



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

संचिका सं./F. No.- GEN/CB/440/2024-CBS

आदेश दिनांक/Date of Order: 28.09.2026

CAO No.45/2026-27/CAC/PCC(G)/AKP/Adj-CBS जारी दिनांक/Date of issue: 29.09.2026

संख्या:

DIN:- 20260977NO0000B7B7A

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।
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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, यथोत्तखंडपीठ 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 विरुद्ध कई कारण बताओ नोटिस लगाकर आदेश पारित किया जाता है तो प्रत्येक प्रकरण में अलग अपील दायर की जाए।

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

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

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

6. (i) यदि प्रतिवादित आदेश, जिसके विरुद्ध अपील की गई है, में शुल्क एवं मांगे गए ब्याजवलागाएगए जुर्माने की राशि रु-1000 .पाँच लाख या इस से कम होतो रु ., (ii)यदि यह राशि 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.

Brief Facts of the Case:

M/s. Babaji Khimji & Co. (PAN - AAAPB6900G), having registered address at Ashok Chamber, 2nd Floor, Room No.27, Devji Rattansi Marg, Carnac Bunder, Mumbai-400009 (hereinafter referred to as the Customs Broker/CB) are holding a regular Customs Broker License No. 11/180 issued by the Commissioner of Customs, Mumbai under Regulation 10(1) of the Customs House Agents Licensing Regulations (CHALR), 1984 (now regulation 7(2) of CBLR, 2018) and as such they are bound by the regulations and conditions stipulated therein.

2. An offence report in the form of Show Cause Notice No. 28/ADC/ADJ(X)/2023-24 ACC dated 01.08.2024 issued by Additional Commissioner of Customs (Export), ACC, Mumbai -III was received in the Customs Broker Section wherein inter-alia the following were informed:

2.1 On the basis of specific information received by the Directorate of Revenue Intelligence (DRI), Mumbai Zonal Unit (MZU), it was observed that one Shri Rajesh Baheti, Chairman of M/s. Lorgan Lifestyle Limited, Pune formerly known as M/s Sri Sidhivinayak Marketing, Pune (IEC No. 3107012696) was engaged in bogus export through Mundra port by preparing manual shipping bills, on which real exports were not effected. The said information also indicated his involvement in certain other fraudulent activities in relation to export of goods which included bringing of illegal remittances from abroad. Further, it was revealed that another exporter M/s Ashapura Garments Ltd along with M/s Lorgan Lifestyle Limited was involved in fake/ fraudulent exports and accordingly, DRI, MZU, Mumbai conducted the searches at office and residential premises of the persons involved and investigation was initiated. Investigation revealed that M/s Lorgan Life Style Ltd. was procuring fake purchase bills against the export consignments from one Mr. Suhel Ansari, through fake firms floated by him.

2.2 Searches conducted under Section 105 of the Customs Act, 1962 by the officers of DRI, MZU:

(i) The office premises of M/s. Lorgan Lifestyles Pvt. Ltd. situated at 6, Raghukul Apartments, Sr. No. 968/969, S.B. Road, Shivaji Nagar, Pune-411016 was searched on 23.07.2015 and during the course of search proceeding, documents and two computers were recovered and taken over under the Panchanama dated 23.07.2015.

(ii) The office premise of M/s. Karan Ranka & Associates, Chartered Accountant firm of Shri Suhel Parvez Mohammed Sharif Ansari (Suhel Ansari, in short), who was engaged in opening the apparent bogus supplier firms for the export goods, situated at Unit No. 310, 3 Floor, Simlim Square, Lamington Road, Grant Road (East), Mumbai - 400007 was searched on 29.07.2015. During the course of the search, letterheads of Rising Impex, Mind

Space Complex, B wing, 1 Floor Office No. 14, Off. Link Road, Malad (West), Mumbai - 400064 and blank letter heads of Sun Metals, 124/11, Mohammed Estates, C.S.T Road, Santacruz (West), Mumbai - 400098, were recovered. Samples of the letter heads of both the said companies were taken over under panchanama dated 29.07.2015.

(iii) The office premises from where Shri Suhel Ansari was operating, situated at Room No. 30, 4th Floor, Chunnwala Building, 38-Kolsa Street, Pydhonie, Mumbai - 400003 was searched on 14.08.2015. During the course of search of the said premises, certain records/documents, three laptops and one hard disk as mentioned in Annexure-A to the Panchanama were recovered and various rubber stamps were also recovered and impressions of the same were taken on a page attached to the Panchanama dated 14.08.2015.

2.3 During the course of investigation, statement of Shri Suhel Parvez Ansari and Shri Shaikh Mohammed Arshad, employee of Shri Suhel Parvez Ansari were recorded on 24.08.2015 by DRI, MZU wherein, they inter-alia stated that they supplied fake invoices to various export firms.

2.4 Statement of Shri Karan Ashoklal Ranka, Chartered Accountant was recorded under Section 108 of the Customs Act, 1962 by DRI on 29.07.2015 wherein, he revealed the names of companies formed by Shri Suhel Parvez Ansari and inter-alia stated that:

- a) From March 2013, he used to be given export documents of readymade garments, imitation jewellery, leather goods of various exporters that he named.
- b) On the basis of the commercial invoice and packing list of exports of various exporters showing export of various export goods, supplier invoices were prepared.
- c) On being asked as to how these suppliers were termed as 'bogus' by him, he stated that they existed only on paper.
- d) There was no physical movement of goods from those suppliers to the exporters although payments had been shown to be made by the exporter to the supplier through Real Time Gross Settlement (RTGS) in banks.
- e) Reconciliation of the payments received from the exporters and disbursing it amongst the supplier through banks was made by him.

2.5 Export consignments of some of these exporters were made through M/s. Sanket Overseas, who was the logistics provider and cleared the consignments through the CB M/s. Indo Foreign Agents. Statement dated 01.07.2016 of Shri Suryabhan Eknath Dhurphate, proprietor of M/s. Sanket Overseas, Navi Mumbai was recorded under Section 108 of the Customs Act, 1962 by the DRI, vide which he inter alia stated that since April 2011, he was into the business of arranging of export material by way of purchases from open market and arranged to export the same to the overseas buyers. He gave the actual

cost price and maximum purchase cost of the export goods which were purchased by him for the supply of the same to the overseas buyers. He further stated that usually the cost and expenses incurred on the export material was only around 35% of the drawback amount; that in other words the benefits availed by them and the exporter was to the extent of 65%.

2.6 DRI vide its letter F.No. DRI/MZU/D/INT-31/2015/7766 dated 04.10.2016 mentioned that undue drawback was being claimed by the exporters by overvaluing the exports, whereas cheaper material was exported, and to justify the value of the goods, fake invoices from Shri Suhel Ansari, were procured showing the higher purchase price. DRI further gave a list of exporters and stated that those exporters may have also adopted a similar modus operandi and requested that the same may be investigated by Special Intelligence and Investigation Branch (Export), Air Cargo Complex. The present case of exporter M/s. Paras Industries (IEC No - 0888003668) is one of the cases.

2.7 During the investigation, the details of exports made by the exporter M/s. Paras Industries (IEC No - 0888003668) were retrieved from the ICES System. During the period from 01.01.2012 to 31.12.2016, the exporter filed a total of 187 shipping bills with FOB value of Rs. 2274.34 lakh and availed total drawback of Rs. 187 lakhs. Further, it was verified from the ICES system and found that the said exporter had not made any exports since the year 2017.

2.8 Special Intelligence and Investigation Branch (Export) of Air Cargo Complex, Sahar, Mumbai issued various summons from October 2017 to October 2018 to Shri Pragnesh Suresh Jariwala, the Director of M/s. Paras Industries. However, he did not turn up to record his statement before the investigation. In response to the summons dated 16.10.2018, he appeared before the investigation and his statement under Section 108 of the Customs Act, 1962 was recorded wherein, he inter-alia stated that:

- a) For cotton based grey fabric, they purchased fabrics from south based companies and for polyester based grey fabrics, they purchased fabrics from Surat based companies, for ready to cut fabrics sourcing was done from Mumbai and Ahmedabad.
- b) Shri Suhel Ansari was known to him and had come to his office 2-3 times. Shri Suhel Ansari was introduced to him by Mr. Uday Desai, Garment exporter, who was known to him for 15 years.
- c) Shri Suhel Ansari offered him that he could supply knitted and woven garments to him which he needed for some of his export enquiries from Africa.
- d) Shri Suhel Ansari offered him competitive rates and good credit terms.
- e) On being asked if he had ever purchased fabrics/readymade garments from the companies like M/s. Ruby Trading Co., M/s. Alaska Trading Co., M/s. Suman

Impex, M/s. Sumangal Enterprises, M/s. B.A. Trading, M/s Mahavir Enterprises, M/s. Combo Trading Pvt. Ltd., M/s. Caddilac Tradelink Pvt. Ltd., M/s. Imperious Mercantile Pvt. Ltd., M/s. Rahul Trading Co., M/s. Khushi Corporation, M/s. Apex Enterprises, M/s. Abas Trading Co., M/s, Naman Enterprises, M/s Pavani Impex Pvt. Ltd., M/s. Snehal Enterprises, M/s. Bloomberg Multi- ventures Pvt. Ltd. etc., he stated that they had purchased genuine goods from some of these companies.

