



प्रधानआयुक्त, सीमाशुल्क (सामान्य) का कार्यालय
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS
(GENERAL),
नवीन सीमाशुल्क भवन,बेलाई इस्टेट, मुंबई- 400 001.NEW CUSTOM
HOUSE, BALLARD ESTATE, MUMBAI – 400 001.

संचिका सं./F. No.- GEN/CB/113/2024 –CBS आदेश दिनांक/Date of Order: 30.01.2025

CAO No.73/2024-25/CAC/PCC(G)/RC/Adj-CBS जारी दिनांक/Date of issue: 31.01.2025

DIN:20250177000000818845

द्वारा जारी : राजन चौधरी

प्रधान आयुक्त, सीमाशुल्क(सामान्य)
मुंबई -400 001

Issued By : **Rajan Chaudhary**

Pr. Commissioner of Customs(Gen.),
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, 129 की धारा 1962A(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, यथोत्खंडपीठ में स्वीकार्य है।

An appeal against this order lies with the Customs, Central Excise and Service Tax Appellate Tribunal in ter

ms 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 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 31.05.2018 अनुसार न्यायिक आदेश तदोउ 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 2 के उपनियम 3 के तहत निर्धारित है एवं उसी नियमावली के नियम 6 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 ब्याजबलगाएगए जुर्माने की राशि रु-/1000 .पाँच लाख या इस से कम होतो रु ., (ii)यदि यह राशि रु) एवं -/5000 .पाँच लाख से अधिक हो किंतु पचास लाख से अधिक न होतो रु .iii) यदि यह राशि रुके शुल्क -/10000 .पचास लाख से अधिक होतो रु . का भुगतान क्रॉसड बैंक ड्राफ्ट के माध्यम से अधिकरण की खंडपीठ के सहायक पंजीयक के पक्ष में जिस स्थान पर खंडपीठ स्थित है, के किसी भी राष्ट्रीय क्रत बैंक की शाखा में किया जाए एवं डिमांड ड्राफ्ट अपील के साथ संलग्न किया जाए।

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

7. अपील की एक प्रति में कोर्ट फी अधिनियम, के तहत निर्धारित 6 की अनुसूची मद 1870 50 .रुका 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:-

M/s Global Clearance & Logistics (AAWFG7760P) (CB No. 11/2730) having address at office No. 308, 3rd Floor, Building No. 4, Sangrila CHS, Near Punjab National Bank, 90 Feet Road, Sakinaka, Andheri (East), Mumbai-400 072. (hereinafter referred as the Customs Broker/CB) is holder of Customs Broker License No. 11/2730 (PAN No.AAWFG7760P), issued by the Commissioner of Customs, Mumbai under Regulation 7(2)(b) of the CBLR, 2018, and as such they are bound by the regulations and conditions stipulated therein.

2. An Offence Report (SCN No. 447/2023-24 dated 22.02.2024) with respect to the role of the CB, M/s Global Clearance & Logistics (AAWFG7760P) (CB No. 11/2730) was received by CBS, NCH from SIIB, Import, Air Cargo Complex, Mumbai Zone-III, wherein, inter-alia, following has been informed:

2.1 On the basis of a specific Intelligence received from DRI, MZU, a consignment of Propylene Glycol imported vide Bill of Entry No. 7558202 dated 28.08.2023 by M/s. Global Mind (IEC Code-0314062882), having address, Shop No. B-03, Ekdant CHS Ltd. Plot No. 66, 67 & 68, Sector 1 Sanpada, Navi Mumbai-400705, was kept on hold by SIIB Import, Air Cargo Complex, Mumbai Zone-III. The said Bill of Entry was filed through Custom Broker, M/s. Global Clearance and Logistics (CB No. AAWFG7760P). The said goods, brought from Hongkong, were examined by the officers of SIIB Import under Panchanama dated 01.09.2023. The declared assessable value of the goods of the said Bill of entry was Rs.5,66,325/- and the declared duty payable thereon was Rs.1,57,069/-.

