping was given access to his email id kpshaikhofficial@gmail.com. Further, Shri Amith Momaya confirmed that none of the previous consignments cleared by their firm for M/s. Aman Enterprise were filed for re-export.

(iv) From the above, it was clear that the goods were misdeclared in the 05 Bill(s) of Lading, as the Importer did not have mandatory BIS certificates for the import of toys. The goods were also undervalued for customs duty evasion. The CB M/s. D.V. Shipping filed Bill of Entry for clearances of the impugned import consignments on behalf of the Importer. Further, as per the importer's statement, Shri Amith Momaya had access to the email ID of the Importer. After putting the consignments on hold, Bill of Entry for warehousing for re-export were filed by the CB, with correct declaration. In this regard, the Importer admitted that they had only filed the Bills of Entry for re-export purpose, after the consignments were put on hold and that they wanted to avoid since they did not have any BIS certificate for import of toys and department had held the imported consignments. From the above, it seemed that the Importer and Shri Amith Momaya were hand in gloves in the whole scheme. Shri Amith Momaya was one of the masterminds in the whole case. The CB admitted that none of the previous consignments, cleared by their firm for M/s. Aman Enterprise, were filed for re-export. The whole thing pointed towards the direct involvement of Shri Amith Momaya with the importer and that the Customs broker was one of the masterminds in the import of Chinese Toys without BIS certificate. Under these circumstances, the CB appeared to have failed to advise the client to comply with the act and also failed to inform about the same to the Customs Authorities. Further, Shri Amith Momaya, Director of the CB firm, appeared to have acted hand in glove in the whole scheme, to avoid compliances and evade duty.

**(b) Regulation 10(e) of the CBLR, 2018:**

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

Shri Khursheedalam Peer Mohammad Shaikh admitted that he had given ID and password of the official email id of the firm to his Customs Broker i.e. Shri Amith Momaya of M/s. D.V. Shipping. Further, Shri Peer Mohammad Shaikh, admitted that M/s. D.V.

Shipping was their Custom broker at AP&SEZ Mundra who provided CB and clearance services at Mundra Port for goods imported by M/s. Aman Enterprise, Mumbai. The importer filed warehousing Bill of Entry through the CB, for re-export of the goods only after knowing that the consignment had been detained by the DRI. Thus, it appeared that the CB failed to act diligently in the matter and got purposely involved in import of toys by misdeclaring the same in the Bill of ladings, and thus appeared to have violated Regulation 10(e) of the CBLR, 2018.

**(c) Regulation 13(12) of the CBLR, 2018 reads as under:**

*"The Customs Broker shall exercise such supervision as may be necessary to ensure proper conduct of his employees in the transaction of business and he shall be held responsible for all acts or omissions of his employees during their employment."*

The investigation revealed that the Director of the CB firm, Shri Amith Momaya, was one of the masterminds along with the importer M/s Aman Enterprises, in the scheme of misdeclaration and undervaluation to avoid compliances and duty payment. It appeared that the CB failed to exercise such supervision as necessary to ensure proper conduct in transaction business as mandated under Regulation 13(12) of the CBLR, 2018.

7. In view of the above, it appeared that Shri Amith Momaya, Director of CB M/s. D.V. Shipping was one of the masterminds in the import of Chinese Toys without the requisite BIS certificates. Shri Amith Momaya also had the access to the e-mail Id of Shri Khursheedalam Peer Mohammad Shaikh and the re-export filed by the importer through the CB M/s D.V. Shipping, Mumbai was only an afterthought to avoid litigation post hold of the impugned containers. Further, it was observed that the CB License had been suspended in a previous case. While deciding the earlier case, the then Adjudicating Authority held that the CB had failed to discharge their duties cast upon them with respect to regulations 10(d), 10(e), 10(g), 10(j) and 13(12) of CBLR, 2018. The said case was adjudicated by the competent authority and penalty was levied on the Customs Broker. It was on record that the charges levied on Customs Broker was proved. Further, it was also observed that one more case against the CB was pending with Custom Broker Section. In

view of this, it appeared that the Custom Broker was a habitual offender and might participate in fraudulent activity in future.

7.1 Accordingly, the Customs Broker license no. 11/946 of M/s. D.V. Shipping Pvt. Ltd. was suspended vide Order No. 18/2025-26 dated 15.12.2025 and opportunity of personal hearing was granted to the CB on 02.01.2026. The CB alongwith Shri Ajay Singh, Advocate appeared for the hearing. Considering the facts and evidences on record, Order No. 26/2025-26 dated 20.01.2026 was passed continuing the suspension of the CB Licence No. 11/946 of M/s. D.V. Shipping Pvt. Ltd. pending inquiry proceedings under Regulation 17 of the CBLR, 2018.

8. In view of the offence report received under Letter F.No.GEN/CB/ACTN/4/2025-A/G-O/o. Pr. Commr-Cus-Mundra dated 02.04.2025, the following articles of charges were framed against the CB M/s. D.V. Shipping Pvt. Ltd. (CB License No. 11/946):

(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

(iii) Article of Charge-III: Violation of Regulation 13(12) of the CBLR, 2018.

8.1 In light of the above, a Show Cause Notice (SCN) No. 48/2025-26 dated 25.02.2026 was issued to the CB M/s. D.V. Shipping Pvt. Ltd. (CB License No. 11/946) 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. 11/946 issued to them should not be revoked under regulation 14 of the CBLR, 2018;
b. Security deposited should not be forfeited under regulation 14 of the CBLR, 2018;
c. Penalty should not be imposed upon them under Regulation 18 of the CBLR, 2018.

8.2 Shri Pramod Kumar Chauhan, Assistant Commissioner of Customs was appointed as Inquiry Officer (IO) to conduct the inquiry proceedings against the CB M/s. D.V. Shipping Pvt. Ltd. (CB License No. 11/946) under Regulation 17 of the CBLR, 2018.

**INQUIRY REPORT: -**

9. The Inquiry Officer (hereinafter referred to as the 'IO') concluded the inquiry proceedings and submitted the Inquiry Report dated 01.06.2026 wherein, all the charges levelled against the CB vide SCN No. 48/2025-26 dated 25.02.2026 were held as "Proved".

**FINDINGS OF THE INQUIRY OFFICER:**

10. The IO submitted that he had gone through the Show Cause Notice No. 48/2025-26 dated 25.02.2026 vide F. No. GEN/CB/189/2025-CBS. The IO had gone through the records of the Personal Hearing and defence submissions made during the personal hearing. The IO submitted that he had also gone through the statements of all the persons taken during the investigation. The IO submitted that while going through the case details he observed that the instant case involves a coordinated scheme to smuggle mis-declared/mis-classified/un-declared huge quantity of restricted Chinese toys along with the declared items worth Rs. 799.93 Lakhs into India by systematically bypassing safety regulations and duty obligations. The IO submitted that the importer M/s Aman Enterprise, executed this by declaring the imported goods of five containers declaring as innocuous goods like "Decorative Kandil", "Bagpack Bags", and "Air Pumps". These declared goods were specifically selected to circumvent the mandatory Bureau of Indian Standards (BIS) certification required for toys and to exploit the Risk Management System by mis-classifying high-duty cargo as low-value, unregulated items. The IO submitted that the CB (M/s D.V. Shipping Pvt. Ltd.) allegedly facilitated this operation in violation of Regulations of the CBLR, 2018, by utilizing their professional position to coordinate the fraud; this is evidenced by the Director's alleged direct access to the importer's email and a calculated attempt to file for re-export as a strategic "afterthought" only after the DRI had intercepted and held the consignment to avoid legal consequences. Further, the IO submitted that he had also gone through the alleged Articles of Charges or contraventions mentioned in Show Cause Notice as well as legal provisions reflected in CBLR, 2018. The IO submitted that he had already taken on record the submissions made by the CB and proceeded to discuss the submissions & examine their merits.

**10.1 Article of Charge – I - Regulation 10(d) of the CBLR, 2018:**

The IO observed that the Customs Broker (CB), D.V. Shipping Pvt Ltd. (Licence No.11/946, CB code AAECD0782BCH001) failed to comply with the obligations under Regulation 10(d) of the Customs Brokers Licensing Regulations (CBLR), 2018, which requires a Customs Broker to advise their client to comply with the provisions of the Customs Act and allied laws, and report any non-compliance to the proper officer.