- f) These goods were purchased under H-form, wherein they as it is exported the quantities purchased by them.
- g) They had made payment of the said purchases through RTGS from their bank account.

2.9 After the statement stated above, summonses were again issued by SIIB(X), ACC during the period from June 2019 to July 2021. But no reply was received. Meanwhile, an officer of SIIB(X) went to serve the Summons No. VKA/251/2020-21 dated 05.03.2021 on 10.03.2021 at the address of M/s. Paras Industries. However, it was found locked.

2.10 During the investigation, statements of 11 Customs Brokers including CB M/s. Babaji Khimji & Co., was recorded on 06.05.2022 wherein they inter alia stated that:

- a) They carried out the first-time export procedure, but the related documents were not available as the case was more than 5 years old.
- b) They had tried to trace the records pertaining to M/s Paras Industries.
- c) They filed shipping bills for M/s Paras Industries for the period 2011 to 2015.
- d) They verified the correctness of the classification declared by the exporter.
- e) They used to take Invoice and Packing List and verify them for valuation, classification, etc.
- f) The cargo came directly to the Air Cargo Complex. They did not find any discrepancy in valuation of goods covered under Shipping Bills of M/s. Paras Industries.

3. Drawback amount of Rs. 1,81,32,450/- had already been disbursed to the exporter against Rs. 187.00/- lakhs. It clearly showed that the transaction value was incorrect, inflated, and the value of goods mis-declared by the exporter M/s. Paras Industries, hence the goods appeared to be liable for confiscation. Also, Drawback Amount of - Rs 1,81,32,450/- appeared to be recoverable as per Rules 16/16A of the Customs, Central Excise Duties and Service Tax Drawback Rule, 1995.

3.1 From the investigations, scrutiny of various documents retrieved and statements recorded by DRI, MZU, Mumbai, it appeared that Shri Suhel Ansari was in the business of raising fictitious bills which involved just printing of bills in the names of the firms/companies which did not exist and no purchase and sale of the goods were affected as per details mentioned in the said bills. He got bills printed in the names of various fake firms; that no purchase of any kind of goods be it in the form of garments /imitation jewellery had been made by him and the proprietors /directors of these firms/companies

were all his friends and no sale as shown on the bills had been made to any exporters shown on the bills. The same was admitted by the Shri Suhel Ansari in his statements recorded by DRI, MZU, Mumbai. This clearly showed that Shri Suhel Ansari had supplied fake bills in the name of a number of companies to the exporters including M/s. Paras Industries without supplying any goods. It appeared that for the exports effected by M/s. Paras Industries, invoices of goods were not procured from actual supplier as it was not competitive, therefore they procured fake invoices from Shri Suhel Parvez Ansari and made payment through RTGS, cheque to Shri Suhel Ansari who deducted his commission and returned balance amount to the exporter.

3.2 Further, from the perusal of the statements dated 29.07.2015 and 30.07.2015 of Shri Karan Ranka, Chartered Accountant recorded under Section 108 of the Customs Act, 1962 before DRI, MZU that it appeared that the supplier's invoices were being prepared on the blank invoices on the basis of Commercial Invoice and packing list of various export goods; that the entries in supplier invoices were matched with the particulars of export documents; that the suppliers were bogus and existed only on papers; that no lorry receipt and transportation document was put in the supplier invoices as there was no transportation of good; that all those things were being done by him under the instruction of Shri Suhel Ansari. Thus, from the above it appeared that Shri Suhel Ansari has supplied fake bills in the name of a number of companies to the exporters including M/s. Paras Industries without the actual supply of goods.

3.3 During the investigation, DRI enquired with the Consulate General of India, Dubai, UAE who vide letter dated 08.03.2018 reported that from the scrutiny of the documents provided by Federal Customs Authority, Dubai it emerged that the goods were cleared and unit values had been much lower than what had been declared to Indian Customs. As per DRI, the instant exporter had also adopted the similar modus-operandi. It appeared that M/s Paras Industries had overvalued the export goods and availed excess drawback amount fraudulently. It appeared that the exporter made exports vide 187 shipping bills and fraudulently availed total amount of drawback of Rs. 187 lakhs.

3.4 The records of the investigation revealed that Customs Broker M/s. Babaji Khimji & Co. failed to produce Authorisation letter of exporter, KYC documents, and other requisite documents related to packing and storage of the export consignments. It was found from the investigation that M/s Babaji Khimji & Co. was one of the Customs Brokers who had facilitated clearance of goods covered under 23 Shipping Bill out of the said total 187 Shipping Bills of the exporter M/s. Paras Industries. It was found from the investigation that the CB failed to produce Authorisation letter of exporter, KYC documents, and other requisite documents related to packing and storage of the export consignments. The Purchase Bills were also fictitious in the subject case. On conclusion of

the investigation, the CB M/s Babaji Khimji & Co. was made noticee in the SCN along with others wherein, penalties under section 114(i)/114(iii) and also under 114AA of the Customs Act, 1962 were proposed.

4. In view of the above facts and findings of the investigation, it appeared that the Customs Broker M/s. Babaji Khimji & Co. had failed to comply with the following regulations of the Customs Brokers Licensing Regulations, 2013 (now Customs Brokers Licensing Regulations, 2018):-

4.1 Regulation 11(a) of CBLR, 2013 (now Regulation 10(a) of CBLR, 2018):

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

On analysis of the offence report it appeared that the CB failed to produce authorisation letter of exporter and KYC documents in respect of the exporter. At any stage of the investigation the onus lies on the Customs Brokers to prove that they have obtained a proper authorisation from their client in terms of the Regulation 11(a) of the CBLR, 2013. Further, it was the responsibility of the CB to produce such authorisation during the investigation. In the instant case, the CB appeared to have failed to produce any such evidence suggesting they had obtained authorisation from the exporter. Further, they failed to provide the requisite documents to the investigating agency. Hence, it appeared that the CB failed to perform due obligation under Regulation 11(a) of CBLR, 2013 (now Regulation 10(a) of CBLR, 2018).

4.2 Regulation 11(d) of CBLR, 2013 (now Regulation 10(d) of CBLR, 2018):

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

On analysis of the offence report it appeared that the exporter M/s. Paras Industries was required to submit BRCs/ negative statements in prescribed format as per the requirement of the Circular No. 5/2009-Customs dated 02.02.2009 issued vide F.No. 609/167/2007-DBK. From the offence report it appeared that the exporter had not complied with the requirement of the said circular. It was the responsibility of the CB M/s Babaji Khimji & Co. to advise his client to submit these statements to the proper officer in respect of the drawback shipping bills. It also appeared that exporter M/s. Paras Industries was a merchant exporter who procured the goods from Domestic Tariff Area (DTA). In terms of the requirement of the Circular No. 16/2009-Customs dated 25.5.2009 issued vide F.No. 609/137/2007-DBK, the merchant exporters who purchase goods from traders are required to furnish a declaration in the prescribed format, at the time of export of such goods. It was

the responsibility of the CB to advise his client about the requirements of such declaration. In the instant case, the CB appeared to have failed to advise his client to comply with the above-mentioned rules and regulation framed under the provisions of Custom Act, 1962. Moreover, the CB also failed to bring the matter of these non-compliances to the Deputy/Assistant Commissioner of Customs. Hence, it appeared that the CB failed to perform due obligation under Regulation 11(d) of CBLR, 2013 (now Regulation 10(d) of CBLR, 2018).

4.3 **Regulation 11(e) of CBLR, 2013 (now regulation 10(e) of CBLR, 2018):**

"A Customs Broker shall exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage."