2.2 Examination of Goods and drawal of representative samples

An input was received from DRI, MZU that the goods covered under Bill of Entry No. 7558202 dated 28.08.2023 imported by M/s. Global Mind (IEC 0314062882) filed by M/s. Global Clearance and Logistics (CB) are insecticide/pesticide instead of Propylene

Glycol as declared. Therefore, goods covered under Bill of Entry No. 7558202 dated 28.08.2023 were put on hold by SIIB, Import, ACC, Mumbai Zone-III vide hold letter dated 31.08.2023. The said consignment was examined 100% vide Panchanama dated 01.09.2023. The details of the goods found during examination are as below:

Sr No.	Drum No.	Goods Found	Packing Type	Total Quantity Found	Marks and Numbers Found	Remarks
1	1 to 5 and 8 to 18	Goods in white Powdered Form	25 Kgs in a single transparent Polythene	400 kgs	PGL, Propylene Glycol, Gr. Wt. 28 Kgs & Net Weight -25 Kgs	Total 16 drums of such packing found
2	6 & 7	Goods in white Powdered Form	25 Black polythene containing single transparent polythene each of 1 kg	50 Kgs	PGL, Propylene Glycol, Gr. Wt. 28 Kgs & Net Weight -25 Kgs	Total 02 drums having total of 50 black polythene were found.

Representative samples were drawn in triplicate from each drums. The said samples were forwarded to Central Insecticides Laboratory (CIL), Faridabad. Haryana vide letter F. No. CUS/SIIB/MISC/597/2023-SIIB(I) dated 21.09.2023 to ascertain the exact nature & composition of the goods imported under Bill of Entry no. 7558202 dated 28.08.2023.

2.3 Warehousing of goods under Section 49 of Customs Act, 1962: -

The facility of warehousing of goods under provisions of Section 49 of Customs Act, 1962 was offered to importer M/s Global Mind. The same was availed by the importer

and the goods imported vide Bill of Entry no. 7558202 dated 28.08.2023 were forwarded from Air Cargo Complex, Andheri, Mumbai to M/s Goodwill Logistics warehouse on 27.10.2023 under preventive escort.

2.4 Test report received from Central Insecticides laboratory (CIL):

2.4.1 Vide letter F. No. CUS/ SIIB/ MISC/597/ 2023-SIIB(I) dated 21.09.2023, total 18 samples were forwarded to Central Insecticides Laboratory to ascertain the exact nature and composition of the goods imported vide Bill of Entry No. 7558202 dated 28.08.2023. Report of 02 out of 18 samples were received on 28.12.2023 forwarded by Central Insecticides Laboratory vide letter F No. 04/Chem/CIL/2023-24/ Investigational Samples dated 28.12.2023. The outcome of the report established the presence of Matrine- 95.16% and 97.13% respectively, which are classified as Insecticides.

2.4.2 Report of remaining 16 samples were received on 30.01 2024 from Central Insecticides Laboratory vide letter F. No. 04/Chem/CIL/2023 24/ Investigational Samples dated 30.01.2024. The outcome of the report established the presence of Uniconazole- 95.48%, 95.79 %, 95.16%, 95.89%, 96%, 95.97 %, 95.94%, 96.01%, 95.82%, 95.59 %, 95.76%, 95.29 %, 95.50%, 95.14 %, 95.61% and 95.31% respectively, which are classified as Insecticides.

2.4.3 It may be noted that Matrine is not registered for the use in the country under import, export or manufacturing categories. Therefore, its import, manufacturing, transport, sale, use and distribution etc. are not permitted without possessing a valid certificate of registration issued by Secretariat of Central Insecticides Board and Registration Committee (CIB & RC).

2.5 Observations/Findings of Test report received from Central Insecticides Laboratory (CIL): -

Central Insecticides Laboratory vide test report mentioned in para 2.4.1 & 2.4.2 above confirmed the presence of "Matrine and Uniconazole", which is a high potency insecticide and it falls under Schedule of the Insecticides Act, 1968 and Rules 86 Regulations made thereunder. Such insecticides, their source and their supplier are required to be registered with the Central Insecticides Board (CIB), in terms of section 9 of the Insecticides Act, 1968, prior to its importation into India. Therefore, by mis-declaring the said goods as "**Propylene Glycol**", the importer M/s Global Mind has violated policy restriction imposed under Section 9 of the Insecticides Act, 1968 and Section 17 of the said Act. Further, the import or manufacture of such insecticides is governed by Section 17 of the Insecticides Act, 1968, and are also prohibited goods for the purpose of Section 17 of the Insecticides Act, 1968 and Section 2(33) of the Customs Act, 1962 and hence, the goods appeared to be liable for confiscation under Section 111(d), 111(m) and 111(o) of the Customs Act, 1962, read with Section 9 and 17 of the Insecticides Act, 1968.