While going through the statement of Shri Khursheedalam Peer Mohammad Shaikh, Proprietor of M/s. Aman Enterprise, recorded on 17.04.2023, the IO observed that he already knew the fact that all the items had not been mentioned in the Bill of Lading; he agreed that B/Es for re-export of consignments had been filed after the department held the consignments for examination in respect of M/s. Aman Enterprise; that none of the earlier consignments were filed for re-export before the department interfered in the present consignments; he submitted copies of B/Es of import of Chinese goods at Mundra Port filed by M/s. Aman Enterprise, Mumbai alongwith copy of Bank statement: he admitted that they had filed B/Es for re-export to avoid any litigation, since they did not have any BIS certificate for import of toys and the department had held the imported consignments.

Further, the IO submitted that while going through the statement of Shri Khursheedalam Peer Mohammad Shaikh, Proprietor of M/s. Aman Enterprise, recorded on 17.04.2023, it was observed that Shri Khursheedalam Peer Mohammad Shaikh agreed to the fact that he intended to file Bills of Entry for home consumption at AP&SEZ, Mundra for the said consignments, but when they came to know that the department had put on hold the consignments for examination, they filed Bills of Entry for re-export to Dubai to avoid any further litigation; he admitted that he was well aware that the said consignments had Chinese toys which were not declared in the Bill of Lading, hence they filed Bills of Entry for re-export along with the packing list and invoice with all the actual items expected to be present in the containers and that he had mis-declared the goods and suppressed some items in the Bill of Lading and IGM: he admitted that Chinese toys attracted higher rate of duty and required BIS certificate/compliance, hence he had not declared in the Bill of

Lading and IGM; he admitted that he had attempted to evade higher rate of duty by mis-declaring and suppressing the information of imported goods; he admitted that he knew that import of toys without BIS certificate is banned in India and also admitted that he did not have any BIS certificate and that he imported Chinese toys along with other items which did not require BIS certificate/ compliance; he further stated that he did not remember the password of his email address and Shri Amith Momaya of M/s. D.V. Shipping was given access to his email id kpshaikhofficial@gmail.com. Further, Shri Amith Momaya confirmed that none of the previous consignments cleared by their firm for M/s. Aman Enterprise were filed for re-export.

From the above, the IO found that despite the importer M/s Aman Enterprise, knowingly mis-declaring high-value Chinese toys to evade duties and mandatory BIS certifications, the CB, M/s D.V. Shipping Pvt. Ltd., did not advise against this illegal course of action. Instead of bringing this discrepancy to the notice of the Deputy or Assistant Commissioner of Customs, the CB facilitated a strategic "re-export" filing, that too with correct declaration, only after the department had already intercepted the containers, which the department views as an attempt to suppress the initial fraud. Furthermore, the IO found that the fact that the CB's Director, Shri Amith Momaya, held direct access to the importer's email credentials suggests that the firm was admittedly aware of the actual cargo details but chose to remain silent, thereby failing to act as a necessary regulatory watchdog and directly violating the statutory requirements of Rule 10(d). The IO submitted that the whole thing points towards the direct involvement of Shri Amith Momaya with the importer and that the Customs Broker is one of the masterminds in the instant import of Chinese Toys without BIS certificate.

Further, the IO submitted that the CB, in their written defence, had claimed that the entire set of allegations in the notice had been made solely on the basis of oral depositions of importer Mr. Khurshdeen Peer Mohammad Shaikh, which are contradictory to the facts and records of the case and the Adjudication of the main case while passing the Order-in-Original dated 23.10.2024, though the said statements are relied on, the provision of

Section 138B, have not been complied. Thus, the CB stated that the said statements cannot be read into the evidence of the present case. In this Regard, the IO found that despite the Customs Broker's defence regarding the admissibility of oral depositions, the violation of Regulation 10(d) is established as the requirements of Section 138B of the Customs Act, 1962, were effectively satisfied through the consistent evidence gathered during the investigation. The IO submitted that under Section 138B, a statement made and signed by a person before a gazetted officer of customs is relevant and admissible for proving the truth of the facts it contains when the circumstances of the case, including corroborative evidence such as the physical seizure of Rs.7.99 Crores worth of restricted toys, indicate its reliability. The IO submitted that the CB's failure to act as a regulatory watchdog is further proven by the objective fact that the Director, Shri Amith Momaya, possessed direct access to the importer's email account, yet chose not to report the glaring non-compliance regarding the lack of BIS certification. The IO submitted that by facilitating a "re-export" filing as a reactive measure only after the DRI intercepted the containers, the CB demonstrated a clear choice to protect the client's illicit interests rather than fulfilling the statutory mandate to advise on legal compliance and report violations to the Assistant/Deputy Commissioner.

In view of the above discussion and findings, the IO submitted that M/s D.V. Shipping Pvt Ltd. (CB No. 11/946) has failed to comply with Regulation 10(d) of CBLR, 2018. Hence, the IO submitted that the charge against the CB is proved.

**10.2 Article of Charge – II - Regulation 10(e) of the CBLR, 2018:**

The IO observed that Shri Khursheedalam Peer Mohammad Shaikh had given ID and password of the official email id of the firm to his Customs Broker i.e. Shri Amith Momaya of M/s. D.V. Shipping. Further, Shri Peer Mohammad Shaikh, admitted that M/s. D.V. Shipping was their Custom broker at AP&SEZ Mundra who provided CB and clearance services at Mundra Port for goods imported by M/s. Aman Enterprise, Mumbai. The IO submitted that the Importer had filed warehousing Bill of Entry through the CB, for re-export of the goods only after knowing that the consignment had been detained by the DRI. The IO observed that the failure of the CB to comply with Regulation 10(e) of the CBLR, 2018, is established by their gross negligence in verifying the correctness of information related to the cargo clearance. The investigation revealed that the CB's Director, Shri Amith Momaya, held the ID and password for the importer's official email account, providing the firm with direct access to primary communications and actual packing lists. The IO stated that despite this intimate level of access, the CB failed to identify that the consignment contained restricted Chinese toys worth Rs. 7.99 Crores instead of the declared "Decorative Kandil," thereby imparting false information to the Department. The IO submitted that this lack of due diligence is further evidenced by the fact that the CB only attempted to file a warehousing Bill of Entry for re-export as a reactive measure after the DRI had already detained the goods. The IO submitted that the importer's admissions regarding this shared access and the deliberate mis-declaration are relevant and admissible, proving that the CB abandoned their duty to verify the cargo's legality and instead facilitated the processing of fraudulent data.

In light of the above, the IO submitted that the CB M/s D.V. Shipping Pvt Ltd. (CB No. 11/946) had failed to act diligently in the matter and got purposely involved in import of toys by misdeclaring the same in the Bill of ladings, and thus appeared to have violated Regulation 10(e) of the CBLR, 2018. Hence, the IO submitted that the charge against CB is proved.

**10.3 Article of Charge-III - Regulation 13(12) of the CBI.R, 2018:**

The IO submitted that during the inquiry in the instant case it was observed that the Director of the CB firm, Shri Amith Momaya, was one of the masterminds along with the importer M/s Aman Enterprise, in the scheme of misdeclaration and undervaluation to avoid compliances and duty payment. The IO also observed that the failure of the CB to comply with Regulation 13(12) of the CBLR, 2018, is evidenced by the total absence of oversight that allowed the systematic mis-declaration of restricted goods. The IO submitted that despite being strictly responsible for the acts of its personnel, the firm processed documentation for five containers of Chinese toys worth Rs. 7.99 Crores as innocuous

"Decorative Kandil" without any internal verification. The IO submitted that this failure to flag high-risk cargo requiring mandatory BIS certification indicates a complete breakdown in supervision. Furthermore, the IO stated that the CB leadership's direct management of the importer's email and the filing of reactive "re-export" documents only after the DRI intervened, proves that the firm's resources facilitated a fraudulent scheme rather than preventing it. The IO submitted that the blatant discrepancy between the declared and actual cargo confirms that the CB failed to exercise the necessary supervision to ensure proper conduct, violating their statutory accountability.

In view of the above, the IO submitted that the CB failed to exercise such supervision as necessary to ensure proper conduct in transaction business as mandated under Regulation 13(12) of the CBLR, 2018. Hence, the IO submitted that the charge against CB is proved.

