



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/450/2025-CBS

आदेश दिनांक/Date of Order: 29.09.2026

CAO No.46/2026-27/CAC/PCC(G)/AKP/Adj-CBS जारी दिनांक/Date of issue:30.09.2026

संख्या:

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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, की धारा 129 1962A(1B)(i) के संबंध में सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण में स्वीकार्य है, जहाँ शुल्क या शुल्क एवं जुर्माना विवादित हों, या जुर्माना, जहाँ सिर्फ जुर्माना ही विवादित हो। यह अपील इस आदेश के संप्रेषण की तारीख के तीन महीने के अंदर दायर की जाएगी। यह अपील सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण (कार्यविधि) नियमावली, १९८२, के प्रावधानों के अंतर्गत, यथोत्तराधिकार में स्वीकार्य है।

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

3. यह सूचित किया जाता है की इस आदेश के अमल में आते ही, न्याय निर्णयन अधिकारी का अधिकार क्षेत्र समाप्त होता है और सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण, पश्चिम क्षेत्रीय खंडपीठ, के M/s Knowledge Infrastructure Systems Pvt. Ltd. & Others vs ADG, DRI, Mumbai के संदर्भ में जारी आदेश क्रमांक A/86617-86619/2018 दिनांक के अनुसार न्यायिक आदेश तदोत्तराधिकार प्रांत न्याय निर्णयन अधिकारी 31.05.2018 '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 (अपीलस) नियमावली, १९८२ के नियम के तहत निर्धारित 6 है एवं उसी नियमावली के नियम 3 के उपनियम 2 में उल्लेखित व्यक्ति 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 ब्याजवर्गाए गए जुर्माने की राशि रु पाँच लाख . -/या इस से कम होतो रु. 1000, (ii) यदि यह राशि रु पाँच लाख से अधिक हो किंतु पचास लाख से अधिक न होतो रु. 5000/- एवं .iii) यदि यह राशि रुपचास लाख से अधिक होतो रु. 10000/- के शुल्क . 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, की अनुसूची मद 6 के तहत निर्धारित रु. 50 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. Franc Cargo Clearing Services (CHA 11/964), having registered address: C-5, SHOP NO.1, SHANTI VIHAR, NR. HARDIK PALACE HOTEL, MIRA RD -MUMBAI-401-107 (hereinafter referred to as the Customs Broker/CB), is the holder of Customs Broker License No. (11/964), issued by the Commissioner of Customs, Mumbai, under Regulation 8 of 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 regarding the offence made by the CB, issued by the Addl. Commissioner of Customs, CAC(Drawback)/NS-II, JNCH vide F. No. S-10-57/2010/ADJ(X) dated 29.07.2025 was received in the Customs Broker Section, NCH, Zone-I, Mumbai and RUDs were received on 29.10.2025.

3. Intelligence was developed by the Headquarters Investigation Unit (HQIU) of R&I Division, indicating that several exporters were engaged in fraudulent exports of sub-standard goods under the Duty Drawback Scheme by highly inflating the declared FOB value of goods with the sole intention of availing ineligible drawback amounts. It was further gathered that such exporters typically procure residential premises on rent, obtain IEC registration, arrange exports for a short period of time, claim drawback, and subsequently vacate the premises without realizing export proceeds, making revenue recovery impossible at a later stage.

4. Based on specific inputs, enquiries were initiated against M/s. Target International (IEC No. 0304059692), showing the declared address as 407, A-Wing, Building No. C/3, Kanya Pada, Film City Road, Goregaon (East), Mumbai-400063. The exporter had filed a total of 40 Shipping Bills for export of readymade garments from Jawaharlal Nehru Port, Nhava Sheva. The Customs Brokers utilized for filing Shipping Bills were identified as:

* M/s. Franc Cargo Clearing Services, CHA No. 11/964

* M/s Sunil Shipping Agency, CHA No. 11/616

* M/s. Rishad Shipping & Clearing Agency Pvt. Ltd., CHA No. 11/1149

* M/s. M.D. Shipping Agency, CHA No. 11/1016

5. Initial enquiry revealed that no exporter existed at the declared address. Accordingly, summonses were issued to the proprietor of M/s. Target International, Shri Manoj Puneet Agarwal, on multiple occasions to secure his presence and obtain his statement. Summonses dated 17.11.2005, 26.10.2006, 02.02.2008 and 01.04.2008 were issued, however, all summonses were returned undelivered by the postal authorities with the remark "Not Known", indicating that the firm and proprietor were non-traceable.

6. Investigation revealed that a total of 40 Shipping Bills were filed in the name of M/s. Target International, out of which 25 consignments were actually exported and Let Export Orders (LEO) were granted, while 15 Shipping Bills remained un-shipped. The total declared FOB value of the exported goods was ₹ 3,72,60,232/- and the total drawback claimed amounted to ₹ 26,10,660/-. No Bank Realisation Certificates (BRCs) were submitted in respect of the exported consignments, and the exporter was non-traceable, indicating that the exporter appeared to be fictitious.

7. Statement of Shri Manoj Rane/ Branch manager, HDFC Bank, Goregaon (E) was recorded by HQIU, R&I on 06.12.2005 wherein he inter-alia stated that the current account of M/s. Target International was opened with an initial deposit of ₹10,000/- on 24.10.2004 based on PAN card and Shop & Establishment documents submitted by Shri Manoj Puneet Agarwal and that no documents relating to foreign remittance or realization of export proceeds were ever submitted by the party.

8. Statement of Shri Ankur Krishankant Patel, Proprietor of M/s. Franc Cargo Clearing Services (CHA 11/964) was recorded under Section 108 of the Customs Act, 1962 on 30.11.06 wherein he interalia stated that on being shown copies of (8) Shipping Bills Nos. 3694296 dated 02.09.05, 3694307 dated 02.09.05, 3694284 dated 02.09.05, 3621852 dated 29.07.05, 3621856 dated 29.07.05, 3621855 dated 29.07.05, 3621854 dated 29.07.05 and 3621853 dated 29.07.05 of M/s Target International, he confirmed that these were handled by his employee Shri Maruti Balu Chopade and the same were signed by him; that he does not know the proprietor of M/s Target International and his office address; that nobody came to him to handle the work of M/s Target International and the job was done by Shri Maruti Balu Chopade without his knowledge; that he did not receive any money from Shri Maruti Balu Chopade or from any other person for doing this job and when he came to know that he was doing some illegal activities he cancelled his Customs C.H. A. pass C-82.