2.6 Seizure of the goods: -

Since the consignment imported vide Bill of entry no. 7558202 dated 28.08.2023 was found to be mis-declared in terms of description therefore the said consignment vide the said bill of entry are liable for confiscation under Section 111(d), 111 (m) and 111 (o) of the Customs Act, 1962 and accordingly, said goods were seized under Seizure Memo dated 09.01.2024 (RUD-5).

2.7 Classification of Goods: -

The goods imported vide impugned Bill of entry no. 7558202 dated 28.08.2023 was classified under CTH 29153999 as Propylene Glycol. However, it has been ascertained from the report of Central Insecticides Laboratory that the goods imported vide impugned Bill of Entry were insecticide i.e. Matrine & Uniconazole, which are rightly classifiable under CTH 38089990.

2.8 Valuation of the goods: -

The Importer has mis-declared the description of the goods as "Propylene Glycol" to hide the import of insecticides i.e. "Matrine and Uniconazole". Therefore, the declared value appeared to be liable for rejection, in terms of Rule 12 of the Customs Valuation (Determination of Price of Imported Goods) Rules, 2007 (CVR, 2007), read with Section 14(1) of the Customs Act, 1962 and the value was re-determined in accordance with the CVR, 2007.

2.9 During the course of further investigation, in order to gather evidences, Statement of Mr. Rupesh Mahesh Patade, Owner of M/s Global Mind, was recorded on 04.09.2023, wherein he *inter alia*, stated that:

- he is owner of M/s Global Mind and resided at B-1101, IRAISAA Society, Sanpada, Opp. Jio Petrol Pump, Navi Mumbai-400705, his mobile no. is 9867776275 and email ID is accounts.globalmind@gmail.com.
- his company, M/s. Global Mind was registered in December 2014 and dealing with hardware goods as Cutting Wheels, Power Tools and Buffing wheel etc. He further stated that his firm also imports hardware goods from other ports.
- the reason for import of Chemical product when M/s Global Mind dealt with hardware goods, he stated that his firm is in trading business hence imported chemical from China.
- this order was given by him on his personal visit to China and placed a verbal order to supplier M/s Nanjing Bestgreen Chemical Co. Limited, China. He further stated that he did not give any purchase order to the supplier.
- On being asked the reason for different packaging found during examination, whereas the product is only one i.e. Propylene Glycol, he inter-alia stated that the Shipment imported is not Propylene Glycol. He further stated that the shipment imported vide Bill of Entry No. 7558202 dated 28.08.2023 is 50 Kgs of Matrine

insecticide (Drum No. 6 &7) and 400 Kgs Uniconazole insecticide (Drum No. 1 to 5 & 8 to 18) and the same are used in agricultural product.

- he did not have CIB NOC or certificate for such products so the same was mis-declared as Propylene Glycol and mis-classified in terms of CTH. He further stated that the consignment was imported for further sale to M/s C. M. Biotech a Gujarat based company addressed at 3rd floor, 84 Samruddhi Bhavan, Gondal Road, Opp. Bombay Petrol Pump, Rajkot, Gujarat-360001 owned by Shri Mahendra Patel. Moreover, he stated that Mr. Praveen Madhavji Bhanushali, associate of CB Firm i.e. M/s Global Clearance & Logistics advised him to import insecticides in such manner.
- he regularly visits China for the purpose of his business of hardware and at that time he met with the overseas supplier regarding consignment of insecticides, his last visit to China was in August 2023. He further stated that he did not get any actual/concerned invoice of insecticides from overseas supplier, he got the overseas invoices for the item Propylene Glycol instead of insecticides and the payment was done through bank transaction which was equal to invoice value and freight.
- On being asked, about two past bills of entry i.e. 3967594 dated 30.12.2022 & 5765896 dated 02.05.2023 filed for clearance of Propylene Glycol, he inter alia stated that he had imported Propylene Glycol in the past Bills of Entry he also submitted local sale invoices for the same.
- there was no other person with whom he had dealings regarding importation of insecticides except Mr. Pravin Madhavji Bhanushali and M/s C. M. Biotech.