10.4 Regarding the Customs Broker's request for cross-examination, the IO submitted that while the principles of natural justice are paramount, the right to cross-examination is not absolute and must be viewed in the context of the objective evidence available on record. In this inquiry, the charges under Regulation 10(d), 10(e) and 13(12) of the CBLR, 2018 do not rest solely on the oral testimony of the importer, but are corroborated by undisputed documentary facts and physical evidence, including the seizure of Rs. 7.99 Crores worth of mis-declared goods and the admitted fact that the CB's Director held direct access to the importer's email credentials. The IO submitted that under Section 138B of the Customs Act, 1962, statements recorded before Gazetted Officers are relevant and admissible when they are supported by such strong circumstantial and physical corroboration. The IO submitted that the CB's own conduct, specifically, the reactive filing of re-export documents only after the DRI's intervention, provides a clear factual basis for the failure to report non-compliance, the demand for cross-examination appeared to be a procedural tactic to delay the proceedings. Therefore, the IO submitted that since the material facts were established through independent records and the CB's intimate involvement in the importer's digital communications, the denial of cross-examination does not constitute a violation of natural justice, as the truth of the charges is sufficiently proven by the existing evidentiary trail.

10.5 The IO submitted that while recognizing the long-standing record of M/s D.V. Shipping Pvt Ltd. (CB No. 11/946), each case must be evaluated on its own merits and compliance with mandatory obligations under Regulation 10 of the CBLR, 2018 is non-negotiable. The IO submitted that the assertion of no personal gain or intent (*mens rea*) does not relieve the Broker of their statutory duties. The IO submitted that the Customs Broker's role may not include cargo inspection, but it does demand ensuring accurate declarations and client legitimacy duties that were not fulfilled here, in violation of Regulation 10(e) of the CBLR, 2018. The IO submitted that while the Broker's financial hardship due to suspension is noted, the regulatory imperative to protect the integrity of the customs clearance process takes precedence under Regulation 16 of the CBLR, 2018. Concluding his findings, the IO submitted that the Customs Broker had violated the Regulations 10(d), 10(e), and 13(12) of the CBLR. 2018.

**10.6 SUMMARY OF THE FINDINGS:**

From the aforesaid discussions, the IO concluded his findings as under:

| Sr. No. | Charges against the CB | Findings |
|---|---|---|
| 1. | Violation of Regulation 10(d) of CBLR, 2018 | Proved |
| 2. | Violation of Regulation 10(e) of CBLR, 2018 | Proved |
| 3. | Violation of Regulation 13(12) of CBLR, 2018 | Proved |

**RECORDS OF PERSONAL HEARING: -**

11. The Inquiry Report discussed above was accepted by the Principal Commissioner of Customs (General) and a Personal Hearing (PH) in the matter was held on 21.07.2026 in virtual mode. Ms. Dishya Pandey, Advocate at M/s. Ajay Singh & Associates appeared for the PH on behalf of the CB. She reiterated their written submission dated 21.07.2026 sent over email and requested to take a lenient view in the matter. The oral and written submissions were taken on record.

**WRITTEN SUBMISSIONS OF THE CB: -**

12. The CB submitted that the Customs Broker License Suspension Order dated 15.12.2025 is based on the facts as conveyed by the Mundra Customs vide Letter F. No. GEN/CB/ACTN/04/2025/A/G under email dated 10.12.2025. The CB submitted that Ld. Asst. Commissioner while issuing the subject inquiry report had failed to appreciate that no bill of entry was filed by them, in the case. The CB submitted that it is matter of record and undisputed fact that 5 Bills of Entries Being Nos. 1014688, 1014689, 1014690 and 1014691, all dated 17.10.2022 and 1016596 dated 18.11.2025, were filed for Warehousing of the goods in "SELF" through SEZ. The CB submitted that they had no role in filing these Five Bills of Entries and therefore, no allegation, whatsoever could have been levelled and sustained against them for any declaration/misdeclaration made by the importer in the case of filing Bills of Entries and mis declaring goods therein.

12.1 The CB submitted that the Hon'ble Commissioner of Customs may kindly appreciate that even the Shipping Bills for re-export was filed by the SEZ authorities and they had no role and therefore, in absence of any filing by them before the Mundra Customs Authorities no allegation, whatsoever could have been levelled and sustained against them for any attempt of re-export of the offending goods being made by the importer in the case. Copy of 1 Shipping Bill, filed by the SEZ, which they could lay hands on in the case of M/s. Apsara Exim (one of the 7 consignments as referred in the statements recorded) is enclosed herewith as Annexure - 2 for ready reference and record. The CB submitted that as they had not filed the Shipping bills in the case, they are not in possession of the other shipping bills, if any, filed in the case. The CB hereby requested to the Hon'ble Authority to kindly call for the documents and satisfy himself about the submissions made hereinabove.

12.2 The CB submitted that in the proceedings at hand an attempt to create a prejudice against them had been made to show that they had a role in wrongful declarations before Mundra Customs Authorities in respect of the 5 consignments imported by M/s. Aman Enterprises, by referring to the statements recorded in the case. In the above background, the CB cited to draw attention towards the statement dated 03.01.2023 of their Director recorded before the investigating officers. Nowhere in the said statement, it has been recorded that the Bills of Entries at Mundra or the Shipping Bills for the re-export were filed by the Customs Broker - M/s. DV Shipping Pvt Ltd. A copy of the said statement dated 03.01.2023 is enclosed herewith as Annexure - 3 for ready reference and record. The CB submitted that Q.9 and Q.10 on internal Pg 3 of the statement, wherein on being asked about the 7 consignments as listed in the Table, out of which the Sr. No. 3 to 7 are the subject matter of the present proceedings, the deponent (Director of the CB) had stated that he was about to file Bills of Entries for the above consignments. It is further clarified that he never received any charges from the said importers ever in any case of imports.

12.3 The CB submitted that, in the case, even as per the statement relied, Bills of Entries were not filed by them and therefore no adverse inference can be drawn against them. Further, the CB also submitted that the fact that during the question and answer No. 12 to 22 of the said statement, their Director was shown Panchanamas drawn and was asked to confirm the findings of the Panchanama, which were confirmed by them and no adverse inference can be drawn therefrom. However, the CB submitted that Q.23 wherein they had categorically stated that they came to know about the import without BIS Certificate by M/s. Apsara Exim and M/s. Aman Enterprises only after the department opened the containers for examination. Further, in reply to Q. 25, they had categorically stated that Bills of Entries for above consignments were filed by the CFS and the above answer is also corroborated by the documents as enclosed Annexure - 1 and the said portion of the statement had also been reproduced at para 2.5.1 (xi), Pg 3 of the subject Report. Further, the CB submitted that in reply to Q.26, it had been recorded that in respect of the 7 consignments documents for re-export were filed after the examination, which is factually incorrect as found by them on enquiry with Mundra Customs. The CB submitted that they had been informed that in case of only 1 consignment of M/s. Apsara Exim, Shipping Bill for re-export was filed by the CFS, as already stated hereinabove and therefore, it appears that the statements recorded are not factually correct.

12.4 The CB submitted that apart from the above, in the statement of Mr. Amith Momaya dated 03.01.2023 it had been recorded that they were customs broker and assisted the importer in clearing 16 consignments of M/s. Aman Enterprises and 17 Consignments of M/s. Apsara Exim in the past (Question and Answer No. 6 of the Statement dated 03.01.2023 of Amith Momaya) and it is their submission that no adverse inference can be arrived at on the basis of above imports as no anomaly whatsoever has been alleged or found in respect of those consignments. However, the CB submitted that they would like to place on record that the above part of the statement is also factually incorrect in as these Bills of Entries were filed by the importer in "Self" only and they requested the Hon'ble Authority to kindly get the said fact verified by calling the records from concerned authorities. The CB further submitted that from the records and the statements of Amith Momaya and the Importer, it can be seen that they were not aware of any wrongdoing by the importer before the offence was detected by the Customs officers. The CB submitted that in absence of any wrongdoing, laxity, negligence on part of the Customs Broker or its Director, the charges as levelled by the Suspension Order cannot be sustained. The CB submitted that the copies of Statements of Proprietor of M/s. Aman Enterprises (importer) dated 17.01.2023, 18.01.2023, 30.01.2023 and 17.04.2023 are annexed herewith as Annexure-4 for ready reference and record.

12.5 The CB submitted that the statement of the Proprietor of M/s. Aman Enterprises was recorded on 17.01.2023, 18.01.2023, 30.01.2023 and 17.04.2023 and in the said statements the proprietor of importer (Q&A No. 7 and 8 of Statement dated 30.01.2023) had categorically stated that Shipping Bills for re-export were filed by them and this is a fact also and they requested to the Hon'ble Authority to kindly get the said fact verified by calling the records from concerned authorities. Further, the proprietor of importer company in reply to Q. No. 4 of his statement dated 18.01.2023 has categorically stated that Bills of Entry for re-export were filed by the respective importers after the department held the consignments for examination at AP&SEZ, Mundra. The above factual position is also corroborated on perusal of the Bills of Entries showing filed in "SELF" by the importer from copies thereof annexed as Annexure -1 above. The CB submitted that this makes it very clear as to why no payments were made to them, for clearance of these consignments as stated by the importer in reply to Q&A No. 15 in his statement dated 17.01.2023. In view of the above, it appears that the role of Customs Broker as alleged is erroneous and misconceived in the facts and circumstances of the present case.