Summary:

9. This is a case involving fraudulent availment of duty drawback by an exporter firm M/s. Target International which was a fictitious entity deliberately floated by Shri Manoj Puneet Agarwal with the sole intention of fraudulently availing duty drawback benefits. The exporter systematically inflated the value of exported garments to claim higher drawback amounts and, thereafter, ensured that no export proceeds were realized from abroad. By creating a non-existent business entity and evading financial traceability, the exporter rendered recovery of drawback impossible. These acts constitute serious violations of Section 113 and Section 114 of the Customs Act, 1962, Rule 16A of the Customs and Central Excise Duties Drawback Rules, 1995, as well as provisions governing

mandatory realization of export proceeds, thereby causing intentional loss to the Government exchequer.

Shri Ankur Krishankant Patel, Proprietor of M/s. Franc Cargo Clearing Services (CHA No. 11/964) aided and abetted in implementing the scheme of fraudulent duty drawback claim by clearing export consignments of 8 Shipping Bills of M/s Target International. Statement of Shri Ankur Krishankant Patel, Proprietor of M/s Franc Cargo Clearing Services (CHA No. 11/964) recorded on 30.11.2006 confirms that he confirmed that these were handled by his employee Shri Maruti Balu Chopade and the same were signed by him; that he does not know the proprietor of M/s Target International and his office address; that nobody came to him to handle the work of M/s. Target International and the job was done by Shri Maruti Balu Chopade without his knowledge; that he did not receive any money from Shri Maruti Balu Chopade or from any other person for doing this job and when he came to know that he was doing some illegal activities he cancelled his Customs C.H. A. pass C-82. Shri Ankur Krishankant Patel, Proprietor, by his acts of omission and commission, has rendered himself liable for penal action under the provision of Section 114 of the Customs Act, 1962. In view of the foregoing, and considering the grave violations and deliberate fraudulent availment of duty drawback, it is evident that the Customs Broker had engaged in the fraudulent activity floated by the exporter M/s. Target International. These actions, carried out by CB Shri Ankur Krishankant Patel, Proprietor of M/s. Franc Cargo Clearing Services (CHA 11/964) constitute a serious offence and warrant strict legal action under the Customs Broker Licensing Regulations (CBLR), 2018 and other applicable statutory provisions. Even he failed to kept vigil on his staff to monitor about what the employee is doing on behalf of the company.

10. It is evident that the Customs Broker Shri Ankur Krishankant Patel, Proprietor of M/s. Franc Cargo Clearing Services (CHA 11/964) failed to fulfil their obligations laid down under Customs Broker Licensing Regulations (CBLR), 2018. The CB appears to have engaged in the fraudulent activity floated by the exporter.

11. From the investigation, it appears that the CB M/s. Franc Cargo Clearing Services (CHA 11/964) through his employee knew about the overvaluation in the 06 S/BS filed by the CB for the exporter. This fact should have been brought before the notice of the docks officer by the CB. Further, the address of the exporter was found to be available, however, no such company was existing at the said address and the same has been verified by the post office as the summons were returned with remarks "not known". Hence, it appears that the CB M/s. Franc Cargo Clearing Services (CHA 11/964) through his employee has actively aided & abetted the exporter in affecting fraudulent export for availing ineligible export incentives.

12. From the investigation, it appears that the CB M/s. Franc Cargo Clearing Services (CHA 11/964) knew about the overvaluation in the 06 S/Bs filed by the CB for the exporter. This fact should have been brought before the notice of the docks officer by the CB. Further, the address of the exporter was found to be available, however, no such company was existing at the said address and the same has been verified by the post office as the summons were returned with remarks "not known". Hence, it appears that the CB M/s. Franc Cargo Clearing Services (CHA 11/964) has actively aided & abetted the exporter in affecting fraudulent export for availing ineligible export incentives. Therefore, it appears that the CB has violated the provisions of regulations of the CBLR, 2018 which has made them unfit to transact any business at Mumbai Customs and also in other Customs Stations.

13. From the above facts, prima facie, it appears that the Customs Broker M/s. Franc Cargo Clearing Services (CHA 11/964), had failed to fulfil their obligations under Regulation 10 of CBLR, 2018 and contravened the same. Therefore, for their acts of omission and commission as mentioned above, the CB M/s. Franc Cargo Clearing Services (CHA 11/964) appeared to be liable and guilty.

14. Accordingly, the Customs Broker M/s. Franc Cargo Clearing Services (CHA 11/964) license was suspended vide Order No. 24/2025-26 dated 19.01.2026 and opportunity of personal hearing was granted to the CB on 03.02.2026. However, suspension order was returned with remark as 'Left' hence again the said order was sent to another address but it also returned to this office.

15. On the above date of Personal hearing the CB was absent hence the next date of the Personal Hearing to CB was granted on 23.02.2026. However, neither the CB has attended the Personal Hearing, nor has he submitted any submission in relation to the suspension order/offence report as stated above. Hence, one more chance for Personal Hearing was given on 26.02.2026; however, no one attended the said PH. Hence, after following the Principles of Natural Justice, the subject license no. 11/964 was ordered for Continuation of Suspension vide Order No. 30/2025-26 dated 26.02.2026 under Regulation 16(2) of the CBLR, 2018.

16. In view of the above, it is evident that the CB has not attended Personal Hearings on the dates as mentioned above in respect of the suspension of CB licence under CBLR, 2018. Due to non co-operation by the Customs Broker it has delayed the proceedings under CBLR, 2018. Further, under the factual matrix of the case, it appears that all the charges levelled against the CB under CBLR, 2018 are valid as the CB M/s Franc Cargo Clearing Services (CHA 11/964) was careless in his duties and knowingly facilitated the clearance of export consignments of a non-existent/dummy firm and in fraudulent availment of duty drawback. Therefore, it appears that the charges levelled against the CB under CBLR, 2018 are precise and sustainable.