On analysis of the offence report, it appeared that the CB merely relied on the information provided by the exporter in filing the documents. During the investigation in the instant case, it was well established that the exporter had overvalued the goods using fake invoices supplied by Shri Suhel Ansari so as to claim undue export incentives. The case could only be detected after investigation by the DRI, MZU. It further appeared that the CB failed to exercise due diligence and to sensitize the exporter to make proper declaration in terms of Circular No. 5/2009-Customs dated 02.02.2009 and Circular No. 16/2009-Customs dated 25.5.2009 in respect of the exported goods. Thus, it appeared that the CB failed to exercise due diligence in respect of the exports by M/s Paras Industries. Hence, it appeared that the CB failed to perform due obligation under Regulation 11(e) of CBLR, 2013 (now Regulation 10(e) of CBLR, 2018).

4.4 **Regulation 11(n) of CBLR, 2013 (now Regulation 10(n) of CBLR, 2018):**

"A Customs Broker shall verify antecedent, correctness of Importer Exporter Code (IEC) number, identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information,":

From the offence report, it was clear that various summons during October 2017 to October 2018 were issued to Shri Pragnesh Suresh Jariwala, the director of M/s. Paras Industries for his appearance before the investigation. However, no response in respect of these summons were received from the exporter. The Offence Report further informed that during the investigation, an officer of SIIB(X) went to serve the Summons No.VKA/251/2020-21 dated 05.03.2021 on 10.03.2021 at the address of M/s. Paras Industries. The said premise was found locked. It also appeared that during the investigation, the CB failed to provide any documents in support for KYC of the exporter. Thus, it appeared that the CB failed to comply with the obligation under Regulation 11(n) of CBLR, 2013 (now Regulation 10(n) of CBLR, 2018).

5. In view of the above, a Show Cause Notice (SCN) No. 41/2024-25 dated 17.09.2024 was issued to the CB M/s. Babaji Khimji & Co. (CB License No. 11/180) under the provisions of Regulation 20(1) of CBLR, 2013 (now Regulation 17(1) of CBLR, 2018) wherein, the CB was called upon to show cause, as to why:

- a. The Customs Broker License bearing no. 11/180 issued to them should not be revoked under Regulation 18 read with Regulation 20 of the CBLR, 2013 (now Regulation 14 read with Regulation 17 of the CBLR, 2018);
- b. Security deposited should not be forfeited under Regulation 18 read with Regulation 20 of the CBLR, 2013 (now Regulation 14 read with Regulation 17 of the CBLR, 2018);
- c. Penalty should not be imposed upon them under Regulation 22 read with regulation 20 of the CBLR, 2013 (now Regulation 18 read with Regulation 17 of the CBLR, 2018).

5.1 Shri Bandaru Suresh Babu, Assistant Commissioner of Customs was appointed as Inquiry Officer (hereinafter referred to as the 'IO') to conduct the inquiry proceedings against the CB M/s. Babaji Khimji & Co. (CB License No. 11/180) under Regulation 20 of the CBLR, 2013 (now Regulation 17 of the CBLR, 2018). The Inquiry Report was not received within the stipulated timeframe and hence, reminders were issued to the IO to complete the proceedings. The IO later submitted a letter dated 04.12.2025 informing that he was transferred out of Mumbai Zone to the Office of DG(Audit), Hyderabad vide CBIC Office Order No. 68/2025 dated 04.04.2025. The IO further requested to be excused from conducting the inquiry citing excessive workload, engagement in other departmental proceedings and his inability to proceed with the matter from his new place of posting at Hyderabad. To ensure that the statutory obligations and administrative oversight under the CBLR, 2018 were not compromised by these unavoidable delays and administrative constraints, the competent authority substituted the Inquiry Officer and appointed Shri Alok Kumar, Assistant Commissioner of Customs to complete the inquiry proceedings.

INQUIRY REPORT: -

6. The Inquiry officer concluded the inquiry proceedings and submitted the Inquiry Report dated 04.05.2026 wherein all the charges levelled against the CB i.e. violation of Regulations 11(a), 11(d), 11(e) & 11(n) of the CBLR, 2013 (now Regulations 10(a), 10(d), 10(e) & 10(n) of the CBLR, 2018) were held as proved.

FINDINGS OF THE INQUIRY OFFICER: -

The IO submitted as below –

7. Now I proceed to discuss CB's submissions and examine its merits as against charges framed in the Show Cause Notice issued to CB and give my findings thereon. I find that, the CB vide his submissions has stated that, out of the total 187 export consignments reported in the SCN, only 23 consignments were cleared by the CB firm, for M/s. Paras Industries. The exporter had produced fake and bogus invoices. Goods of inferior quality were also procured from the local market without any invoices. During the investigation, it was revealed that there was no physical movement of the goods against the fake invoices raised by Shri Suhel Ansari. The goods were overvalued and only done for the purpose of claiming drawback.

7.1 I also find that M/s Paras Industries was a merchant exporter who procured the goods from Domestic Tariff Area (DTA). In terms of the requirement of the Circular No. 16/2009-Customs dated 25.05.2009 issued vide F. No. 609/137/2007-DBK, the merchant exporters who purchase goods from traders were required to furnish a declaration in the prescribed format, at the time of export of such goods. It was the responsibility of the CB to advise his client about the requirements of such declaration.

7.2 I find that during the investigation, various summons during October 2017 to October 2018 were issued to the Shri Pragnesh Suresh Jariwala, the director of M/s. Paras Industries for his appearance before the investigating agency. However, no response to these summons was received from the exporter. Thereafter, an officer of SIIB (X) visited the premises of M/s Paras Industries to serve the Summons No. VKA/251/2020-21 dated 05.03.2021 on 10.03.2021. The said premise was found locked.

8. **Regulation 11(a) of CBLR, 2013 (now Regulation 10(a) of CBLR, 2018):**

8.1 I find that the exporter M/s Paras Industries produced fake and bogus invoices from Shri Suhel Ansari. The goods were also procured from the local market, were of inferior quality and of low value without any invoices. The goods were grossly overvalued and this was done solely for the purpose of making fraudulent claim of drawback.

8.2 I also find that the CB failed to produce the authorization letter of exporter, KYC documents, and other requisite documents related to the packing and storage of the export consignment. The CB appears to be concealing facts and was acting on behalf of the exporter. Hence, he was fully aware that the acts of omission and commission by the exporter would affect the professional standing of CB. Accordingly, the case law mentioned by the CB in his submission is not maintainable.

8.3 I find that the submissions of the customs broker are contradictory in nature. In their submission dated 16.10.2024, they have submitted that para 5 of the same as under:

"It is pertinent to note that no investigation was carried out with respect to the noticee nor any statement of the CB was recorded as the RUD does not rely on any statement

RUD in SCN No.28/ADC/ADJ(X)/2023-24 ACC dt. 01.08.2024 issued to M/s. Paras Industries, the exporter. Therefore, one fail to understand as to how the inquiry officers has in the reported stated that the statement of the CB was recorded. Therefore, the IO has conducted the inquiry purely on the bases of assumption and presumption and without any documentary evidence."

Further, at para 9 (clause a) of the same submission they have submitted as under:

"Further, the CB had given the copy of authorization at the time of recording of the statement. We are once again annexed the copy of authorization to the reply"

It is also pertinent to mention that at the time of personal hearing held in my office on 12.03.2026, CB did not produce any authorisation as required in the regulations.

8.4 In view of above, and contradictory submissions of the Customs broker submitted vide their letter dated 16.10.2024, it is concluded that CB failed to discharge his obligation under Regulation 11(a) of CBLR, 2013 (now Regulation 10(a) of CBLR, 2018).

9. Regulation 11(d) of CBLR, 2013 (now Regulation 10(d) of CBLR, 2018):

9.1 I find that exporter M/s. Paras Industries was required to submit BRCs/negative statements in prescribed format as per the requirement of the Circular No. 05/2009-Customs dated 02.02.2009 issued vide F. No. 609/167/2007-DBK. However, the exporter has not complied with the requirements of the said circular. It was the responsibility of the CB, M/s. Babaji Khimji & Co., to advise its client to submit these statements to the proper officer in respect of the drawback shipping bills. The CB has failed to advise its client to submit these statements. I also find that exporter M/s. Paras Industries was a merchant exporter who procured the goods from Domestic Tariff Area (DTA). In terms of the requirement of the Circular No. 16/2009-Customs dated 25.05.2009 issued vide F.No. 609/137/2007-DBK, the merchant exporters who purchase goods from traders were required to furnish a declaration in the prescribed format, at the time of export of such goods. The CB has failed to advise its client regarding the requirements of such a declaration. He also failed to bring these non-compliances to the notice of Deputy/Assistant Commissioner of Customs.