12.6 The CB submitted that the only role which can be attributed to them is sending emails to the Customs Authorities seeking de-stuffing of containers and release thereof, after the containers were kept on hold to avoid penal detention and demurrage charges. This email also was sent from the importer's email id as per his request for which the password was provided by the importer. The CB submitted that the above act on part of them cannot be faulted within the facts and circumstances of the case as it does not show any complicity or involvement of them in the alleged illegal activities of the importer. Another role played by them was providing staff at the time of examination of the containers by the officers of DRI, as detailed in various Panchanamas recorded in the case. As the Bills of Entries were filed in "SELF" and when the examination was required to be conducted at the request by the importer, they extended the services of their staff to assist the Customs officers in examination of the Containers under Panchanama at Mundra Port. This cannot be construed as violation of CBLR or any provisions of Customs Act, 1962 or any Rules made thereunder.

12.7 The CB submitted that apart from the above there is allegation of undervaluation of imported goods, on the basis of Valuation Report by a Chartered Engineer. It is settled position in law that for undervaluation, Customs Broker cannot be held responsible. In the case at hand there is no evidence whatsoever adduced to demonstrate that the Customs Broker was aware of any undervaluation. On the contrary, as already demonstrated hereinabove, that the Customs Broker or their Director was not aware of any irregularity in the Consignment and their role started only after the detention of the imported goods by the Customs officers and was limited to the extent of assisting examination of goods under Panchanama and sending email for de-stuffing of goods and release of containers to avoid detention and demurrage charges.

13. The CB submitted that for the acts and omissions of importer, they had been unnecessarily targeted and penalized. It is a matter of record that the 11 consignments of toys were held by the DRI at Chennai Port for the importing of toys without BIS in the name of a firm M/s. Shine Creations, whose IEC was also created by the proprietor of the importer, as detailed in reply to Q&A No. 14 to 16 in the statement dated 17.04.2023. This clearly demonstrates that the importer had been regularly importing toys in contravention of Regulations and unnecessarily they had been made scapegoat in the irregularities being committed by the importer. The CB submitted that the entire set of allegations against them are on the basis of uncorroborated and contradictory oral depositions of the Proprietor of the importer firm. On this account the CB had requested to the IO to provide them with an opportunity to cross examine the witness namely, Mr. Khurshdeen Peer Mohammed Sheikh Vide their submissions dated 10.04.2026.

13.1 The CB submitted that despite the submissions made in Reply dt. 10.04.2026, request for cross examination of the witness was not considered. The CB submitted that the IO had placed reliance on the statements of Khursheedalam Peer Mohammed Sheikh and Amith Momaya without affording the opportunity of cross examination as stipulated by the CBLR Regulations. The CB submitted that while dealing with their request for following the procedure of Section 138B and further to afford opportunity of cross-examination, Ld. Authority recorded a finding at Para 24.1 (Pg 16 of inquiry report) that violation of Regulation 10(d) is established as the requirements of Section 138B of the Customs Act, 1962 were effectively satisfied through the consistent evidence gathered during the investigation. Without prejudice to the submissions made hereinafter, the CB submitted that it is a settled legal position that the procedure u/s 138B as stipulated under the Act is mandatory procedure which needs to be followed irrespective of the existence so-called corroborative evidence.

13.2 Further the CB submitted that at Para 25, Ld. Authority proceeded to record that the right to cross-examine is not absolute and that the charges under Regulation 10(d), 10(e) and 13(12) of CBLR, 2018 does not rest on oral testimony but also corroborated by undisputed documentary evidence and physical evidence. In this regard, the CB submitted to the Ld. Authority to Regulation 17(4) of the CBLR, 2018, which provides CB, right to cross-examine the witnesses whose statements are sought to be relied upon in the CBLR proceedings. The CB submitted that the right to cross-examine under CBLR proceedings, is a statutory right which needs to be provided if availed by the CB, irrespective of the existence so-called corroborative evidence. The CB stated that the request for cross-examination of the witness was made at the very first opportunity vide CB's reply and therefore Ld. Authority grossly erred in mechanically discarding CB's said request by treating it as delay tactic. The CB submitted that the Ld. Authority had failed to appreciate the said legal position and the said arbitrary act has resulted in violation of principles of natural justice. Furthermore, the CB submitted that on perusal of the inquiry report, it can be seen that only evidence to which the present proceedings has repeatedly referred to are in nature of oral statements of Mr. Khurshdeen and Mr. Amith Momaya and the fact that the after the goods were seized, Mr. Momaya sent an email at behest of the importer from importer's email id thereby requesting for release of the consignments, which by no stretch of imagination can result in violation of any provisions of Customs Act or CBLR provisions. The CB submitted that except for the above, not a single documentary evidence as claimed in the inquiry report had been brought forth or even had been referred to. The CB submitted that before issuance of the inquiry proceedings, no communication whatsoever, denying or allowing the CB's request for cross-examination was issued to them. In view of the above facts and circumstances, the CB submitted that the subject report had been issued in a mechanical and prejudicial manner and incomplete violation of the legal procedures, thereby vitiating the purpose of the inquiry proceedings altogether.

14. The subject report proceeds to hold that the charges invoked are proved. The said charges are dealt with hereunder:

**i) At Para 24.1 of the report, the charge of violation of regulation 10(d) of the CBLR, 2018, has been confirmed. The said Regulation reads as under:**

*"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"*

Submission:

a) In this regard, the CB submitted that the said finding and conclusion are solely on the basis of incorrect statements and the fact that Amith Momaya (Director of Customs Broker) sent an email from the email id of the importer requesting for release of the consignments. The CB submitted that there is nothing on record to show that they were aware of the fact that the containers contained Toys; deposition of the CB makes it clear that he became aware of the toys in the container only after the containers were examined. The CB submitted that having no knowledge of the mis-declaration they could not have informed the Customs Authorities of any misgivings by the importer. So far as the access to the email ID of the Importer is concerned, the CB submitted that the there is nothing on record to establish that the email account of the importer contained the actual details of the contents of the said 5 containers. The CB submitted that the access to emails were granted at the time of request of release of the containers which was long after the opening of the containers by the investigating agency. The CB submitted that there is nothing on record to show that they were aware of any misdeclaration, the subject order takes into consideration the statements out of context while arriving at a conclusion that there was a violation of Regulation 10(d) by the CB.

b) So far as the charge of not bringing any of the above to the notice of the Customs, the CB submitted that none of the aforementioned allegations and averments were founded on facts and are merely conjunctures of investigation and thus none of these could have been brought to the notice, when such fact never existed. The CB submitted that as regards not advising their clients to comply with the rules and regulations and stipulations of the act, the CB submitted that they had always advised their clients to comply with the provisions and there is nothing on record to establish otherwise. The CB submitted that if Ld. Authority opts to rely on the statements then the very same statements categorically stated that they were not acting as Customs Broker for the imported in respect of the disputed consignments, therefore, the said importer were never a client of them and thus question of not advising clients correctly cannot arise. The CB submitted that without prejudice to the aforesaid submission, it is submitted that the said allegations do not fit the framework of Regulation 10(d). The CB submitted that no specific finding/reasoning as to how the violation of the said provision had been proved had been recorded in the captioned report. Therefore, the CB prayed that the charge of violation of Regulation 10(d) against them may kindly be dropped.

**ii) Further, the subject report proceeds to confirm the charge of violation of Regulation 10(e) of the CBLR at Para 24.2, which reads as under:**

*"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;*

Submission:

In this regard, the CB submitted that they would like to reiterate their submissions as made in Para 2 to 7 above, wherein it had been demonstrated with documentary evidence that they had not filed the Bills of Entries in the case at hand and even the re-export Shipping Bills were not filed by them. As far as sending of email is concerned, the CB submitted that the same was only for the purpose of seeking permission for de-stuffing of containers and release thereof, after the containers were kept on hold to avoid penal detention and demurrage charges. This email also was sent from the importer's email id as per his request for which the password was provided by the importer. The CB submitted that the above act on part of them cannot be faulted with, in the facts and circumstances of the case as it does not show any complicity or their involvement in the alleged illegal activities of the importer. The CB submitted that no specific finding / reasoning as to how the violation of the said provision had been proved had been recorded in the captioned report.