17. The overvaluation and non-realization of export proceeds, amount to a serious offence warranting stringent legal action under the Customs Broker Licensing Regulations (CBLR), 2018 and related statutes. Moreover, the gross negligence and dereliction of duty exhibited by the Customs Broker pose a significant threat to the Indian economy at large. In the era of trade facilitation, the Customs Broker works as a bridge between the exporter and Customs authorities. However, in the instant case, it appears that CB M/s. Franc Cargo Clearing Services (CHA 11/964) was careless in his duties and knowingly facilitated the clearance of export consignments of a non-existent/dummy firm and in fraudulent availment of duty drawback.

18. Thus, it appears that the CB M/s. Franc Cargo Clearing Services (CHA 11/964) has committed a gross offence and violated regulations 10(d), 10(k), 10(n) and 13(12) of the Customs Broker Licensing Regulations, 2018, which has made them unfit to transact any business at Mumbai Customs and also in other Customs Stations.

19. From the above facts, prima facie, it appears that the Customs Broker M/s. Franc Cargo Clearing Services (CHA 11/964), had failed to fulfil their obligations under Regulation 10 of CBLR, 2018 and contravened the same. Therefore, for their acts of omission and commission as mentioned above, the CB M/s Franc Cargo Clearing Services (CHA 11/964) appears to be liable and guilty.

20. Legal Provisions:

20.1 Regulation 14 of CBLR, 2018. Revocation of licence or imposition of penalty-

The Principal Commissioner or Commissioner of Customs may, subject to the provisions of regulation 17, revoke the license of a Customs Broker and order for forfeiture of part or whole of security, on any of the following grounds, namely:

(a) failure to comply with any of the conditions of the bond executed by him under regulation 8;

(b) failure to comply with any of the provisions of these regulations, within his jurisdiction or anywhere else;

(c) commits any misconduct, whether within his jurisdiction or anywhere else which in the opinion of the Principal Commissioner or Commissioner of Customs renders him unfit to transact any business in the Customs Station;

(d) adjudicated as an insolvent;

(e) of unsound mind; and

(f) convicted by a competent court for an offence involving moral turpitude or otherwise.

20.2 Regulation 18 of CBLR, 2018.

Penalty.

(1) The Principal Commissioner or Commissioner of Customs may impose penalty not exceeding fifty thousand rupees on a Customs Broker or F card holder who contravenes any provisions of these regulations or who fails to comply with any provision of these regulations.

(2) The Deputy Commissioner or an Assistant Commissioner of Customs may impose penalty not exceeding ten thousand rupees on a G card holder who contravenes any provisions of these regulations in connection with the proceedings against the Customs Broker.

(3) The imposition of penalty or any action taken under these regulations shall be without prejudice to the action that may be taken against the Customs Broker or F card holder or G card holder under the provisions of the Customs Act, 1962 (52 of 1962) or any other law for the time being in force.

21. On perusal of the offence report and above cited provisions of the Regulation 14 and Regulation 18, it appears that in the present case, the Customs Broker has become liable for penal action due to his act of omission and commission and non-performing of duties and responsibilities entrusted to him under CBLR, 2018. The Customs Broker has violated the following Regulations of the CBLR, 2018 which are elaborated as under:

22. **Role of Customs Broker.**

It is evident that the Customs Broker Shri Ankur Krishankant Patel, Proprietor of M/s. Franc Cargo Clearing Services (CHA 11/964) have failed to fulfil their obligations laid down under Customs Broker Licensing Regulations (CBLR), 2018. The CB appears to have engaged in the fraudulent activity floated by the exporter. In view of the above, the relevant provisions of CBLR, 2018 outlining the obligations of customs brokers, are extracted below:

Sub-regulation 10 (d) of the CBLR, 2018 which reads as:

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

In the instant case, CB did not advise the exporter and the investigation agency has brought out that the CB has aided and abetted in implementing the scheme of fraudulent duty drawback claim by clearing export consignments of 06 Shipping Bills of M/s Target International. Even while clearing so many export consignments with F.O.B. value of Rs.

1,18,94,487/- and claiming drawback of Rs. 8,38,249/-, he did not bother to verify the credentials of the exporter, instead, the CB should have brought these discrepancies to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs. Since the CB has filed the SBs to clear the goods, hence, it was the duty of the CB to bring the discrepancy of overvaluation or about non-realization of export proceeds, to the notice of the Custom Officers at the time of export or thereafter. Thus, it appears that the CB has violated the provisions of Regulation 10 (d) of the CBLR, 2018.

Sub-regulation 10 (k) of the CBLR, 2018 which reads as:

"maintain up to date records such as bill of entry, shipping bill, transshipment application, etc., all correspondence, other papers relating to his business as Customs Broker and accounts including financial transactions in an orderly and itemised manner as may be specified by the Principal Commissioner of Customs or Commissioner of Customs or the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;"

In the instant case, Shri Ankur Krishankant Patel, Proprietor of M/s. Franc Cargo Clearing Services (CHA 11/964) in his recorded statement dated 30.11.06 inter-alia stated that on being shown copies of (8) Shipping Bills Nos. 3694296 dated 02.09.05, 3694307 dated 02.09.05, 3694284 dated 02.09.05, 3621852 dated 29.07.05, 3621856 dated 29.07.05, 3621855 dated 29.07.05, 3621854 dated 29.07.05 and 3621853 dated 29.07.05 of M/s Target International, he confirmed that these were handled by his employee Shri Maruti Balu Chopade and the same were signed by him; that he does not know the proprietor of M/s Target International and his office address; that nobody came to him to handle the work of M/s. Target International and the job was done by Shri Maruti Balu Chopade without his knowledge; that he did not receive any money from Shri Maruti Balu Chopade or from any other person for doing this job and when he came to know that he was doing some illegal activities he cancelled his Customs C.H. A. pass C-82.