9.2 There is nothing on record which shows that the CB advised his client to comply with the provisions of the Act, other allied acts and rules and regulations thereof. At para 9 (clause b), CB has submitted as under in his defence:

"The CB say and submit that 23 Shipping Bills were filed as per the documents given by the exporter. The said documents whether genuine or fake cannot be decided by the CB. Further, the document given by the exporter is deemed to be correct and genuine as the same has been accepted by the officers of the department. The CB's are not experts to identify whether the documents are genuine or not. It is after a prolonged investigation the department has come the conclusion the invoices of the exporter was non genuine."

9.3 Above submission of CB is a mere far-fetched argument as the regulation 11(d) casts majorly two responsibilities upon CB firstly, advising his client to comply with the provisions and secondly, bringing the matter to the notice of the Deputy/Assistant Commissioner of Customs. I find that CB has failed to discharge both the responsibilities. Regulations 11(d) is nowhere expecting CB to be expert to identify whether the documents are genuine or not. CB cannot escape the responsibilities prescribed in the said regulation. Hence, the CB failed to discharge his obligation under Regulation 11(d) of CBLR, 2013 (now Regulation 10(d) of CBLR, 2018).

10. Regulation 11(e) of CBLR, 2013 (now regulation 10(e) of CBLR, 2018):

10.1 I find that the CB merely relied on the information provided by the exporter while filing the documents. During the investigation in the instant case, it was established that the exporter had overvalued the goods using fake invoices supplied by Shri Suhel Ansari in order to claim undue export incentives. The case was detected through the investigation carried out by DRI, MZU. I also find that that the CB failed to exercise due diligence and to sensitize the exporter to make proper declaration in terms of Circular No. 05/2009-Customs dated 02.02.2009 and Circular No. 16/2009-Customs dated 25.05.2009 in respect of the exported goods. Accordingly, CB failed to exercise due diligence with respect of the cargo undertaken for clearance on behalf of the exporter M/s Paras Industries.

10.2 CB has submitted at para 9 (clause e) as under:

"In this context we say and submit that documents were given by the exporter and after due verification compliance of KYC the Shipping Bill was filed. Further, the Shipping Bill was duly assessed by the assessing officer and thereafter LEO was granted. Therefore, the charge under Regulation 10(e) does not survive and merits to be withdrawn."

It appears that CB has misunderstood the subject regulation, as he has confined his responsibility only to KYC verification. CB cannot escape responsibility of exercising 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 by saying that officers granted LEO to the impugned shipments. During the inquiry, CB has not produced even a single evidence/document which shows that he actually exercised due diligence as is prescribed in the subject regulation. Hence, the CB failed to perform due obligations under Regulation 11(e) of CBLR, 2013 (now Regulation 10(e) of CBLR, 2018).

11. Regulation 11(n) of CBLR, 2013 (now Regulation 10(n) of CBLR, 2018):

11.1 I find that various summons were issued to Shri Pragnesh Suresh Jariwala, the director of M/s. Paras Industries for his appearance during the period from October 2017 to October 2018. Shri Pragnesh Suresh Jariwala (Director of M/s. Paras Industries) did not appear again after recording of his statement in response to the summons dated 16.10.2018.

I find that during the investigation, an officer of SIIB(X) visited the address of M/s. Paras Industries on 10.03.2021 to serve the Summons No. VKA/251/2020-21 dated 05.03.2021 but the said premises were found locked. I also find that during the investigation the CB failed to provide any documents in support of the KYC of the exporter. Hence, the CB failed to comply with the obligation under Regulation 11(n) of CBLR, 2013 (now Regulation 10(n) of CBLR, 2018).

12. On perusal of the offence report, it is revealed that the exporter did not declare the name and complete address of the traders from whom the goods were purchased in order to claim drawback. From this, I find that the CB failed to advise the exporter to comply with Rule 3, Rule 16, and Rule 16A of the Drawback Rules, 1995. It was the responsibility of the CB to ensure that the exporter declared the same correctly. Further, I find that there is no evidence on record to prove that the CB had advised the exporter regarding Circular No. 16/2009-Customs dated 25.05.2009, issued under F. No. 609/137/2007-DBK.

12.1 Regulation 10(n) of the CBLR, 2018 mandates that a Customs Broker shall *"verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information"*. Many a times IEC/GSTIN/PAN holders operate at a rented place and they may frequently change the address of their office or place of operation. In these situations, physical verification of the address can be a very reliable/independent and authentic tool to gather information about the functioning of an exporter at the declared address. I find that physical verification of the address is an effective tool to fulfil the requirement of verification of functioning of the client at the declared address as mandated under the regulation 10(n) of the CBLR, 2018.

12.2 I find that the regulation 10(n) of the CBLR, 2018 should be given a comprehensive interpretation by giving special attention on the word '**and**' which is employed between the words '**client and functioning**'. Here, the subject regulation not only simply prescribes that the Customs Broker has to collect documents viz, IEC/GSTIN/PAN for verification of his client, rather, it casts a bigger responsibility upon the customs broker for verification of '**functioning of his client at the declared address**'. Further, the subject regulation goes beyond that and prescribes that in doing so i.e. verification of functioning of his client at the declare address, customs broker should use reliable, independent, authentic documents, data or information. I find that comprehensive reading of the regulation 10(n) of the CBLR, 2018 gives an impression that by this regulation, the regulators have prescribed that customs broker should use other reliable, independent, authentic document, data or information for verification and not just simply collect IEC/GSTIN/PAN documents from his client as a means of verification.

12.3 Summary of the Findings:

The IO concluded his findings as under:

Sr. No.	Violation of Regulation	Conclusion
1.	Regulation 11(a) of CBLR, 2013 (now Regulation 10(a) of CBLR, 2018)	Proved
2.	Regulation 11(d) of CBLR, 2013 (now Regulation 10(d) of CBLR, 2018)	Proved
3.	Regulation 11(e) of CBLR, 2013 (now Regulation 10(e) of CBLR, 2018)	Proved
4.	Regulation 11(n) of CBLR, 2013 (now Regulation 10(n) of CBLR, 2018)	Proved

RECORDS OF PERSONAL HEARING: -

13. 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 13.08.2026 in virtual mode. Shri N.D. George, Advocate appeared for the PH on behalf of the CB. He reiterated their written submission dated 12.08.2026 and the same was taken on record.

WRITTEN SUBMISSION OF THE CB: -

The CB submitted as below -

14. We say and submit that the exporter filed 187 Shipping Bills and the drawback has been disbursed to the exporter. The exports proceeds towards the said export are to be realized by the exporter. The CB has filed only 23 Shipping Bills out of 187 Shipping Bills on the basis of documents given by the exporter. Further, the said Shipping Bills were processed, goods were examined and LEO granted. That being so the value declared has been accepted by the department. Further, the goods have been exported to African countries.

14.1 The Shipping Bills have not been given to the CB annexed to the SCN issued on 17.09.2024 by the Pr. Commissioner of Customs, (G) New Customs House, Ballard Estate, Mumbai, nor has any document been relied upon in the SCN. That being so the inquiry has been conducted purely on the basis of assumptions and presumptions. Firstly, the SCN is barred by limitation as the Shipping Bills pertains to the year 2011 to 2015 and the SCN has been issued on 17.09.2024 which is after a period of 16 years. Therefore, the said SCN is not maintainable and liable to be withdrawn. In this Context we rely judgment of the Hon'ble High Court in the case of the Principal Commissioner of Customs (General) versus Mehul & Co reported in 2022 (5) TMI 30 - Bombay High Court.

14.2 The Inquiry Officer has conducted the inquiry purely on the basis of assumption and presumption and without any documentary evidence. Further, the noticee sought cross

examination of the exporter and other persons whose statements are relied upon in the said SCN. In this context we rely on the judgment in the case of Shasta Freight Services Pvt Ltd versus Pr. Commr. of Cus., Hyderabad reported in 2019 (368) E.L.T. 41 (Telangana). The said judgment was upheld by the Hon'ble Supreme Court reported in 2022 (381) E.L.T. 436 (S.C.) That being so the SCN is not maintainable, bad in law and liable to be withdrawn. The investigations by DRI with the Consulate General of India, Dubai, UAE cannot be relied upon as the department has not furnished a copy of the letter received from the Indian Consulate, Dubai. Further, the exports pertain to readymade garments exported to Europe.