**iii) The present report at Para 24.3 holds that the charge of violation of Regulation 13(12) which reads as under:**

*"the Custom Broker shall exercise such supervision as may be necessary to ensure proper conduct of his employees in the transaction of business and he shall be held responsible for all the acts and omissions of his employees during their employment."*

Submissions: The CB submitted that the said regulation had been invoked on the basis of the presumption that Amith Momaya had knowledge of the mis declaration, the CB submitted that this only a presumption as neither the statement of the importer nor the statement of Amith Momaya indicates that he possessed any knowledge of the contents of the detained containers. The CB submitted that in absence of any act or omission on their part as they had not filed Bills of Entries and Shipping Bills in the case, the charges as levelled is totally erroneous and misplaced. The CB submitted that no specific finding/reasoning as to how the violation of the said provision had been proved had been recorded in the captioned report.

15. The CB submitted that the allegations as contained in the report seem to be made on the basis of incorrect statements that had been recorded by the investigators to suit the purpose of booking the case against the Importers and others. The CB submitted that from perusal of the subject inquiry report as well as the SCN, it can be seen that certain adverse conclusions had been drawn, such as, Amith Momaya being in constant touch with the Importer for communication with the department has rendered to be the mastermind in the import of Chinese toys. In this regard the CB submitted that the above averment is at the best an assumption without any evidence whatsoever. The CB submitted that in the case at hand, for the reasons best known to the investigating agency, they had been made a scapegoat and penalized without any sustainable evidence. The CB submitted that the allegations are required to be backed by tangible and sustainable evidence, merely on assumptions, wild allegations had been made, random statements recorded, which were neither factually correct nor corroborated by the documents of the case. The CB submitted that in view of the submissions and documents annexed herewith the conclusions as being drawn are unwarranted and without any substance.

16. The CB submitted that from the report it is evident the fact that Amith Momaya had accessed the email of the Importer at the time of sending request for release of the

consignment at the behest of the importer was being twisted and interpreted against them. The CB submitted that the context in which access was provided to the Import was very clearly established and cannot be found fault with, however, the same is being conveniently ignored. The CB submitted that when there is nothing on record to show that details of actual imports were available in the emails of the Importer no fault could be found with the employee of the CB in assisting the Importer to send emails to the department in order to obtain release of the containers. The CB submitted that the Conclusion being drawn that they were involved in the tainted imports in any manner is without any evidence, uncalled for in the facts and circumstances of the case.

16.1 The CB submitted that adverse inference had been drawn from a previous suspension of their CB license. The CB stated that the suspension was revoked after the enquiry report was put up before the Commissioner. Therefore, the CB submitted that the past suspension prior to enquiry may please not be considered in the present case. The CB submitted that the action of pre-inquiry suspension was without cause. The CB submitted to the Adjudicating Authority that the alleged activities of the Customs Broker, being faulted with in the case, pertain to the year 2022 and after lapse of nearly 3 years, the suspension of the Customs Broking license is totally unwarranted, solely for the reason of 3 years' delay. The CB submitted that regulation 16 of CBLR, 2018 stipulates that License shall be suspended in the cases where immediate action is necessary. The CB submitted that there are approx. 15 employees in their company and their livelihood depends on their company, they have been acting as Customs agents since 2011, and over the years, they have successfully generated huge Revenue for the exchequer. The CB requested that appropriate action may kindly be taken only after the inquiry proceedings are concluded after following due process of law.

17. The CB prayed to the Adjudicating Authority that the inquiry report deserves to be set aside and a decision on the issue may please be taken only after due consideration of all evidences on record and appropriate inquiry into the matter is conducted. The CB submitted that they shall ever remain grateful for this act of kind consideration.

**DISCUSSIONS AND FINDINGS: -**

18. I have gone through the facts and records of the case; the offence report F.NO. GEN/CB/ACTN/4/2025-A/G-O/o. Pr. Commr-Cus-Mundra dated 02.04.2025 alongwith Order-in-Original No. MCH/ADC/AKM/166/2024-25 dt 24.10.2024 received from the Assistant Commissioner of Customs, Mundra Port; Suspension Order No. 18/2025-26 dated 15.12.2025 and Suspension Continuation Order No. 26/2025-26 dated 20.01.2026 issued under Regulation 16 of CBLR, 2018; Show Cause Notice No. 48/2025-26 dated 25.02.2026 issued under Regulation 17(1) of CBLR, 2018; Inquiry Report dated 01.06.2026, PH records dated 21.07.2026 and the CB's written submission dated 21.07.2026.

18.1 To summarize in brief, the case emanated from an intelligence received by DRI, AZU in respect of imports made by one M/s. Aman Enterprise. The officers of DRI intercepted 05 containers imported by M/s. Aman Enterprise (Proprietor: Shri Khursheedalam Peer Mohammed Shaikh) at AP&SEZ, Mundra Port, which were declared as non-restricted items such as Decorative Kandil, Backpack Bags, Decorative Crowns, and Air Pumps. Upon detailed physical examination of the goods, the officers uncovered massive concealed quantities of undeclared Chinese toys (e.g., Laser Guns, Remote Planes, Friction Cars, etc.) lacking mandatory Bureau of Indian Standards (BIS) certification and subject to higher customs duty rates. A Customs Empanelled Chartered Engineer evaluated the seized, prohibited cargo at approx. Rs. 08 crores. Subsequent investigations revealed that the importer attempted to file B/Es for re-export of the goods only after the DRI held the containers, as an afterthought to evade scrutiny and legal consequences. Consequently, the Adjudicating Authority issued Order-in-Original No. MCH/ADC/AKM/166/2024-25 dated 24.10.2024 ordering the absolute confiscation of the goods and imposing heavy penalties on the importer and its proprietor. The CB, M/s. D.V. Shipping Pvt. Ltd. (CB License No. 11/946) was found involved in the clearance of the consignments through its Director Shri Amith Momaya. Statements recorded under Section 108 of the Customs Act, 1962, established that Shri Amith Momaya maintained active connection with the importer, shared access to the importer's official email account, and processed the delayed re-export B/Es filings post-interception, indicating direct connivance as a co-mastermind in the scheme to evade customs duties and mandatory BIS compliance. In the adjudication proceedings, penalties of Rs. 75,00,000/- under Section 112(a) and Rs. 35,00,000/- under Section 114AA were explicitly imposed on Shri Amith Momaya. Based on these findings, the CB's License was suspended and then the suspension continued vide orders passed under the CBLR, 2018 as discussed *supra*. Consequently, a show cause notice was issued to the CB under the provisions of the CBLR, 2018 charging the CB for alleged violation of Regulations 10(d), 10(e) and 13(12).

19. I find that 03 articles of charges have been framed against the CB i.e. violation of Regulations 10(d), 10(e) and 13(12) of the CBLR 2018. Now, I proceed to discuss the charges, sequentially.

**19.1 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 in his statement dated 17.04.2023, Shri Khursheedalam Peer Mohammad Shaikh admitted that he knew all items were not mentioned in the Bill of Lading and agreed that Bill(s) of Entry (B/Es) for re-export of consignments were filed only after DRI held the consignments for examination in respect of M/s. Aman Enterprise. It was also revealed that no earlier consignments of the importer were filed for re-export in the past. He submitted copies of B/Es of import of Chinese goods at Mundra Port by M/s. Aman Enterprise, Mumbai, along with a copy of the bank statement, clarifying that B/Es for re-export were filed to avoid litigation since they lacked the required BIS certificate for import of toys. Further, Shri Khursheedalam Peer Mohammad Shaikh agreed that he originally intended to file B/Es for home consumption at AP&SEZ, Mundra, but filed B/Es for re-export with packing lists and invoices containing actual items once the department put the consignments on hold. He admitted to misdeclaring goods and suppressing items in the Bill of Lading and IGM because Chinese toys attracted a higher rate of duty and required BIS compliance, attempting to evade higher duty rates while knowing that import of toys without a BIS certificate is banned in India. He stated he gave Shri Amith Momaya of M/s. D.V. Shipping access to his email ID (kpshaikhofficial@gmail.com), and Shri Amith Momaya confirmed that none of the previous consignments cleared by their firm for M/s. Aman Enterprise were filed for re-export. From this, it was clear that goods in the 05 Bills of Lading were misdeclared, undervalued for customs duty evasion, and lacked mandatory BIS certificates. The CB M/s. D.V. Shipping filed B/Es for clearances on behalf of the importer, and later filed B/Es for warehousing for re-export with correct declarations only after the hold, pointing towards direct involvement between Shri Amith Momaya and the importer. Consequently, Shri Amith Momaya and the importer appeared to be hand in gloves, with the CB acting as one of the masterminds, failing to advise the client to comply with the Act, and failing to inform the Customs Authorities to evade duty and avoid compliances. The CB, thus appeared to have violated Regulation 10(d) of the CBLR, 2018.