Sub-regulation 10 (n) of the CBLR, 2018 which reads as:

"Verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information"

In the instant case, the address of the exporter was non-existent and/or fictitious, the exporter never turned up before the investigating agency to record his statement. Also, during investigation, the CB failed to submit any proof regarding the verification of address of Exporter. Further, the CB in their statement dated 30.11.2006 inter-alia stated that he does not know the proprietor of M/s Target International and nobody came to him to handle

the work of M/s Target International and the job was done by Shri Maruti Balu Chopade without his knowledge. Further he said he did not receive any money from Shri Maruti Balu Chopade or from any other person for doing this job and when he came to know that he was doing illegal activities he cancelled his Customs C.H.A. pass C-82. He didn't know the address of M/s Target International and the CB has not provided any proof w.r.t. his communication with the Exporter. Hence, the CB has completely failed to verify the identity and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information. Even he failed to keep vigil on his staff to monitor about what the employee is doing on behalf of the company.

Sub-regulation 13 (12) of the CBLR, 2018 which reads as:

"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."

In the instant case, Shri Ankur Krishankant Patel, Proprietor of M/s. Franc Cargo Clearing Services (CHA 11/964) in his recorded statement dated 30.11.06 inter-alia stated that on being shown copies of (8) Shipping Bills Nos. 3694296 dated 02.09.05, 3694307 dated 02.09.05, 3694284 dated 02.09.05, 3621852 dated 29.07.05, 3621856 dated 29.07.05, 3621855 dated 29.07.05, 3621854 dated 29.07.05 and 3621853 dated 29.07.05 of M/s. Target International, he confirmed that these were handled by his employee Shri Maruti Balu Chopade and the same were signed by him; that he does not know the proprietor of M/s Target International and his office address; that nobody came to him to handle the work of M/s Target International and the job was done by Shri Maruti Balu Chopade without his knowledge; that he did not receive any money from Shri Maruti Balu Chopade or from any other person for doing this job and when he came to know that he was doing some illegal activities he cancelled his Customs C.H. A. pass C-82. This clearly shows that the CB failed to exercise supervision to ensure proper conduct of his employee Shri Maruti Balu Chopade in the transaction of business and he shall be held responsible for all acts or omissions of his employees during their employment.

23. Under these circumstances, prima facie, it appears that the CB has violated and contravened the provisions of the sub-regulation 10(d), 10(k), 10(n) and 13(12) of the CBLR, 2018, hence, the CB appears to have become liable for penal action under Regulation 14 (b) & (c) read with Regulation 18 of CBLR, 2018.

24. In view of the above, in terms of Regulation 17(1) of CBLR, 2018, the Customs Broker M/s. Franc Cargo Clearing Services (CHA 11/964) was called upon to show cause, as to why:

- i. The license issued to M/s. Franc Cargo Clearing Services (CHA 11/964), should not be revoked under Regulation 14 of the CBLR 2018;
- ii. Security deposit should not be forfeited under Regulation 14 of the CBLR 2018;
- iii. Penalty should not be imposed upon them under Regulation 14 read with Regulation 18 of the CBLR, 2018, for their violations as elaborated in the above paras.

25. Shri Pramod Kumar Chauhan, Assistant Commissioner was appointed as Inquiry Officer (IO) under Regulation 17 of CBLR, 2018 to conduct the inquiry proceedings against the CB M/s Franc Cargo Clearing Services (CB License No. 11/964) under Regulation 17 of the CBLR, 2018.

INQUIRY REPORT:-

26. The IO concluded the inquiry proceedings and submitted the Inquiry Report dated 23.06.2026, wherein, all the charges levelled against the CB vide Show Cause Notice No. 50/2025-26 dt 12.03.2026 were held as proved.

FINDINGS OF THE INQUIRY OFFICER (IO).

27. I have gone through the Show Cause Notice (SCN) No. 50/2025-26 dated 12.03.2026 issued to the CB M/s Franc Cargo Clearing Services (CB License No. 11/964). As part of the statutory inquiry, multiple opportunities for a Personal Hearing (PH) were granted to the Customs Broker on April 15, 2026, April 22, 2026, and April 29, 2026. However, the Customs Broker consistently failed to appear before this authority on the scheduled dates and did not submit any written replication or documentary evidence to counter the allegations framed in the SCN. The principle of Audi alteram partem (hear the other side) requires that a reasonable opportunity be provided, which has been extended to the CB in abundance. Non-cooperation and deliberate absence by the CB cannot be permitted to stall statutory proceedings indefinitely. Therefore, in accordance with the Principles of Natural Justice and the provisions of Regulation 17 of the CBLR, 2018, I proceed to evaluate and decide the charges on merits based on the facts and evidence available on record.

ARTICLE-WISE ANALYSIS OF THE CHARGES FRAMED.

28. The IO has 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. Now I proceed to discuss the case based on their merits.

28.1 **Charge I:** In the instant case, the IO observed that the CB failed to verify the credentials and genuineness of the exporter and was subsequently found to be fictitious and

non-existent. The IO further observed that the CB neither advised the exporter to comply with legal requirements nor informed Customs authorities regarding suspicious activities such as inflated FOB value, non-realisation of export proceeds and doubtful credentials of the exporter. On the contrary, the CB facilitated filing and clearance of export consignments which enabled fraudulent availment of drawback. The IO found that Shri Ankur Krishankant Patel, Proprietor of M/s. Franc Cargo Clearing Services (CHA No. 11/964) in his recorded statement admitted that the Shipping Bills were processed without even knowing the exporter or verifying the exporter's address. Therefore, the IO found that such conduct of CB clearly shows failure on the part of the CB to discharge obligations cast under Regulation 10(d) of CBLR, 2018. Therefore, the IO found CB M/s. Franc Cargo Clearing Services had violated Regulation 10(d) of the CBLR, 2018 and thus charges against CB is proved.