14.3 The statements of various persons were recorded under Section 108 of the Customs Act, 1962., and the same is exculpatory in nature. It is pertinent to note that no investigation was carried out with respect to the noticee nor any statement of the CB was recorded as the RUD does not rely on any documents in SCN. Further, no statement of the CB was recorded on 06.05.2022 as stated in the inquiry report. Further, the CB vide their reply dt. 16.10.2024 has also annexed a copy of the authorization given by the exporter. Therefore, the IO has conducted the inquiry purely on the basis of assumption and presumption and without any documentary evidence. [hereto annexed and marked Annexure-I is a copy of the authorization submitted to the inquiry officer].

14.4 In so far as the charge of violation of regulations 10(a) (d) (e) and (n) of CBLR, 2018 is concerned the CB makes the following submissions.

(i) **Regulation 10(a)** - The CB say and submit that 23 Shipping Bills were filed as per the documents given by the exporter. The said documents were filed on the basis of the authorization received from the exporter amongst other documents. No query was raised by the assessing officers regarding any documents including authorization which was presented at the time of filing of the Shipping Bills. The CB has once again annexed the copy of the authorization along with this reply. Further, the document given by the exporter is deemed to be correct and genuine as the same has been accepted by the officers of the department.

(ii) **Regulation 10(d)** - The CB say and submit that 23 Shipping Bills were filed as per the documents given by the exporter. Further, the document given by the exporter is deemed to be correct and genuine as the same has been accepted by the officers of the department. The CB's are not experts to identify whether the documents are genuine or not. It is after a prolonged investigation the department has come to the conclusion the invoices of the exporter were non genuine or inflated. In the inquiry report one failed to understand as to how the inquiry officer arrived at the finding that the goods were overvalued even when there is no goods or any evidence. The goods were examined by the assessing officer and thereafter LEO granted. Therefore, the allegations are illegal and baseless. Therefore, the

charge under regulation 10(d) of CBLR, 2018 does not sustain and merits to be withdrawn. We also rely in the case of Jaiswal Import Cargo Services Ltd versus Commissioner of Customs., New Delhi reported in 2019 (370) E.L.T.1366 (Tri. - Del.).

(iii) **Regulation 10(e)** - In this context we say and submit that documents were given by the exporter and after due verification compliance of KYC the Shipping Bill was filed. Further, the Shipping Bill was duly assessed by the assessing officer and thereafter LEO was granted. Therefore, the charge under Regulation 10(e) does not survive and merits to be withdrawn. However, the inquiry authority has observed that the CB has not verified the authenticity of the documents even when the assessing officer has examined the goods and thereafter granted the LEO. Therefore, to arrive at such finding has no basis and therefore the charge under 10(e) deserves to be set aside. We also rely on judgment in the case of Naman Gupta reported in W.P (C)15808/2022 dt. 30.01.2024 and Baraskar Brothers versus Commissioner of Customs (General), Mumbai reported in 2013 (294) E.L.T. 415 (Tri. Mumbai) in support of the said contention.

(iv) **Regulation 10(n)** - In so far as article of charge 10(n) is concerned the CB has done due diligence before the filing of the Shipping Bill. The CB has verified the IEC and complied with the KYC norm before filing of Shipping Bills. Further, they have complied with the KYC as prescribed under CBLR, 2018 before filing of the Shipping Bills and 23 Shipping Bills were filed and allowed by the assessing officers. Therefore, the charge against the CB deserves to be set aside. In this context we rely on the judgment in the case of Poonia & Brothers versus Commissioner of Customs (Preventive), Jaipur reported in 2019 (370) E.L.T. 1074 (Tri. - Del.)

14.5 Further, the inquiry officer is silent on the case laws cited with respect to limitation and cross examination and on merits. There is total non-application of mind by the inquiry officer. The CB craves leave to be heard in person before the case is finally adjudicated and would like to once again pray for cross examine the following persons Shri Suhel Parvez Ansari, Shri Surya, Shri Suryabhan Eknath Dhurphate, Shri Karan Ashoklal Ranka Shri. Gunjal Gabaji Madhu and the Customs officers who assessed the Shipping Bills in this regard. We crave leave to file further reply after the cross examination and receipt of the relied upon documents. In the circumstances, the SCN is unsustainable in law and the CB is liable to be discharged and the SCN dropped and Your Honour is requested to do so.

DISCUSSIONS AND FINDINGS: -

15. I have gone through the facts and records of the case; the offence report received in the form of SCN No. 28/ADC/ADJ(X)/2023-24 ACC dated 01.08.2024 issued by Additional Commissioner of Customs (Export), ACC, Mumbai - III; Order-in-Original No. ADC/SS/174/2024-25/Adj(X)/ACC dated 30.03.2025 issued under the Customs Act, 1962

by the Additional Commissioner of Customs (Export), ACC, Mumbai – III; Show Cause Notice No. 41/2024-25 dated 17.09.2024 issued under Regulation 20(1) of CBLR, 2013 (now Regulation 17(1) of CBLR, 2018); Inquiry Report dated 04.05.2026; PH records dated 13.08.2026 and the CB's written submission dated 12.08.2026.

15.1 I observe that the case originated from an investigation initiated by the Directorate of Revenue Intelligence (DRI), Mumbai Zonal Unit, into a syndicate involved in fraudulent exports, gross overvaluation of inferior goods with the aim of fraudulently claiming duty drawback. Investigation revealed that one individual Shri Suhel Ansari issued fictitious purchase bills through various fake firms to exporting entities, including the exporter in the instant case, M/s Paras Industries (IEC No. - 0888003668), managed by Shri Pragnesh Suresh Jariwala. The offence report stated that M/s. Paras Industries exported consignments under 187 Shipping Bills between 2011 and 2016 through the Air Cargo Complex (ACC), Mumbai, with a declared FOB value of Rs. 2274.34 lakhs, fraudulently availing duty drawback amounting to Rs. 1.81 crores out of the claimed Rs. 1.87 crores. This scheme was executed by procuring fake purchase invoices from paper entities floated by Shri Suhel Parvez Ansari and his Chartered Accountant, Shri Karan Ranka, to artificially inflate procurement costs and cover up cheap, local DTA purchases that had suffered no actual duty incidence which was also corroborated by the overseas inquiry through the Consulate General of India, Dubai, showing significantly lower import clearance values at Dubai. The SCN issued under the Customs Act proposed penalties under Sections 114 and 114AA of the Customs Act, 1962 against the exporter, syndicate members, and the Customs Brokers including the CB M/s. Babaji Khimji & Co. (CB License No. 11/180). Accordingly, SCN No. 41/2024-25 dated 17.09.2024 was issued to the CB M/s. Babaji Khimji & Co. under Regulation 20 of CBLR, 2013 (now Regulation 17 of CBLR, 2018) for violations of Regulations 11(a), 11(d), 11(e), and 11(n) of CBLR, 2013 [now Regulations 10(a), 10(d), 10(e), and 10(n) of CBLR, 2018].

16. Now, I proceed to discuss the articles of charges, sequentially.

16.1 Violation of Regulation 11(a) of the CBLR, 2013 (now Regulation 10(a) of the CBLR, 2018):

- a) I observe that Regulation 11(a) of CBLR, 2013 [now Regulation 10(a) of CBLR, 2018] mandates that a Customs Broker shall obtain an authorization from each of the companies, firms, or individuals by whom he is for the time being employed as a Customs Broker and produce such authorization whenever required by the Deputy Commissioner of Customs or Assistant Commissioner of Customs. I observe that the obligation to obtain the authorization arises prior to undertaking any cargo clearance, and the legal onus remains squarely upon the Customs Broker to produce this document upon requisition by the investigating agency or the proper officer.

From perusal of the Offence Report I find that during the investigation conducted by SIIB (Export), ACC, Mumbai, the CB M/s. Babaji Khimji & Co. failed to produce any authorization letter, KYC documents, or related packing and storage records for the exporter M/s. Paras Industries. When the statement of the Customs Broker was recorded on 06.05.2022 under Section 108 of the Customs Act, 1962, the representative of the CB admitted that although they had handled the export clearances for M/s. Paras Industries between 2011 and 2015, the related documents and client records could not be traced or made available as the case was more than five years old. Having admitted to the investigating officers that records were non-traceable and unavailable, the CB failed to discharge its primary obligation under the regulation.