(b) I find that the inquiry officer, in this regard has observed that the Customs Broker M/s. D.V. Shipping Pvt Ltd. (Licence No.11/946, CB code AAECD0782BCH001) failed to comply with the obligations under Regulation 10(d) of the Customs Brokers Licensing Regulations (CBLR), 2018, which requires a Customs Broker to advise their client to comply with the provisions of the Customs Act and allied laws, and report any non-compliance to the proper officer. While going through the statement of Shri Khursheedalam Peer Mohammad Shaikh, Proprietor of M/s. Aman Enterprise, recorded on 17.04.2023, the IO observed that he already knew the fact that all the items had not been mentioned in the Bill of Lading; he agreed that B/Es for re-export of consignments had been filed after the department held the consignments for examination in respect of M/s. Aman Enterprise; that none of the earlier consignments were filed for re-export before the department interfered in the present consignments; he submitted copies of B/Es of import of Chinese goods at Mundra Port filed by M/s. Aman Enterprise, Mumbai alongwith copy of Bank statement: he admitted that they had filed B/Es for re-export to avoid any litigation, since they did not have any BIS certificate for import of toys and the department had held the imported consignments. Further, the IO submitted that while going through the statement of Shri Khursheedalam Peer Mohammad Shaikh, Proprietor of M/s. Aman Enterprise, recorded on 17.04.2023, it was observed that Shri Khursheedalam Peer Mohammad Shaikh agreed to the fact that he intended to file Bills of Entry for home consumption at AP&SEZ, Mundra for the said consignments, but when they came to know that the department had put on hold the consignments for examination, they filed Bills of Entry for re-export to Dubai to avoid any further litigation; he admitted that he was well aware that the said consignments had Chinese toys which were not declared in the Bill of Lading, hence they filed Bills of Entry for re-export along with the packing list and invoice with all the actual items expected to be present in the containers and that he had mis-declared the goods and suppressed some items in the Bill of Lading and IGM: he admitted that Chinese toys attracted higher rate of duty and required BIS certificate/compliance, hence he had not declared in the Bill of Lading and IGM; he admitted that he had attempted to evade higher rate of duty by mis-declaring and suppressing the information of imported goods; he admitted that he knew that import of toys without BIS certificate is banned in India and also admitted that he did not have any BIS certificate and that he imported Chinese toys along with other items which did not require BIS certificate/ compliance; he further stated that he did not remember the password of his email address and Shri Amith Momaya of M/s. D.V. Shipping was given access to his email id kpshaikhofficial@gmail.com. Further, Shri Amith Momaya confirmed that none of the previous consignments cleared by their firm for M/s. Aman Enterprise were filed for re-export. From the above, the IO found that despite the importer M/s Aman Enterprise, knowingly mis-declaring high-value Chinese toys to evade duties and mandatory BIS certifications, the CB, M/s D.V. Shipping Pvt. Ltd., did not advise against this illegal course of action. Instead of bringing this discrepancy to the notice of the Deputy or Assistant Commissioner of Customs, the CB facilitated a strategic "re-export" filing, that too with correct declaration, only after the department had already intercepted the containers, which the department views as an attempt to suppress the initial fraud. Furthermore, the IO found that the fact that the CB's Director, Shri Amith Momaya, held direct access to the importer's email credentials suggests that the firm was admittedly aware of the actual cargo details but chose to remain silent, thereby failing to act as a necessary regulatory watchdog and directly violating the statutory requirements of Rule 10(d). The IO submitted that the whole thing points towards the direct involvement of Shri Amith Momaya with the importer and that the Customs Broker is one of the masterminds in the instant import of Chinese Toys without BIS certificate.

Further, the IO submitted that the CB, in their written defence, had claimed that the entire set of allegations in the notice had been made solely on the basis of oral depositions of importer Mr. Khurshdeen Peer Mohammad Shaikh, which are contradictory to the facts and records of the case and the Adjudication of the main case while passing the Order-in-Original dated 23.10.2024, though the said statements are relied on, the provision of Section 138B, have not been complied. Thus, the CB stated that the said statements cannot be read into the evidence of the present case. In this Regard, the IO found that despite the Customs Broker's defence regarding the admissibility of oral depositions, the violation of Regulation 10(d) is established as the requirements of Section 138B of the Customs Act, 1962, were effectively satisfied through the consistent evidence gathered during the investigation. The IO submitted that under Section 138B, a statement made and signed by a person before a gazetted officer of customs is relevant and admissible for proving the truth of the facts it contains when the circumstances of the case, including corroborative evidence such as the physical seizure of Rs.7.99 Crores worth of restricted toys, indicate its reliability. The IO submitted that the CB's failure to act as a regulatory watchdog is further proven by the objective fact that the Director, Shri Amith Momaya, possessed direct access to the importer's email account, yet chose not to report the glaring non-compliance regarding the lack of BIS certification. The IO submitted that by facilitating a "re-export" filing as a reactive measure only after the DRI intercepted the containers, the CB demonstrated a clear choice to protect the client's illicit interests rather than fulfilling the statutory mandate to advise on legal compliance and report violations to the Assistant/Deputy Commissioner. In view of the foregoing discussion and findings, the IO submitted that M/s D.V. Shipping Pvt Ltd. (CB No. 11/946) has failed to comply with

Regulation 10(d) of CBLR, 2018. Hence, the IO submitted that the charge against the CB is proved.

(c) I have gone through the CB's submission and find the CB denied the charge stating that the finding is based on incorrect statements and the email sent for container release. The CB further stated that nothing on record shows the CB knew the containers held toys prior to examination. Without knowledge of the misdeclaration, they could not have informed Customs Authorities. Access to the importer's email ID was provided long after the containers were opened by investigating agencies, and there is no evidence that the email account contained actual details of the container contents beforehand. The CB submitted that attempts have been made to create prejudice against them regarding five consignments imported by M/s. Aman Enterprises. They drew attention to the statement dated 03.01.2023 of their Director, Shri Amith Momaya where nowhere is it recorded that the Bills of Entry or re-export Shipping Bills were filed by M/s. DV Shipping Pvt. Ltd. In reply to Questions 9 and 10, the Director merely stated he was about to file Bills of Entry for those consignments, but clarified he never received any charges or payments from the importers. Statements recorded during investigation confirm that the CB only became aware of the import without BIS Certificates after the department opened the containers for examination, and that the Bills of Entry were filed by the CFS in "SELF" mode. Furthermore, because the Bills of Entry were filed in Self mode by the importer, M/s. Aman Enterprises was not a client of the CB for these disputed consignments; hence, the duty to advise a client under Regulation 10(d) does not arise. The CB has always advised clients to comply with provisions, and no specific reasoning was recorded in the report proving a violation of Regulation 10(d).

(d) Having meticulously gone through the facts and evidences on record I find that the Importer M/s. Aman Enterprise (Proprietor - Shri Khursheedalam Peer Mohammed Shaikh) attempted to import Chinese toys without requisite BIS certificates under the guise of seemingly innocuous looking goods such as Decorative Kandil, Backpack Bags, Decorative Crowns, etc. The CB contends that it had no role in filing the Bills of Entry as they were filed under self for warehousing, that it never received payment, and that it only learned of the toys after the DRI opened the containers. I observe that this defence is untenable and contrary to the record. Shri Amith Momaya, Director of the CB admitted in his statement that Shri Khursheed Shaikh had visited their office and asked for clearance of the five consignments of M/s. Aman Enterprise. Further, the importer, Shri Khursheedalam Peer Mohammed Shaikh, admitted in his statement before the investigating agency that he handed over the import documents to the CB for clearance at Mundra Port, and that M/s D.V. Shipping was their regular Customs Broker. Further, the investigation records suggest that CB has cleared multiple consignments for the importer in the past as well as provided assistance by making arrangements for the de-stuffing of the subject containers detained by DRI. It has also been brought out during the investigation that the Director of the CB, Shri Amith Momaya, had direct access to the importer’s official email ID. The CB’s claim that this access was limited only to requesting container de-stuffing does not hold water under the circumstances and evidences of the case. The possession of email credentials gave the CB complete visibility over supplier communications, invoices, and actual packing lists. I find that Import of Chinese toys without mandatory BIS certification is strictly prohibited under Import Policy Condition-2 of Chapter 95 read with Section 15 of the BIS Act, 2016. However, instead of advising the client to comply with the law or bringing the illicit import of prohibited toys to the notice of the Assistant/Deputy Commissioner of Customs, the CB acted hand-in-glove with the importer. I observe that after the containers were detained by the DRI, the CB facilitated the filing of re-export documents for the impugned goods in an attempt to suppress the fraud and evade penal consequences. The CB’s submission that they are not concerned with the clearance of the subject consignment and that they are not the CB for the impugned goods is frivolous and misleading under the factual matrix of the case. As evidenced from the findings of the investigation and the statements on record, the CB’s conduct stands in absolute contravention of the obligation of the CB as envisaged under Regulation 10(d). In view of the aforesaid findings, I am inclined to concur with the IO’s findings and observe that he has rightly held the charge as proved. Accordingly, I uphold the charge of violation of Regulation 10(d) of the CBLR, 2018.