28.2 **Charge II:** The IO observed that the CB failed to maintain proper records and documentation relating to the exporter M/s. Target International. The IO found that during investigation, the CB admitted that he neither knew the exporter nor possessed proper information regarding the exporter's address and functioning. The IO further found that the CB also failed to provide any documentary evidence regarding communication with the exporter or verification conducted before undertaking Customs clearance work. The IO further found that the statement of CB further established lack of control and supervision over the activities carried out by its employee Shri Maruti Balu Chopade. The IO further observed that the plea of CB that the work was done by the employee without knowledge of the proprietor cannot absolve the CB from statutory responsibilities prescribed under the Regulations. Therefore, the IO found that CB had failed to maintain proper records and failed to discharge obligations under Regulation 10(k) of CBLR, 2018 and thus charges against CB is proved.

28.3 **Charge III:** The IO observed that the exporter M/s. Target International was found to be fictitious and non-existent at the declared address. The IO found that the summons issued to the exporter repeatedly returned undelivered with remarks "Not Known". The IO further found that investigation established that no exporter existed at the declared premises. The IO observed that despite this, the CB undertook export clearance work for the exporter and filed Shipping Bills without carrying out any independent verification regarding identity and functioning of the exporter. The IO observed that the CB himself admitted in his statement that he did not know the exporter or the exporter's address and that the work was handled by his employee. The IO further found that no KYC documents or independent verification records were produced by the CB during investigation. Therefore, the IO found that the CB completely failed to verify the identity and functioning of the exporter in terms of Regulation 10(n) of CBLR, 2018 and thus charges against CB is proved.

28.4 **Charge IV:** The IO observed that Shri Ankur Krishankant Patel, Proprietor of M/s Franc Cargo Clearing Services (CHA 11/964) admitted in a recorded statement that the export work was handled entirely by his employee without his direct knowledge and no one from the exporting firm had ever approached him to handle the business. The CB also admitted that the he did not know the Proprietor of M/s Target International and his office address. Therefore, the IO found that CB had failed to exercise supervision to ensure proper conduct of his employee Shri Maruti Balu Chopade in the transaction of business and he shall be held responsible for all acts or omissions of his employees during their employment. In view of the foregoing discussions and findings, the IO found that M/s. Franc Cargo Clearing Services (CHA No. 11/964) had failed to discharge obligations cast upon them under the CBLR, 2018. The IO further observed that the records clearly establish that the CB facilitated export clearances for a fictitious exporter involved in fraudulent drawback claims without verifying credentials of the exporter and without exercising due diligence expected from a licensed CB. The CB also failed to maintain proper records, failed to supervise activities carried out by its employee and failed to verify identity and functioning of the exporter before handling export consignments. The IO held that CB has violated Regulation 13(12) of CBLR, 2018 and thus charges against CB is proved.

SUMMARY OF THE FINDINGS:

29. From the aforesaid discussions and findings, the IO concluded the 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 (k) of CBLR, 2018	Proved
3.	Violation of Regulation 10(n) of CBLR, 2018	Proved
4.	Violation of Regulation 13 (12) of CBLR, 2018	Proved

RECORDS OF PERSONAL HEARING.

30. The Inquiry Report submitted by the IO was accepted by the Principal Commissioner of Customs (General) and Personal Hearing (PH) was granted on 04.08.2026, however, the CB has not appeared before the adjudicating authority. Therefore, two more PH were granted to CB on 19.08.2026 and 08.09.2026. However, neither the CB nor any authorised representative of the CB appeared on the mentioned dates. The PH letter sent through Speed Post was returned undelivered with the remarks “Address Lost”. It is observed that the CB has also not appeared during the investigation,

inquiry and adjudication proceedings. He failed to present his case before any of the authorities.

DISCUSSIONS AND FINDINGS.

31. I have gone through the facts and records of the case; the offence report in the form of Order-in-Original issued by the Addl. Commissioner of Customs, CAC(Drawback)/NS-II, JNCH vide F. No. S-10-57/2010/ADJ(X) dated 29.07.2025 was received in the Customs Broker Section, NCH, Zone-I, Mumbai, along with the RUDs on 29.10.2025; the Show Cause Notice No. 50/2025-26 dated 12.03.2026 issued under Regulation 17 of CBLR, 2018 and the Inquiry Report dated 23.06.2026. I find that the CB was granted multiple opportunities for Personal Hearing as elaborated in the foregoing paras but he failed to appear and also did not make any written submission. Therefore, I am constrained to proceed with the adjudication of the case ex-parte, on the basis of facts and evidences available on record.

32. I find that 04 articles of charges have been framed against the CB i.e. violation of Regulations 10(d), 10(k), 10(n) and 13(12) of the CBLR 2018. It is observed that the action against the CB was initiated on the basis of offence report received vide CAC(Drawback)/NS-II, JNCH vide F. No. S-10-57/2010/ADJ(X) dated 29.07.2025 and accordingly Show Cause Notice No. 50/2025-26 dated 12.03.2026 issued to M/s. Franc Cargo Clearing Services (CHA 11/964). I find that the proceedings ought to have been initiated under the CHALR, 2004. I have perused the provision of both the Regulations and find that the Regulations 10(d) and 10(k) of CBLR, 2018 are identical to Regulations 13(d) and 13(k) of CHALR, 2004 respectively. Further, the Regulation 10(n) and 13(12) of CBLR, 2018 are similar to Regulations 13(o) and 19(8) of CHALR, 2004 respectively. As settled by the Hon'ble Supreme Court in Collector of Central Excise, Calcutta v. Pradyumna Steel Ltd. [1996 (82) E.L.T. 441 (S.C.)] and P.K. Palanisamy v. N. Arumugham & Anr. [SLP(Civil) No. 2308 of 2009], the mere mention of an incorrect provision or non-mention of a provision does not invalidate an order or proceeding if the statutory authority possesses the requisite jurisdiction to initiate the action and no prejudice is caused to the Noticee. In the present case, the CB has failed to contest or submit any objection regarding mention of Regulation under CBLR, 2018 instead of CHALR, 2004. Therefore, mere invocation of corresponding provisions of CBLR, 2018 instead of CHALR, 2004 does not vitiate the proceedings. Now, I proceed to discuss the articles of charges, sequentially.