- b) I find that in their written submission, the CB has taken an evasive and contradictory stand. On one hand, they asserted that no investigation was carried out with respect to them and that no statement of the CB was ever recorded on 06.05.2022. On the other hand, in the very same reply, the CB stated that *“the statements of various persons were recorded under Section 108 of the Customs Act, 1962., and the same is exculpatory in nature”*. Furthermore, the Inquiry Officer has recorded in his report that during the personal hearing held in his office on 12.03.2026, the CB failed to produce any valid authorization as required under the regulations. The CB’s defense that no query was raised by the assessing officers at the time of filing the 23 Shipping Bills, and that the documents were deemed accepted upon the grant of LEO, is legally untenable. The clearance of shipping bills in the EDI system without query does not constitute an official finding that the CB held a valid statutory authorization. The findings were revealed post detailed investigation into the exports of M/s. Paras Industries by SIIB(X) after intimation received from DRI, MZU regarding their findings uncovered during the investigation into M/s. Lorgan Lifestyle Limited. The export docks officers are not expected to investigate each and every shipping bill suspecting them to be bogus exports and hence, the CB cannot take refuge under the argument that the shipments were cleared in the first place. I observe that the CB’s submission does not hold merit and is hereby rejected. I find that the CB failed to produce a valid authorization during the investigation, made conflicting statements on record, and failed to produce the authorization before the Inquiry Officer at the inquiry stage. Under the facts and circumstances of the case, I am of the firm opinion that the CB has violated Regulation 11(a) of the CBLR, 2013 (now Regulation 10(a) of the CBLR, 2018).

16.2 Violation of Regulation 11(d) of the CBLR, 2013 (now Regulation 10(d) of the CBLR, 2018):

- a) I observe that Regulation 11(d) of the CBLR, 2013 (now Regulation 10(d) of the CBLR, 2018) places a twin statutory duty upon the Customs Broker: first, to advise the client regarding mandatory legal requirements; and second, to report any non-compliance to the department in a prompt manner. I have gone through the facts and records of the case in detail. I observe that the investigation and the Offence Report reveal that M/s. Paras Industries operated as a merchant exporter that procured readymade garments from the local domestic market (DTA). I observe that as per Circular No. 16/2009-Customs dated 25.05.2009, merchant exporters purchasing goods from traders were entitled to the full rate of duty drawback only upon furnishing a mandatory declaration in the prescribed format at the time of export. This circular required the exporter to declare the name and complete address of the traders from whom goods were purchased, and to certify that no excise rebate had been availed. Furthermore, under Board's Circular No. 05/2009-Customs dated 02.02.2009 read with Rule 16A of the Drawback Rules, 1995, the exporter was legally obligated to submit Bank Realisation Certificates (BRCs) within the stipulated timeline to prove actual realization of export proceeds. The exporter blatantly violated the aforementioned circulars by procuring fake invoices from Shri Suhel Ansari and failing to submit the mandatory purchase declarations and BRC proofs.
- b) I observe that the CB completely failed to discharge its advisory duty under Regulation 11(d). There is not a single piece of correspondence, written advice, or communication on record indicating that the CB ever advised M/s. Paras Industries to comply with Circular No. 16/2009-Customs or Circular No. 05/2009-Customs. When the exporter failed to furnish the requisite supplier details and failed to provide proof of foreign remittance realization, the CB failed to alert the Assistant/Deputy Commissioner of Customs. By facilitating the clearance of 23 Shipping Bills without ensuring adherence to the basic statutory frameworks, the CB actively enabled the exporter to bypass mandatory declarations.
- c) I find that the CB contended that they had merely filed the documents handed over by the exporter, that it is not an expert to verify whether invoices are genuine or fake, and that the department arrived at the conclusion of fraud only after prolonged investigation. The CB further argued that since the assessing officers examined the goods and granted LEO, the allegations of non-compliance cannot survive. I further observe that the CB placed reliance on the decision of the Hon'ble CESTAT in *Jaiswal Import Cargo Services Ltd. v. Commissioner of Customs, New Delhi [2019 (370) E.L.T. 1366 (Tri. - Del.)]* arguing that a broker is not an expert to judge whether documents submitted by an exporter are genuine or fabricated, and that

allegations of overvaluation cannot be sustained when goods were assessed and granted LEO by the department. I find the submissions completely devoid of merit. Regulation 11(d) does not require a Customs Broker to possess investigative expertise; it simply mandates that the broker must advise the client to comply with specific statutory provisions, circulars, and declarations governing export benefits, and report any failure to customs authorities. The requirement to file declarations under Circular No. 16/2009-Customs for merchant exports and proof of remittance realization under Circular No. 05/2009-Customs are basic, transparent export clearance procedures. The CB being a licensed intermediary simply cannot claim ignorance of these instructions as this would defeat the very purpose of the license granted under CBLR. I also find the CB's reliance on *Jaiswal Import Cargo Services Ltd. v. Commissioner of Customs, New Delhi* completely misplaced. In the caselaw cited by the CB, the dispute pertained to technical aspects of valuation and classification whereas the present case pertains to exports made under fake invoices supplied by a third party, Shri Suhel Ansari. In view of the foregoing findings, I observe that the IO has rightly held the charge as proved. Accordingly, I hold the CB guilty of violating Regulation 11(d) of the CBLR, 2013 (now Regulation 10(d) of the CBLR, 2018).

16.3 Violation of Regulation 11(e) of the CBLR, 2013 (now Regulation 10(e) of the CBLR, 2018):

- a) On a thorough perusal of the facts and records of the case, I find that the investigation in the present case revealed a massive, coordinated fraud wherein Shri Suhel Ansari, his employee and Chartered Accountant Shri Karan Ranka operated a network of multiple non-existent paper firms that printed and sold fake purchase invoices without supplying any actual goods. As admitted by Shri Suhel Ansari and Shri Karan Ranka in their statements recorded under Section 108 of the Customs Act, 1962, these bogus purchase invoices were printed with arbitrary values to match the commercial invoices of exporters, without any accompanying lorry receipts, weight slips, or physical transportation records. M/s. Paras Industries utilized these fictitious invoices to grossly overvalue cheap, inferior goods procured from the local market, inflating FOB values of more than Rs. 22 crores to siphon off public revenue through duty drawback. The logistics provider, Shri Suryabhan Dhurphate of M/s Sanket Overseas, explicitly admitted that the actual procurement cost of such export goods was only about 35% of the drawback amount, with the remaining 65% retained as illicit profit.
- b) I find that the CB handled 23 Shipping Bills for M/s. Paras Industries under this fraudulent scheme. While the CB claimed in their statement dated 06.05.2022 that

they verified the invoices and packing lists for valuation and classification, the facts on record show that the CB did not exercise necessary due diligence. The CB accepted commercial documents at face value without seeking basic supporting documents such as transport lorry receipts, manufacturer invoices, or local purchase proofs which would have immediately revealed that the goods were not sourced from the entities named on the fake invoices. The CB facilitated declarations claiming full duty drawback without exercising the slightest diligence to ascertain the correctness of the documents handled by them. I find the CB contended that they had relied on documents given by the exporter, that the Shipping Bills were assessed and LEO granted by the assessing officers, and that they had verified KYC documents. These arguments are entirely devoid of merit. Grant of LEO by the proper officer based on declarations submitted by the CB does not legalize an underlying fraud, nor does it establish that the CB exercised due diligence.

- c) I find the CB's reliance upon the judgment of the Hon'ble Delhi High Court in *Naman Gupta [W.P. (C) 15808/2022 dated 30.01.2024]* and the decision of the Hon'ble CESTAT, Mumbai in *Baraskar Brothers vs. Commissioner of Customs (General), Mumbai [2013 (294) E.L.T. 415 (Tri. - Mumbai)]* inapplicable to the instant case. In the aforementioned cases, the clearing agent had discharged its initial verification duties without any element of systemic document fabrication or obvious procedural evasion. However, in the instant proceedings, the exporter utilized a fraudulent syndicate operated by Shri Suhel Ansari and CA Karan Ranka to raise fake invoices in the name of non-existent paper firms solely to inflate values and claim undue duty drawback. Regulation 11(e) requires active scrutiny and verification of information. Acting as a mere conduit, facilitating exports on the basis of fictitious invoices is an abdication of the professional standards expected of a licensed CB. During the inquiry, the CB failed to produce a single document or register to demonstrate that it made any inquiry or exercised any diligence while processing shipping bills for the fraudulent exports. Therefore, the findings of the IO holding the charge under Regulation 11(e) of CBLR, 2013 proved is fully justified and sustained. Consequently, I uphold the charge of violation of Regulation 11(e) of the CBLR, 2013 (now Regulation 10(e) of the CBLR, 2018).