**19.2 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, 'Shri Khursheedalam Peer Mohammad Shaikh admitted that he had given ID and password of the official email id of the firm to his Customs Broker i.e. Shri Amith Momaya of M/s. D.V. Shipping. Further, Shri Peer Mohammad Shaikh, admitted that M/s. D.V. Shipping was their Custom broker at AP&SEZ Mundra who provided CB and clearance services at Mundra Port for goods imported by M/s. Aman Enterprise, Mumbai. The importer filed warehousing Bill(s) of Entry through the CB, for re-export of the goods only after knowing that the consignment had been detained by the DRI. Thus, it appeared that the CB failed to act diligently in the matter and got purposely involved in import of toys by misdeclaring the same in the Bill of ladings, and thus appeared to have violated Regulation 10(e) of the CBLR, 2018'.

(b) I find that the inquiry officer, in this regard has observed that Shri Khursheedalam Peer Mohammad Shaikh had given ID and password of the official email id of the firm to his Customs Broker i.e. Shri Amith Momaya of M/s. D.V. Shipping. Further, Shri Peer Mohammad Shaikh, admitted that M/s. D.V. Shipping was their Custom broker at AP&SEZ Mundra who provided CB and clearance services at Mundra Port for goods imported by M/s. Aman Enterprise, Mumbai. The IO submitted that the Importer had filed warehousing Bill of Entry through the CB, for re-export of the goods only after knowing that the consignment had been detained by the DRI. The IO observed that the failure of the CB to comply with Regulation 10(e) of the CBLR, 2018, is established by their gross negligence in verifying the correctness of information related to the cargo clearance. The investigation revealed that the CB's Director, Shri Amith Momaya, held the ID and password for the importer's official email account, providing the firm with direct access to primary communications and actual packing lists. The IO stated that despite this intimate level of access, the CB failed to identify that the consignment contained restricted Chinese toys worth Rs. 7.99 Crores instead of the declared "Decorative Kandil," thereby imparting false information to the Department. The IO submitted that this lack of due diligence is further evidenced by the fact that the CB only attempted to file a warehousing Bill of Entry for re-export as a reactive measure after the DRI had already detained the goods. The IO submitted that the importer's admissions regarding this shared access and the deliberate mis-declaration are relevant and admissible, proving that the CB abandoned their duty to verify the cargo's legality and instead facilitated the processing of fraudulent data. In light of the above, the IO submitted that the CB M/s D.V. Shipping Pvt Ltd. (CB No. 11/946) failed to act diligently in the matter and got purposely involved in import of toys by misdeclaring the same in the Bill of ladings, and thus appeared to have violated Regulation 10(e) of the CBLR, 2018. Hence, the IO submitted that the charge against the CB is proved.

(c) I have gone through the CB's submission and find the CB has contended that they played no role in preparing, handling, or filing either the initial Bills of Entry or the re-export Shipping Bills. Their sole interaction involved sending an email requesting permission for container de-stuffing to mitigate penal detention charges, which was done at the explicit request of the importer using login credentials provided by the importer. The CB further added that limited administrative assistance does not demonstrate any complicity, involvement in illegal activities, or failure to exercise due diligence regarding information imparted for clearance. This act does not show complicity or involvement in illegal activities. The only other role was providing staff at the time of DRI examination under Panchanama at the request of the importer, which is standard service to assist Customs officers and does not constitute a violation of the CBLR or the Customs Act, 1962. Regarding allegations of undervaluation based on a Chartered Engineer report, settled law dictates that a Customs Broker cannot be held responsible for undervaluation when they had no prior knowledge or involvement. The CB has been made a scapegoat for the acts of the importer, who was regularly importing non-BIS compliant toys under other entities as well. Consequently, the CB submitted that the charge is completely unfounded and that the Inquiry Report contains no specific findings or logical reasoning showing how Regulation 10(e) was breached.

(d) I have perused the facts and records of the case, the findings of the inquiry officer and the defence arguments of the CB. I find the CB argued that it cannot be held liable for mis-declaration or undervaluation because it did not formally file the Bills of Entry in the EDI system and that valuation is solely the importer's responsibility. This argument is legally flawed. The obligation under Regulation 10(e) is not limited strictly to the electronic transmission of a Bill of Entry but also extends to exercising due diligence in ascertaining the correctness of all information handled and imparted in relation to cargo clearance. I observe that the CB had cleared 16 earlier consignments for this very importer and thus was fully aware of the nature of the trade. Despite having access to the client's records and communications through the client's email, the CB handled cargo wherein restricted, high-tariff toys worth approx. Rs. 08 crores were falsely described on Bills of Lading as goods like decorative kandil, air pumps, bagpack bags, etc. A Customs Broker cannot function as a passive intermediary, shutting its eyes to glaring discrepancies between cargo nature, classification, licensing requirements, and duty liabilities. Had it not been for the timely intervention of the DRI, the misdeclared restricted goods would have been cleared and entered the domestic market. I find that the CB failed to exercise necessary due diligence in the conduct of business with their client, imparted misleading representations to the Department regarding the true nature and status of the goods, thus standing in complete violation of Regulation 10(e). Accordingly, I am of the considered view that the CB has violated Regulation 10(e) of the CBLR, 2018 and thus uphold the charge.

**19.3 Violation of Regulation 13(12) of the CBLR, 2018:**

(a) I find that the charge of violation of Regulation 13(12) of the CBLR, 2018 has been levelled against the CB on the grounds that, 'the investigation revealed that the Director of the CB firm, Shri Amith Momaya, was one of the masterminds along with the importer M/s Aman Enterprises, in the scheme of misdeclaration and undervaluation to avoid compliances and duty payment. It appeared that the CB failed to exercise such supervision as necessary to ensure proper conduct in transaction business as mandated under Regulation 13(12) of the CBLR, 2018'.

(b) I find that the inquiry officer in this regard, has observed that the Director of the CB firm, Shri Amith Momaya, was one of the masterminds along with the importer M/s Aman Enterprise, in the scheme of misdeclaration and undervaluation to avoid compliances and duty payment. The IO also observed that the failure of the CB to comply with Regulation 13(12) of the CBLR, 2018, is evidenced by the total absence of oversight that allowed the systematic mis-declaration of restricted goods. The IO submitted that despite being strictly responsible for the acts of its personnel, the firm processed documentation for five containers of Chinese toys worth Rs. 7.99 Crores as innocuous "Decorative Kandil" without any internal verification. The IO submitted that this failure to flag high-risk cargo requiring mandatory BIS certification indicates a complete breakdown in supervision. Furthermore, the IO stated that the CB leadership's direct management of the importer's email and the filing of reactive "re-export" documents only after the DRI intervened, proves that the firm's resources facilitated a fraudulent scheme rather than preventing it. The IO submitted that the blatant discrepancy between the declared and actual cargo confirms that the CB failed to exercise the necessary supervision to ensure proper conduct, violating their statutory accountability. In view of the above, the IO submitted that the CB failed to exercise such supervision as necessary to ensure proper conduct in transaction of business as mandated under Regulation 13(12) of the CBLR, 2018. Hence, the IO submitted that the charge against CB is proved.

(c) I have gone through the CB's submission and find that the CB contends the charge stating that the allegation rests entirely on an unproven assumption that their Director, Mr. Amith Momaya, possessed prior knowledge of the misdeclaration. Neither the statements of the importer nor those of Mr. Momaya indicate any awareness of the contents of the detained containers prior to their examination by investigating officers. Because the CB and its employees did not file the import or export documentation in this case, there was no underlying act, omission, or failure of supervision regarding customs business transactions. Therefore, the charge is misplaced and erroneous, relying on presumptions rather than facts, and should be dropped accordingly.