33. **Violation of Regulation 13(d) of the CHALR, 2004 (now Regulation 10(d) of CBLR, 2018).**

33.1 I observe that Regulation 13(d) of the CHALR, 2004 (now Regulation 10(d) of the CBLR, 2018) mandates that a CB 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 noncompliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be. In the instant case, CB did not advise the exporter and the investigation agency has brought out that the CB has aided and abetted in implementing the scheme of fraudulent duty drawback claim by clearing overvalued export consignments of M/s Target International. I observed that even while clearing so many export consignments with F.O.B. value of Rs. 1,18,94,487/- and claiming drawback of Rs. 8,38,249/-, the CB did not bother to verify the credentials of the exporter, instead, the CB should have brought these discrepancies to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs. The CB is saddled with responsibility to advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof. However, the CB has failed to bring the discrepancy of overvaluation or about non-realization of export proceeds to the notice of the Custom Officers at the time of export or thereafter. In view of the above, the CB has contravened the provisions of Regulation 13(d) of the CBLR, 2004 (now Regulation 10(d) of CBLR, 2018) by not ensuring compliance with the relevant statutory requirements and by neglecting to inform the Deputy/Assistant Commissioner of the irregularities.

33.2 In the instant case, the IO observed that the CB had handled many export consignments of M/s. Target International. However, despite dealing with repeated export consignments, the CB failed to verify the credentials and genuineness of the exporter and was subsequently found to be fictitious and non-existent. The IO further observed that the CB neither advised the exporter to comply with legal requirements nor informed Customs authorities regarding suspicious activities such as inflated FOB value, non-realisation of export proceeds and doubtful credentials of the exporter. On the contrary, the CB facilitated filing and clearance of export consignments which enabled fraudulent availment of drawback. The IO found that Shri Ankur Krishankant Patel, Proprietor of M/s. Franc Cargo Clearing Services (CHA 11/964) in his recorded statement admitted that the Shipping Bills were processed without even knowing the exporter or verifying the exporter's address. Therefore, the IO found that such conduct of CB clearly shows failure on the part of the CB to discharge obligations cast under Regulation 10(d) of CBLR, 2018. Therefore, the IO found CB M/s. Franc Cargo Clearing Services had violated Regulation 10(d) of the CBLR, 2018 and thus charges against CB stands proved.

33.3 Having taken into cognizance, the facts of the case and the inquiry report in the instant case, I find that the CB handled many overvalued export consignments for M/s

Target International. I find that the CB had neither advised his client against the overvaluation nor brought this to the knowledge of Custom Authorities. I find that the CB had failed to exercise due caution and indulge in facilitation of clearance of overvalued export shipping bills for an entity that was subsequently found to be fictitious and non-existent. I find that Shri Ankur Krishankant Patel, Proprietor of CB, M/s Franc Cargo Clearing Services (CHA No. 11/964) admitted that the shipping bills were processed without knowing the exporter or verifying their office address. Therefore, I find that the CB had failed to report inflated FOB values, unverified client credentials, and non-realization of export proceeds to the notice of the proper officer at the time of export or thereafter. The CB completely defaulted on its statutory duty to inform the anomaly to the authorities. The CB neglected to advise the exporter on legal compliance and actively failed to inform Customs authorities of critical irregularities, thereby facilitating fraudulent drawback claims. Consequently, the CB failed to discharge obligations cast under 13(d) of CHALR, 2004 (now Regulation 10(d) of the CBLR, 2018), and therefore, I uphold the charge of violation of Regulation 13(d) of CHALR, 2004 (Regulation 10(d) of the CBLR, 2018) as proved.

34. Violation of Regulation 13(k) of the CHALR, 2004 (now Regulation 10 (k) of the CBLR, 2018).

34.1 I observe that Regulation 13(k) of the CHALR, 2004 (now Regulation 10(k) of the CBLR, 2018) mandates that a CB shall maintain records and accounts in such form and manner as may be directed from time to time by a Deputy Commissioner of Customs or Assistant Commissioner of Customs and submit them for inspection to the said Deputy Commissioner of Customs or Assistant Commissioner of Customs or an officer authorised by him whenever required. In the instant case, Shri Ankur Krishankant Patel, Proprietor of M/s. Franc Cargo Clearing Services (CHA 11/964) in his recorded statement dated 30.11.06 inter-alia stated that on being shown copies of (8) Shipping Bills Nos. 3694296 dated 02.09.05, 3694307 dated 02.09.05, 3694284 dated 02.09.05, 3621852 dated 29.07.05, 3621856 dated 29.07.05, 3621855 dated 29.07.05, 3621854 dated 29.07.05 and 3621853 dated 29.07.05 of M/s Target International, he confirmed that these were handled by his employee Shri Maruti Balu Chopade and the same were signed by him. He admitted that he does not know the proprietor of M/s Target International and his office address. He further admitted that nobody came to him to handle the work of M/s. Target International and the job was done by Shri Maruti Balu Chopade without his knowledge. He also admitted that he did not receive any money from Shri Maruti Balu Chopade or from any other person for doing this job and when he came to know that he was doing some illegal activities he cancelled his Customs C.H. A. pass C-82. Therefore, it appeared that the CB has contravened the Regulation 13(k) of the CHALR, 2004 (now Regulation 10(k) of the CBLR, 2018).

34.2 The IO observed that the CB failed to maintain proper records and documentation relating to the exporter M/s. Target International. The IO found that during investigation, the CB admitted that he neither knew the exporter nor possessed proper information regarding the exporter's address and functioning. The IO further found that the CB also failed to provide any documentary evidence regarding communication with the exporter or verification conducted before undertaking Customs clearance work. The IO further found that the statement of CB further establishes lack of control and supervision over the activities carried out by its employee Shri Maruti Balu Chopade. The IO further observed that the plea of CB that the work was done by the employee without knowledge of the proprietor cannot absolve the CB from statutory responsibilities prescribed under the Regulations. Therefore, the IO found that CB had failed to maintain proper records and failed to discharge obligations under Regulation 10(k) of CBLR, 2018 and thus charges against CB stands proved.