2.10 Vide letter F. No. CUS/SIB/MISC/597/2023-SIIB (I) dated 21.09.2023, total 18 samples were forwarded to Central Insecticides laboratory to ascertain the exact nature and composition of the goods imported vide Bill of Entry No. 7558202 dated 28.08.2023. Report of 02 out of 18 samples were received on 28.12.2023 forwarded by central

insecticides laboratory vide letter F. No. 04/Chem/CIL/2023-24/Investigational Samples dated 28.12.2023. Thereafter, report of remaining 16 samples were received on 30.01.2024 from Central Insecticides Laboratory vide letter F. No. 04/Chem/CIL/2023-24/Investigational Samples dated 30.01.2024. Thereafter, Mr. Rupesh Patade, Proprietor of M/s Global Mind was summoned on 02.02.2024 and his statement was recorded on 02.02.2024 for verification/acceptance of reports received from Central Insecticides Laboratory wherein he inter alia, stated that:

- the CB was authorised by him and Mr. Pravin Madhavji Bhanushali was the person who was in contact with him on behalf of Customs Broker firm.
- he didn't know the address of Mr. Pravin Madhavji Bhanushali and Customs Broker Firm M/s Global Clearance & Logistics.
- in past, only two consignments were cleared through Air Cargo Complex, Mumbai vide Bills of no. 3967594 dated 31.12.2022 & 5765896 dated 02.05.2023 for clearance of Propylene Glycol.
- On being asked to provide subsequent local sales invoice of Propylene Glycol cleared through Bills of entry no. 3967594 dated 31.12.2022 & 5765896 02.05.2023, he inter-alia stated that goods i.e. Propylene Glycol cleared through previous Bills of Entry was subsequently supplied to M/s C. M. Biotech, which is a Gujarat based company. He also submitted local sales invoices for the same.
- On showing him, the test report dated 28.12.2023 for Sample No. 6 and 7 received from Central Insecticides Laboratory stating that the goods is "Matrine" which is not registered for use in the country under import, export or manufacturing categories and its import requires a valid certificate of registration issued by the Secretariat of Central Insecticide Board and Registration Committee and being asked about his acceptance with the report

received from above laboratory, he inter-alia stated that he accept the report received from Central Insecticides Laboratory.

- On showing him the test report dated 30.01.2024 for sample No. 1,2,3,4,5,8,9,10,11,12,13,14,15,16,17 and 18 received from Central Insecticides Laboratory stating that the goods is "Uniconazole" which is not registered for use in the country under import, export or manufacturing categories and its import requires a valid certificate of registration issued by the Secretariat of Central Insecticide Board and Registration Committee and being asked about his acceptance of the report received from above laboratory, he inter-alia stated that he accepts the report received from Central Insecticides Laboratory.
- On being asked about the possession of certificate of registration issued by the Secretariat of Central Insecticide Board and Registration Committee for the purpose of importation of the items mis-declared and imported in the impugned BOE No. 7558208 dated 28.08.2023 he stated that he didn't possess any such certificate.
- On being asked whether he was aware that the imported consignment was insecticide i.e. Matrine & Uniconazole, he stated that he was aware about the consignment. He further stated that since CIB certificate, which was required for importation of insecticide was not available with him so he mis-declared it **in terms of CTH of propylene glycol as suggested by Custom Broker.**
- On being asked whether he was emphasized by anyone to import insecticide and declare the same as Propylene Glycol he inter-alia stated that he was not emphasized by anyone for import of insecticide.
- On being asked whether his CB M/s Global Clearance & Logistics advise him to import insecticide and mis-declare the same as Propylene Glycol he inter alia stated that Mr. Praveen Madhavji Banushali, an associate of CB firm i.e. M/s

Global clearance and Logistics, advised him to mis-declare the said goods as propylene glycol in place of insecticide i.e. Matrine and Uniconazole.

- On being asked whether he was aware that license from CIB was required for import of insecticide he inter-alia stated that Yes, he was aware about the requirement of licence from CIB for importation of insecticide.
- On being asked whether he would like to say anything else to say he requested to allow the goods to be re-exported to its original supplier and exempt his mistakes. He also uttered that he would cooperate by all means as and when department needs him.

2.11 Summons to Customs Broker:

The Customs Broker M/s. Global Clearance & Logistics was Summoned under Section 108 of the Customs Act, 1962 on 10.01.2024, 19.01.2024 and 05.02.2024 having DIN No. 202401790A000081388C, 202401790A000016631B and 202401790A000000C79F respectively. However, the Customs Broker M/s Global Clearance & Logistics didn't turn up to record their statement. Moreover, Mr. Pravin Madhavji Bhanushali, associate of Customs Broker M/s Global Clearance & Logistics was also summoned on 06.02.2024 and 20.01.2024 having DIN No. 202401790A000000C79F and 202401790A000000A84F respectively. However, Mr. Pravin Madhavji Bhanushali also didn't appear for recording his statement.