(d) I have gone through the facts and evidences on record in detail. I observe that under Regulation 13(12), the Customs Broker is strictly accountable for ensuring proper conduct and supervision in the transaction of customs business. In the present case, as evidenced from the details of the investigation, the delinquency/ lapse did not merely occur at a subordinate employee level; it was led directly by the Director of the CB firm, Shri Amith Momaya. The Adjudicating Authority in Order-in-Original No. MCH/ADC/AKM/166/2024-25 dated 23.10.2024 (Offence Report) specifically held Shri Amith Momaya to be a co-mastermind in the smuggling scheme and imposed personal penalties of Rs. 75,00,000/- under Section 112(a) and Rs. 35,00,000/- under Section 114AA of the Customs Act, 1962. The Adjudicating Authority further observed that, *"it is clear that Shri Amith Momaya, Director of M/s. D.V. Shipping Pvt. Ltd., Mumbai in connivance with Shri Khursheedalam Peer Mohammad Shaikh attempted to smuggle restricted goods by mis-declaring and mis-classifying the same, with intent to escape from the stringent import conditions and from the payment of appropriate Customs Duties"*. The direct connivance of the firm's top management - operating the client's email, deploying staff to facilitate cargo examination and coordinating fraudulent re-export filings demonstrates a total, wilful subversion of regulatory supervision. When the leadership of a CB firm engages in organized customs fraud, the breakdown of institutional supervision contemplated under Regulation 13(12) is absolute. I do not find an iota of truth in the CB's submission and find it contradictory with their actions recorded in the investigation. In view of the foregoing findings, I am inclined to uphold the charge of violation of Regulation 13(12) of the CBLR, 2018.

19.4 I find the CB contended that the request for cross-examination of the witness was made at the very first opportunity vide their (CB) reply and therefore the IO grossly erred in mechanically discarding the request by treating it as delay tactic. The CB submitted that before issuance of the inquiry proceedings, no communication whatsoever, denying or allowing the CB's request for cross-examination was issued to them. In view of the above facts and circumstances, the CB submitted that the subject report had been issued in a mechanical and prejudicial manner and in complete violation of the legal procedures, thereby vitiating the purpose of the inquiry proceedings altogether.

I have gone through the IO's report and find that the IO observed that, 'while the principles of natural justice are paramount, the right to cross-examination is not absolute and must be viewed in the context of the objective evidence available on record. In this inquiry, the charges under Regulation 10(d), 10(e) and 13(12) of the CBLR, 2018 do not rest solely on the oral testimony of the importer, but are corroborated by undisputed documentary facts and physical evidence, including the seizure of Rs. 7.99 Crores worth of mis-declared goods and the admitted fact that the CB's Director held direct access to the importer's email credentials. The IO submitted that under Section 138B of the Customs Act, 1962, statements recorded before Gazetted Officers are relevant and admissible when they are supported by strong circumstantial and physical corroboration. The IO submitted that the CB's own conduct, specifically, the reactive filing of re-export documents only after the DRI's intervention, provides a clear factual basis for the failure to report non-compliance, the demand for cross-examination appeared to be a procedural tactic to delay the proceedings. Therefore, the IO submitted that since the material facts were established through independent records and the CB's intimate involvement in the importer's digital communications, the denial of cross-examination does not constitute a violation of natural justice, as the truth of the charges is sufficiently proven by the existing evidentiary trail'. I find substance in the IO's findings and observations which speak in clear words that the CB's insistence on cross-examination of witnesses was nothing but dilatory tactics adopted by the CB to hinder the action initiated under CBLR, 2018 and thus rightfully rejected by the IO.

20. As discussed above, I conclude that the CB M/s. D.V. Shipping Pvt. Ltd. (CB License No. 11/946) is guilty of violating Regulations 10(d), 10(e) and 13(12) of the CBLR, 2018. In view of the foregoing detailed discussions and findings, it is irrefutably

established that the Customs Broker, M/s. D.V. Shipping Pvt. Ltd., has not merely committed a procedural lapse but has displayed a profound and systemic disregard for the statutory responsibilities mandated under the CBLR, 2018 by acting in connivance with the importer M/s. Aman Enterprise. The investigation proved beyond doubt, the deliberate involvement of M/s D.V. Shipping Pvt. Ltd. and its Director in attempting to clear approx. Rs. 08 crores worth of restricted, uncertified Chinese toys through gross mis-declaration and circumventing mandatory BIS safety standards. The Customs Broker's conduct marked by holding direct access to the importer's email credentials, attempting to re-export the impugned goods once the DRI began investigation into the imports exhibits gross and wilful misconduct. I also find that the CB is a habitual offender. The record reveals that the CB license was previously suspended for failing to discharge obligations under Regulations 10(d), 10(e), 10(g), 10(j), and 13(12) of CBLR, 2018, wherein penalties were imposed on the CB. Proceedings under Regulation 17 of CBLR, 2018 have also been initiated against the CB in a separate offence. Such grave and repeated misconduct completely dismantles the trust reposed in a licensed intermediary rendering the Customs Broker entirely unfit to transact any further business within the Customs stations. Hence, under the factual matrix of the case and applying the principle of proportionate punishment I am inclined to revoke the CB license, forfeit the security deposit and impose a penalty on the CB M/s. D.V. Shipping Pvt. Ltd. (CB License No. 11/946) under the CBLR, 2018.

21. 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 omissions and commissions, the Customs Broker M/s. D.V. Shipping Pvt. Ltd. (CB License No. 11/946) has violated Regulations 10(d), 10(e) and 13(12) of the CBLR, 2018. I find that for the violation of obligations provided under the CBLR, 2018 and for their acts of omissions and commissions, the Customs Broker M/s. D.V. Shipping Pvt. Ltd. have rendered themselves liable for penal action under the CBLR, 2018. Hence, while deciding the matter, I rely on the following caselaws:

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

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

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

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

(c) **In case of M/s Cappithan Agencies Versus Commissioner Of Customs, Chennai-Viii, (2015(10) LCX 0061)**, the Hon'ble Madras High Court had opined that :-

"(i) *The very purpose of granting a licence to a person to act as a Customs House Agent is for transacting any business relating to the entry or departure of conveyance or the import or export of goods in any customs station. For that purpose, under Regulation 9 necessary examination is conducted to test the capability of the person* *in the matter of preparation of various documents determination of value procedures for assessment and payment of duty, the extent to which he is conversant with the provisions of certain enactments, etc. Therefore, the grant of licence 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 licence to act as 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 at 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 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.*

*(ii) In view of the above discussions and reasons and the finding that the petitioner has not fulfilled their obligations under above said provisions of the Act, Rules and Regulations, the impugned order, confirming the order for continuation of prohibition of the licence of the petitioner is sustainable in law, which warrants no interference by this Court. Accordingly, this writ petition is dismissed."*

**(d) In the case of Pundole Shahrukh & Co. V/s. Commissioner (General), Mumbai [2012 TIOL 925 CESTAT-MUM]** the Hon'ble Tribunal observed that the maximum punishment prescribed in the CHALR is attracted in cases of major involvement in aiding and abetting fraudulent exports leading to substantial loss of revenue to the exchequer.

22. In view of the above-discussed facts and for their acts of omissions and commissions, the Customs Broker M/s. D.V. Shipping Pvt. Ltd. (CB License No. 11/946)

is held liable and guilty for violating the provisions of the CBLR, 2018. I hold that the CB has failed to discharge the duties cast upon them with respect to Regulations 10(d), 10(e) and 13(12) of the CBLR, 2018. Accordingly, I pass the following order:

## ORDER

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

(i) I hereby order for revocation of the CB license held by M/s. D.V. Shipping Pvt. Ltd. (CB License No. 11/946) under Regulation 14 of the CBLR, 2018.

(ii) I hereby order for forfeiture of the entire amount of the security deposit furnished by the CB M/s. D.V. Shipping Pvt. Ltd. (CB License No. 11/946) under Regulation 14 of the CBLR, 2018.

(iii) I hereby impose a penalty of Rs. 50,000/- (Rupees Fifty Thousand Only) on the CB M/s. D.V. Shipping Pvt. Ltd. (CB License No. 11/946) under Regulation 18(1) of the CBLR, 2018.

(iv) I hereby order that the CB immediately surrender the original License as well as all the F, G & H cards issued thereunder.

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.

21.4.26

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

To,

**M/s. D.V. Shipping Pvt. Ltd.**
**(CB License No. 11/946)**
425, Nav Vyapar Bhavan, 49, P.D, Mello Road,
Masjid Bunder (E), Mumbai 400009.

**Copy to:**

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