34.3 Having taken into cognizance, the facts of the case and the inquiry report, I find that the CB had failed to produce any documentary evidence regarding communication with the exporter or verification conducted prior to undertaking Customs clearance work, proving a complete lack of required statutory record-keeping. I find that the CB had no information regarding office address of the Exporter and possessed no documentary records or communication relating to the export clearance work of M/s Target International. Therefore, I find that the CB has violated the Regulation 13(k) of CHALR, 2004 (now Regulation 10(k) of CBLR, 2018) and thus I uphold the charge of contravention of Regulation 13(k) of CHALR, 2004 (now Regulation 10(k) of CBLR, 2018) stands proved.

35. **Violation of Regulation 13(o) of CHALR, 2004(now Regulation 10(n) of the CBLR, 2018).**

35.1 I observe that the Regulation 13(o) of CHALR, 2004 (now Regulation 10(n) of the CBLR, 2018) mandates that a CB 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. In the instant case, the address of the exporter was non-existent and/or fictitious, the exporter never turned up before the investigating agency to record his statement. Also, during investigation, the CB failed to submit any proof regarding the verification of address of Exporter. Further, the CB in their statement dated 30.11.2006 inter-alia stated that he does not know the proprietor of M/s Target International and nobody came to him to handle the work of M/s Target International and the job was done by Shri Maruti Balu Chopade without his knowledge. Further, he said he did not receive any money from Shri Maruti Balu Chopade or from any other person for doing this job and when he came to know that

he was doing illegal activities he cancelled his Customs C.H.A. pass C-82. He didn't know the address of M/s Target International and the CB has not provided any proof w.r.t. his communication with the Exporter. Hence, the CB has completely failed to verify the identity and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information. Even he failed to keep vigil on his staff to monitor about what the employee is doing on behalf of the company. Therefore, it appeared that the CB has contravened the Regulation 13(o) of CHALR, 2004 (now Regulation 10(n) of the CBLR, 2018).

35.2 The IO observed that the exporter M/s. Target International was found to be fictitious and non-existent at the declared address. The IO found that the summons issued to the exporter repeatedly returned undelivered with remarks "Not Known". The IO further found that investigation established that no exporter existed at the declared premises. The IO observed that despite this, the CB undertook export clearance work for the exporter and filed Shipping Bills without carrying out any independent verification regarding identity and functioning of the exporter. The IO observed that the CB himself admitted in his statement that he did not know the exporter or the exporter's address and that the work was handled by his employee. The IO further found that no KYC documents or independent verification records were produced by the CB during investigation. Therefore, the IO found that the CB completely failed to verify the identity and functioning of the exporter in terms of Regulation 10(n) of CBLR, 2018 and thus charges against CB stands proved.

35.3 Regulation 13(o) of CHALR, 2004 (now Regulation 10(n) of CBLR, 2018) mandates that a CB 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. I find that provision of verification of GSTIN is an additional responsibility included in CBLR, 2018, however, the remaining part is very similar to Regulation 13(o) of CHALR, 2004. Having taken into cognizance, the facts of the case and the inquiry report, I find that M/s Target International was a non-existent, dummy firm operating from a fictitious address. I find that the CB failed to produce any proof of direct communication with or verification of the exporter. I also find that Shri Ankur Krishankant Patel, Proprietor of M/s. Franc Cargo Clearing Services (CHA 11/964) in his recorded statement admitted that he does not know the proprietor of M/s Target International and his office address. In view of the above, I find that the CB completely failed to verify the identity and functioning of the client at the declared address, thereby violating Regulation 13(o) of the CHALR, 2004 (now Regulation 10(n) of CBLR, 2018) and thus I uphold the charge of violation of Regulation 13(o) of CHALR, 2004 (now Regulation 10(n) of CBLR, 2018) stands proved.

36. Violation of Regulation 19(8) of CHALR, 2004 (now Regulation 13 (12) of the CBLR, 2018).

36.1 I observed that Regulation 19(8) of CHALR, 2004 (now Regulation 13 (12) of the CBLR, 2018) mandates that a CB shall exercise such supervision as may be necessary to ensure the proper conduct of any such employees in the transaction of business as agents and be held responsible for all acts or omissions of his employees in regard to their employment. In the instant case, Shri Ankur Krishankant Patel, Proprietor of M/s. Franc Cargo Clearing Services (CHA 11/964) in his recorded statement dated 30.11.06 inter-alia stated that on being shown copies of (8) Shipping Bills Nos. 3694296 dated 02.09.05, 3694307 dated 02.09.05, 3694284 dated 02.09.05, 3621852 dated 29.07.05, 3621856 dated 29.07.05, 3621855 dated 29.07.05, 3621854 dated 29.07.05 and 3621853 dated 29.07.05 of M/s. Target International, he confirmed that these were handled by his employee Shri Maruti Balu Chopade and the same were signed by him; that he does not know the proprietor of M/s Target International and His office address; that nobody came to him to handle the work of M/s Target International and the job was done by Shri Maruti Balu Chopade without his knowledge; that he did not receive any money from Shri Maruti Balu Chopade or from any other person for doing this job and when he came to know that he was doing some illegal activities he cancelled his Customs C.H. A. pass C-82. This clearly shows that the CB failed to exercise supervision to ensure proper conduct of his employee Shri Maruti Balu Chopade in the transaction of business and he shall be held responsible for all acts or omissions of his employees during their employment.

36.2 The IO observed that Shri Ankur Krishankant Patel, Proprietor of M/s Franc Cargo Clearing Services (CHA 11/964) admitted in a recorded statement that the export work was handled entirely by his employee without his direct knowledge and no one from the exporting firm had ever approached him to handle the business. The IO further observed that the Proprietor of M/s Franc Cargo Clearing Services (CHA 11/964) also admitted that he did not know the Proprietor of M/s Target International and his office address. Therefore, the IO found that CB had failed to exercise supervision to ensure proper conduct of his employee Shri Maruti Balu Chopade in the transaction of business and he shall be held responsible for all acts or omissions of his employees during their employment. In view of the foregoing discussions and findings, the IO found that M/s. Franc Cargo Clearing Services (CHA No. 11/964) had failed to discharge obligations cast upon them under the CBLR, 2018. Thus, the IO held that CB has violated Regulation 13(12) of CBLR, 2018 and thus charges against CB stands proved.