3. It appears from the Offence Report and the facts as discussed above that the Customs Broker, M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P). helped the Importer, M/s. Global Mind with their acts of omission and commission in illegal import of pesticide. Therefore, the CB, M/s. Global Clearance & Logistics (AAWFG7760P) (CB No. 11/2730) appeared to have failed to comply with the provisions of Regulation 10 (b), 10 (d), 10(e), 10 (m) and 10 (q) of CBLR, 2018, as discussed below:-

3.1 Regulation 10 (b) of the CBLR, 2018:- *“A Customs broker shall transact business in the Customs Station either personally or through an authorized employee duly approved by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;”*

From the Offence Report, it is observed that the Importer, Shri Rupesh Mahesh Patade in his statements dated 04.09.2023 and 02.02.2024 admitted that one Shri Pravcen Madhavji Bhanushali, associate of CB Firm i.e. M/s Global Clearance & Logistics advised him to import insecticides by mis-declaring as "Propylene Glycol"; Mr. Pravin Madhavji Bhanushali was the person who was in contact with him on behalf of Customs Broker firm and there was no other person with whom he had dealings regarding importation of insecticides except Mr. Pravin Madhavji Bhanushali and M/s C. M. Biotech. Therefore, it appears that Shri Pravin Madhavji Bhanushali, who is neither Customs Pass Holder nor an Authorized employee of the CB firm, not only represented himself to the Importer as an Associate of CB firm but also colluded with him in aiding and abetting the illegal importation of insecticide i.e. Matrine and Uniconazole. Moreover, the Importer was in contact with Mr. Pravin Madhavji Bhanushali only on behalf of the Customs Broker firm. Therefore, it appeared that the Customs Broker, M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P), has violated the Regulations 10 (b) of CBLR, 2018.

3.2 Regulation 10 (d) of the 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;”*

From the Offence Report, it is noticed that the importer, M/s Global Mind has mis-declared the description of the goods as Propylene Glycol instead of the actual description of the insecticide i.e. Matrine and Uniconazole, vide impugned Bill of Entry and also

violated policy restriction imposed under Section 9 and Section 17 of the Insecticides Act, 1968. Moreover, the Importer, Shri Rupesh Mahesh Patade in his statements dated 02.02.2024 accepted that he was aware that there was requirement of license for importation of insecticide. Therefore, it appears that the CB, which was being represented to the Importer by an unauthorized person, one Shri Pravin Madhavji Bhanushali, in place of advising his client to comply with the provisions of the Customs Act, 1962 and Insecticides Act, 1968, indulged itself into actively conspiring, conniving and colluding in smuggling of insecticides by mis-declaring the description of the goods. Hence, it appears that the Customs Broker, M/s. Global Clearance & Logistics did not bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, in case of non-compliance- actually ended up conspiring and conniving with the importer in smuggling of prohibited goods and therefore, appeared to have violated the Regulation 10 (d) of CBLR, 2018.

3.3 Regulation 10 (e) of the CBLR, 2018: - *“A Customs broker shall exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;”*

From the Offence Report, it is noticed that the importer, Shri Rupesh Mahesh Patade in his statements dated 02.02.2024 admitted that he was aware that the imported consignment was insecticide i.e. Matrine & Uniconazole, since CIB certificate, which was required for importation of insecticide was not available with him, he mis-declared it in terms of CTH of propylene glycol as suggested by the unauthorized and only representative of the Customs Broker, as far as the transaction with the Importer is concerned. Therefore, it appears that the Customs Broker, instead of exercising due diligence in imparting the correct information that the consignment, which was insecticide i.e. Matrine & Uniconazole, must not be imported without a valid certificate of registration issued by the Secretariat of Central Insecticide Board and Registration Committee, went one step further

and advised the Importer with some modus to mis-declare it in terms of CTH of propylene glycol for enabling the smuggling of restricted goods. Hence, it appeared that the CB, which was entrusted with very important duty of imparting correct information w.r.t the clearance of insecticides to the Importer, actually ended up in conceptualization of a modus operandi for smuggling of prohibited goods and aided and abetted the importer for effecting the same in gross violation of Insecticides Act, 1968. Therefore, it appears that the Customs Broker, M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P), failed to comply with the Regulation 10 (e) of CBLR, 2018.