16.4 Violation of Regulation 11(n) of the CBLR, 2013 (now Regulation 10(n) of the CBLR, 2018):

- a) I have meticulously gone through the facts and evidences on record as well as the CB's contentions. I find that the investigation conducted by SIIB(Export), ACC revealed that the exporter M/s. Paras Industries was a fraudulent, non-existent entity at the declared address. When summonses were repeatedly issued between October

2017 and September 2018 to Shri Pragnesh Suresh Jariwala, the Director of M/s Paras Industries, he failed to appear. Although he appeared once before the investigating agency and gave an evasive statement, he subsequently absconded and ignored all further summonses issued between June 2019 and July 2021. The investigation records also mention that that when an officer of SIIB (Export), ACC, Mumbai, personally visited the registered address of M/s Paras Industries on 10.03.2021 to serve a summons, the declared business premises were found locked and completely non-operational. I find from the records that during the investigation, the Customs Broker completely failed to produce any authentic KYC documents, physical verification reports, or independent data showing how it verified the functioning of M/s Paras Industries at the declared address. In their statement before the investigating agency, the CB admitted that they had tried to trace the records pertaining to M/s. Paras Industries which directly implies that they had no KYC documents available on record. In their written defense, the CB merely raised bald, unsubstantiated assertions that it had verified the IEC and complied with KYC norms as prescribed under the CBLR. However, the CB failed to place on record any documentary evidence to support their claim.

- b) I observe that the CB contended that they had verified the IEC and complied with the KYC norms before filing the shipping bills and hence, the charge against them deserves to be set aside. This line of reasoning completely ignores the plain language and essence of Regulation 11(n). Regulation 11(n) of the CBLR, 2013 should be given a comprehensive interpretation by giving special attention to the word ‘and’ which is employed between the words ‘client and functioning’. The regulation not only simply prescribes that the CB has to collect documents viz, IEC/PAN/etc. for verification of his client, rather, it casts a bigger responsibility upon the CB for verification of ‘functioning of his client at the declared address’ using reliable, independent, and authentic means. The fact that the premises were found locked and the exporter remained unresponsive/untraceable highlights that the CB dealt with a client whose actual business existence was never verified. Had the CB performed independent checks, the fraudulent exports causing significant loss of Government revenue would have been prevented. In view of the foregoing findings, I am inclined to concur with the IO’s findings and uphold the charge of violation of Regulation 11(n) of the CBLR, 2013 (now Regulation 10(n) of the CBLR, 2018).

17. I observe that the CB requested cross-examination of Shri Suhel Ansari, Shri Karan Ranka, Shri Suryabhan Dhurphate, Shri Gunjal Madhu and the assessing customs officers before the matter is adjudicated. I find the CB’s request wholly devoid of merit and merely

an attempt to prolong the proceedings. The present proceedings are independent disciplinary inquiries governed by the CBLR, intended to examine whether the Customs Broker fulfilled its statutory obligations and exercised due professional diligence. I find that the charges against the CB in the instant case do not rest on the personal culpability of third parties or assessing officers, but on the CB's own acts of omission and commission in failing to obtain authorizations, verify client credentials, and follow statutory circulars. Further, the materials and evidences brought on record during the initial investigation by DRI, MZU and then by SIIB(Export), ACC have established beyond doubt that there was a nexus of unscrupulous elements involved in affecting bogus exports facilitated by the complete lack of diligence by Customs Brokers involved in clearance. When the essential facts constituting the regulatory infractions under CBLR are established during the investigation and corroborated by documentary records, the oral cross-examination serves no practical purpose and is entirely redundant. Consequently, the CB's plea for cross-examination under Regulation 17(4) seems mere dilatory tactics and merits rejection. In this regard, I place reliance on the following caselaws: -

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

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

- (ii) In the case of Suman Silk Mills Pvt. Ltd. Vs. Commissioner of Customs & C.Ex., Baroda [2002 (142) E.L.T. 640 (Tri. -Mumbai)], Hon'ble Tribunal observed at Para 17 that-

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

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

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

18. I further find that the CB has raised grievance regarding non-supply of Relied Upon Documents (RUDs) of the case. I find that the present CBLR proceedings emanate from the Offence Report received in the form of Show Cause Notice No. 28/ADC/ADJ(X)/2023-24 ACC dated 01.08.2024 issued by Additional Commissioner of Customs (Export), ACC, Mumbai -III. I find that the CB was an active Noticee in the said SCN issued alongwith all the RUDs. The said SCN was further adjudicated vide Order-in-Original No. ADC/SS/174/2024-25/Adj(X)/ACC dated 30.03.2025 issued under the Customs Act, 1962 by the Additional Commissioner of Customs (Export), ACC, Mumbai – III. Para 36.5.1 of

the said O-in-O states – “...On the request of the Noticee, copy of the Relied Upon Documents were supplied again to them and further Sh. N.D. George, Advocate, High Court Bombay appeared for the personal hearing on 24.02.2025 on behalf of the above said Noticee...” This implies that the CB was provided with the RUDs by the adjudicating authority and then attended the personal hearing. In view of the foregoing facts on record, the CB’s claim of non-supply of RUDs and repeatedly seeking the same at this juncture seems nothing but an obstructive approach with an aim to derail the proceedings.

19. 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 CB M/s. Babaji Khimji & Co. (CB License No. 11/180) has violated Regulations 11(a), 11(d), 11(e) and 11(n) of the CBLR, 2013 (now Regulations 10(a), 10(d), 10(e) and 10(n) of the CBLR, 2018). I find that for the violation of obligations provided under the CBLR, 2013 (now CBLR, 2018) and for their acts of omissions and commissions, the CB M/s. Babaji Khimji & Co. have rendered themselves liable for penal action under the CBLR, 2013 (now 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."

20. As discussed above, I conclude that the CB M/s. Babaji Khimji & Co. (CB License No. 11/180) is guilty of violating Regulations 11(a), 11(d), 11(e) and 11(n) of the CBLR, 2013 (now Regulations 10(a), 10(d), 10(e) and 10(n) of the CBLR, 2018). In view of the detailed discussion and analysis above, it is established that the CB M/s. Babaji Khimji & Co. has failed to discharge the professional and statutory obligations mandated under the CBLR, 2013 (now CBLR, 2018). I also observe that the Offence Report i.e. SCN No. 28/ADC/ADJ(X)/2023-24 ACC dated 01.08.2024 was adjudicated vide Order-in-Original No. ADC/SS/174/2024-25/Adj(X)/ACC dated 30.03.2025 and a significant cumulative penalty of Rs. 21,00,000/- (Rupees Twenty One Lakhs only) was imposed on the CB under sections 114(i), 114(iii) and 114AA of the Customs Act, 1962. While the omissions of the Customs Broker in failing to verify procurement credentials and ignoring valuation aspects cannot be condoned, the record must be evaluated in its entirety to ensure that the punishment is proportionate to the degree of culpability. Crucially, the investigation records of DRI and the Offence Report do not contain any documentary or oral evidence demonstrating active collusion, criminal intent, or financial connivance between the CB and the exporter, M/s. Paras Industries, or the supplier of fake invoices, Shri Suhel Ansari or his accomplices. The penalty of revoking a license is an extreme punishment reserved for cases involving active participation in fraud, or severe revenue loss caused by direct collusion. Accordingly, I am inclined to allow the benefit of doubt to the CB and hence, find the extreme action of revocation of the Customs Broker's License unwarranted. Hence, under the factual matrix of the case and applying the principle of proportionate punishment I am not inclined to revoke the License of the CB as the punishment of revocation of license is much harsher and disproportionate to the offence committed. However, I am of the considered view that the ends of justice will be met by forfeiture of security deposit and imposing a penalty on the CB which suffices both as a punishment for the infraction and as a deterrent to future violations. In this regard, I place reliance on the following caselaws:

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

"13. By order dated 15-7-2000, licence was revoked. It is not clear how there could be revocation when the licence itself was not functional after 13-1-2000. Licence can be suspended or revoked on any of the grounds as mentioned in [Regulation 21](#). It is, therefore, clear that if any of the grounds enumerated existed, two courses are open to the Commissioner. One is to suspend the licence and the other is to revoke it. Suspension would obviously mean that licence would be for a particular period inoperative. An order of revocation would mean that licence is totally inoperative

in future, it loses its currency irretrievably. Obviously, suspension/revocation, as the case may be, has to be directed looking to the gravity of the situation in the background of facts. For minor infraction or infraction which are not of very serious nature order of suspension may suffice. On the contrary, when revocation is directed it has to be only in cases where infraction is of a very serious nature warranting exemplary action on the part of the authorities, otherwise two types of actions would not have been provided for. Primarily it is for the Commissioner/Tribunal to decide as to which of the actions would be appropriate but while choosing any of the two modes, the Commissioner/Tribunal has to consider all relevant aspects and has to draw a balance sheet of gravity of infraction and mitigating circumstances. The difference in approach for consideration of cases warranting revocation or suspension or non-renewal has to be borne in mind while dealing with individual cases. In a given case the authorities may be of the view that non-renewal of licence for a period of time would be sufficient. That would be in a somewhat similar position to that of suspension of licence though it may not be so in all cases. On the other hand, there may be cases where the authorities may be of the view that licensee does not deserve a renewal either. Position would be different there. Though we have not dealt with the question of proportionality, it is to be noted that the authorities while dealing with the consequences of any action which may give rise to action for suspension, revocation or nonrenewal have to keep several aspects in mind. Primarily, the effect of the action vis-a-vis right to carry on trade or profession in the background of [Article 19\(1\)\(g\)](#) of the Constitution has to be noted. It has also to be borne in mind that the proportionality question is of great significance as action is under a fiscal statute and may ultimately lead to a civil death."

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

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

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

"6. We are unable to appreciate such a peremptory conclusion. The CBLR, 2013 lays down that stepwise procedures are to be followed before ordering any punishment to the Customs broker. True, the said regulations do contain provisions for revocation of the license and for forfeiture of full amount of security deposit, however these are maximum punishments which should be awarded only when the

culpability of the Customs broker is established beyond doubt and such culpability is of very grave and extensive nature. In case of such fraudulent imports, for awarding such punishment, it has to be established without doubt that the Customs broker had colluded with the importer to enable the fraud to take place. No such culpability is forthcoming in respect of the appellant herein.....”

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

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

21. I observe the CB has argued that the SCN is barred by limitation as the Shipping Bills pertain to the year 2011 to 2015 and the SCN has been issued on 17.09.2024 which is after a period of 16 years. I find this argument completely untenable. Disciplinary proceedings under Regulation 20 of the CBLR, 2013 (now Regulation 17 of CBLR, 2018) are initiated upon receipt of an Offence Report. In the present case, the formal Offence Report in the form of SCN No. 28/ADC/ADJ(X)/2023-24 ACC was issued by the Additional Commissioner of Customs, ACC (Export) on 01.08.2024 and received in the Customs Broker Section on 07.08.2024. Show Cause Notice No. 41/2024-25 was issued on 17.09.2024, which is well within the mandatory timeline specified under the CBLR, 2013 (now CBLR, 2018). As evident from the facts of the case, the investigation involved multiple entities and overseas jurisdictions which finally culminated into the offence report which was then immediately acted upon. The CB’s reliance on judicial precedents regarding limitation is misplaced, as time runs from the date of receipt of the Offence Report by the licensing authority, not from the date of the export shipments. In view of the aforesaid findings, the plea of limitation is legally untenable and stands rejected. I also observe that the Inquiry in the matter was delayed due to administrative reasons elaborated in *para 5.1 supra*. Further, the Adjudicating Authority changed due to the transfers ordered vide CBIC Office Order No. 59/2026 dated 30.04.2026. Consequently, on fresh perusal of the facts and records of the case, the Personal Hearing was held on 13.08.2026. With respect to the timelines prescribed under the CBLR, 2013 (now CBLR, 2018), I observe that the timelines under CBLR are directory in nature and not mandatory in cases where the complexity of the investigation or administrative exigencies necessitate a thorough review to protect Revenue and National Security interest. I observe that the complexity of the investigation in a case involving multiple entities involved in procurement and supply of fake invoices through a complex network supersedes mere procedural technicalities. In this regard, I place reliance on the following caselaws:

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

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

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

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

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

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

14. A reading of the Regulation 17 would also go to show that the Inquiry Officer during the course of his inquiry is not only required to record the statement of the parties but also to give them an opportunity to cross-examine and produce oral and

documentary evidence. In the event of the respondents not co- operating, it would be difficult for the Inquiry Officer to complete the inquiry within the prescribed period of 90 days, as provided under Regulation 17(5). Therefore, we find force in the argument of the learned counsel for the appellant that the Regulation No.17 is required to be considered as directory and not mandatory. Though the word "shall" has been used in Regulation 17, an overall reading of the said provision of law makes it very clear that the said provision is procedural in nature and non-compliance of the same does not have any effect. If there is no consequence stated in the Regulation for non-adherence of time period for conducting the inquiry or passing an order there afterwards, the time line provided under the 22 statute cannot be considered as fatal to the outcome of inquiry.

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

(d) The Hon’ble CESTAT Mumbai in the matter of M/s. Muni Cargo Movers Pvt. Ltd. Vs. Commissioner of Customs (General), Mumbai [Order No. A/996/13CSTB/C-I dated 23.04.2013] held that: -

“Para 4.2:- As regards the third issue regarding non-adherence to the time-limit prescribed in CBLR, there is some merit in the argument. But nevertheless, it has to be borne in mind that time-limit prescribed in the law though required to be followed by the enforcement officers, at times could not be adhered to for administrative reasons. That by itself does not make the impugned order bad in law”.

22. Having gone through the facts of the case and evidences on record, it is noted that the role of the CB, though marked by negligence and lack of professional caution, appears to be one of omission and failure to adhere to prescribed standards rather than a thought after modus operandi to affect illegal exports. This distinction is of material importance while determining the proportionality of punishment under the licensing regulations. The objective of action under the CBLR is not punitive alone but also corrective and deterrent, aimed at ensuring that Customs Brokers adhere to the high standards of diligence and responsibility expected of them as licensed intermediaries. However, having regard to the absence of proven abetment, the nature of the violations, and the fact that revocation of the licence would have severe and disproportionate consequences on the livelihood of the CB and its employees, the extreme penalty of revocation is not warranted.

23. In view of the foregoing findings and relying upon the cited judicial precedents and the “Doctrine of Proportionality” which propagates the idea that the punishment for an

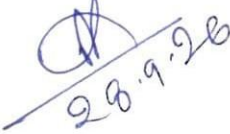
offence should be proportional to the gravity of the offence, I am not inclined to revoke the license of the CB. However, for their acts of omissions and commissions, the Customs Broker M/s. Babaji Khimji & Co. (CB License No. 11/180) is held liable and guilty for violating the provisions of the CBLR, 2013 (now CBLR, 2018), as mentioned above. Accordingly, I pass the following order:

ORDER

24. I, Principal Commissioner of Customs (General), in exercise of the power conferred upon me under Regulation 20(7) of the CBLR, 2013 [now Regulation 17(7) of the CBLR, 2018], pass the following order:

- (i) I, hereby order for forfeiture of the entire amount of the security deposit furnished by the Customs Broker M/s. Babaji Khimji & Co. (CB License No. 11/180) under Regulation 18 of the CBLR, 2013 (now Regulation 14 of the CBLR, 2018).
- (ii) I, hereby impose a penalty of Rs. 50,000/- (Rupees Fifty Thousand only) on the Customs Broker M/s. Babaji Khimji & Co. (CB License No. 11/180) under Regulation 22 of the CBLR, 2013 (now Regulation 18(1) of the CBLR, 2018).

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


28.9.28

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

To,

M/s. Babaji Khimji & Co. (CB License No. 11/180)
Ashok Chamber, 2nd Floor, Room No. 27,
Devji Rattansi Marg, Carnac Bunder,
Mumbai - 400009.

Copy to:

1. The Pr. Chief Commissioner/ Chief Commissioner of Customs, Mumbai - I, II, III.
2. The Addl. Commissioner of Customs, Export Assessment Cell, ACC, Mumbai - III.
3. The Dy. Commissioner of Customs, SIIB(X), ACC, Sahar, Mumbai - III.
4. EDI of NCH, ACC & JNCH
5. Cash Section, NCH.
6. Notice Board.
7. Office copy.