36.3 Having taken into cognizance, the facts of the case and the inquiry report, I find that the Proprietor of the CB, M/s Franc Cargo Clearing Services (CHA No. 11/964), explicitly admitted in his recorded statement admitted that eight (8) Shipping Bills pertaining to M/s

Target International were processed and signed by his employee, Shri Maruti Balu Chopade, without his knowledge. I find that this supervisory failure of CB resulted in loss to the Exchequer. This constitutes a direct failure on the part of the CB to exercise necessary supervision over its staff in the transaction of customs business, establishing a violation of Regulation 19(8) of CHALR, 2004 (now Regulation 13(12) of CBLR, 2018). Therefore, I uphold the charge of violation of Regulation 19(8) of CHALR, 2004 (now Regulation 13(12) of CBLR, 2018) as proved.

37. I find that a CB 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. I find that the Adjudicating Authority has imposed a penalty of Rs. 1,00,000/- (Rs. One Lakh Only) on M/s Franc Cargo Clearing Services (CHA 11/964) and Rs. 1,00,000/- (Rupees One Lakh Only) on Shri Maruti Chopade, Employee of M/s. Franc Cargo Clearing Services under Section 114 of the Customs Act, 1962, for their acts of omission and commission to fraudulently claim ineligible export benefits. A lot of trust is kept in CB by the Government Agencies; however, by their acts of omissions and commissions, the M/s Franc Cargo Clearing Services (CHA 11/964) has violated Regulations 13(d), 13(k) and 13(o) and 19(8) of CHALR, 2004 (now Regulations 10(d), 10(k), 10(n) and 13(12) of CBLR, 2018). I find that for the violation of obligations provided under the CHALR, 2004 (now CBLR, 2018) and for their acts of omissions and commissions, the M/s Franc Cargo Clearing Services (CHA 11/964) have rendered themselves liable for penal action under the CHALR, 2004 (now CBLR, 2018). Hence, while deciding the matter, I rely on the following case laws:

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

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

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

"6.1 These provisions require the Customs Broker to exercise due diligence to ascertain the correctness of any information and to advise the client accordingly. Though the CB was accepted as having no mensrea of the noticed mis-declaration /under- valuation or mis-quantification but from his own statement acknowledging the negligence on his part to properly ensure the same, we are of the opinion that CHA 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.*

38. As discussed above, I conclude that the M/s Franc Cargo Clearing Services (CHA 11/964) is guilty of violating Regulations 13(d), 13(k), 13(o) and 19(8) of CHALR, 2004 (now Regulations 10(d), 10(k), 10(n) and 13(12) of CBLR, 2018). In view of the foregoing detailed discussions and findings, it is irrefutably established that the CB has displayed a profound and systemic disregard for the statutory responsibilities mandated under the CHALR, 2004 (now CBLR, 2018). The detailed findings of the investigation and the inquiry proceedings conclusively establish that CB M/s Franc Cargo Clearing Services (CHA 11/964), committed forgery and breached the core trust reposed in them as a licensed CB. Such acts demonstrate a complete lack of integrity and professional ethics, rendering the CB entirely unfit to continue operating within the Customs clearance framework. Hence, under the factual matrix of the case, I am inclined to revoke the license and forfeit the security deposit of CB M/s Franc Cargo Clearing Services (CHA 11/964). However, I am constrained to drop the proceeding initiated under Regulation 18(1) of the CBLR, 2018, as there is no such provision available in CHALR, 2004.

39. I find that the CB was granted multiple Personal Hearing opportunities at every stage, the last being on, 08.09.2026 but they failed to appear. Finally, the matter was taken up for adjudication ex-parte and on the basis of available facts and evidences on record. I observe that the proceedings were thus delayed due to the aforementioned reasons. Further, with respect to the timelines prescribed under Regulation 22(1) of CHALR, 2004 (now 17 of the CBLR, 2018), relying on the following case laws, I observe that the timelines under CHALR/CBLR are directory in nature and not mandatory:

a) Hon'ble High Court of Judicature at Bombay in the case of Principal Commissioner of Customs (General), Mumbai Versus Unison Clearing P. Ltd. reported in 2018 (361) E.L.T. 321 (Born.), which stipulates 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 thereafter, 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 CHALR, 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”.

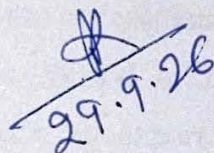
40. In view of the above discussed facts and for their acts of omissions and commissions, the M/s. Franc Cargo Clearing Services (CHA 11/964) is held liable and guilty for violating the provisions of the CHALR, 2004 (now CBLR, 2018). I hold that the CB has failed to discharge his duties cast upon them with respect to Regulations 13(d), 13(k), 13(o) and 19(8) of CHALR, 2004 (now Regulations 10(d), 10(k), 10(n) and 13(12) of CBLR, 2018) and is liable for penal action. Accordingly, I pass the following order:

ORDER

41. I, Principal Commissioner of Customs (General), in exercise of the power conferred upon me under Regulation 17(7) of the CBLR, 2018 (erstwhile Regulation 22(7) of CHALR, 2004), pass the following order:

- (i) I, hereby order for revocation of the CB license held by M/s. Franc Cargo Clearing Services (CHA 11/964) under Regulation 14 of the CBLR, 2018 (erstwhile Regulation 20 of CHALR, 2004).
- (ii) I, hereby order for forfeiture of the entire amount of the security deposit furnished by the M/s. Franc Cargo Clearing Services (CHA 11/964) under Regulation 14 of the CBLR, 2018 (erstwhile Regulation 20 of CHALR, 2004).
- (iii) 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 that 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.


29.9.26

(AJAY KUMAR PANDEY)
Principal Commissioner of Customs (G)
NCH, Mumbai-I

To,

1. M/s. Franc Cargo Clearing Services (CHA 11/964),
C-5, SHOP NO.1, SHANTI VIHAR,
NR.HARDIK PALACE HOTEL,
MIRA RD -MUMBAI-401107

Copy to:

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