3.4 Regulation 10 (m) of the CBLR, 2018: - *“A Customs broker shall discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay;”*

From the Offence Report, it is noticed that the Customs Broker M/s Global Clearance & Logistics was summoned under Section 108 of the Customs Act, 1962 on three different occasions and Mr. Pravin Madhavji Bhanushali, the one representing the Customs Broker before the Importer was also summoned on two occasions for recording of their respective statements by the Investigation Agency. However, neither the Customs Broker, M/s Global Clearance & Logistics nor Mr. Pravin Madhavji presented themselves before the Investigative Agency for either recording of their statements or for furnishing of documents, vital for progress of investigation. Such an act of Customs Broker of not responding despite repeated summons hindered the natural pace and progression of the investigation. Therefore, the Customs Broker, M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P), appears to have failed to discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay and appeared to have failed to comply with the provisions of regulation 10 (m) of the CBLR, 2018.

3.5 Regulation 10 (q) of the CBLR, 2018: - *“A Customs broker shall co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees”.*

From the Offence Report, it is noticed that the Customs Broker M/s Global Clearance & Logistics did not appear for recording of statement despite repeated summons. The Importer in his statement credited one Pravin Madhavji Bhanushali of advising him with some modus to declare the Restricted Pesticides in terms of CTH of propylene glycol for hoodwinking the department. The said person as per the submission of the Importer, was the sole representative of the Customs Broker as far as the transaction with him was concerned. Therefore, it appeared that the very credibility of the CB is being questioned and is credited as a mastermind. Moreover, the zero response and complete absence from the investigations on the part of the CB reflects the non-adherence of the responsibilities, with which they are entrusted with, under Regulation 10 (q) of the CBLR, 2018. Therefore, the Customs Broker, M/s. Global Clearance & Logistics, which neither co-operated with the Customs authorities nor joined investigation proceedings, appeared to have violated Regulation 10 (q) of CBLR, 2018.

4. The evidence on record clearly indicated that the CB was working in a seriously negligent manner and was found in violation of the obligations casted upon them under the CBLR, 2018. The outcome of the investigation clearly brought out the role of the CB in illegal import and the non-cooperation of the CB hindered the investigation. A Custom Broker occupies a very important position in the Customs House and supposed to safeguard the interests of both the importers and the Customs department. A lot of trust is placed on the CB by the Government Agencies, but by their acts of omission and commission, it appears that the said CB has violated Regulation 10 (b), 10(d), 10(e), 10(m) and 10(q) of the Customs Brokers Licensing Regulations, 2018 and rendered himself for penal action under Regulations 14, 17 & 18 of CBLR, 2018. Accordingly, action under CBLR, 2018 was initiated against the CB M/s. Global Clearance & Logistics (CB No. 11/2730).

SUSPENSION OF CB LICENSE AND SHOW CAUSE NOTICE:-

5. The Offence Report received in the form of SCN No. 447/2023-24 dated 22.02.2024, from SIIB (Import), ACC, Mumbai Zone-III, elaborated the role of the Custom Broker in the fraudulent import made by the importer M/s. Global Mind. The matter was considered appropriate/fir for invoking the Regulation 16 of CBLR, 2018 and hence the CB license was suspended immediately vide Order No. 04/2024-25 dated 17.04.2024 under Regulation 16(1) of CBLR, 2018 for contravention of Regulation 10 (b), 10 (d), 10(e), 10(m) and 10 (q) of CBLR, 2018. In pursuance to the Regulation 16 (2) of CBLR, 2018, a personal hearing was granted by Principal Commissioner of Customs, NCH, Mumbai to the Customs Broker on 25.04.2024. However, neither the CB nor his representative attended the Personal Hearing. Accordingly, the opportunities of Personal Hearing were given to the Customs Broker on two more occasions on 07.05.2024 and 15.05.2024. However, neither the Customs broker nor his representative attended the Personal Hearing on either of these occasions. Nothing was submitted by the Customs broker in their defence/reply of the Suspension Order even after providing sufficient time and opportunities. Subsequently, the suspension of the CB license was continued vide Order No. 20/2024-25 dated 11.06.2024 pending enquiry as per Regulation 16(2) of CBLR, 2018 after giving the opportunity of Personal Hearing to the CB. Also, on the basis of the offence reports, the following articles of charges were framed against the CB:

- (i) Article of Charge-I : Violation of Regulation 10(b) of CBLR, 2018.
- (ii) Article of Charge-II : Violation of Regulation 10(d) of CBLR, 2018
- (iii) Article of Charge-III : Violation of Regulation 10(e) of CBLR, 2018
- (iv) Article of Charge-IV : Violation of Regulation 10(m) of CBLR, 2018
- (v) Article of Charge-V: Violation of Regulation 10(q) of CBLR, 2018

5.1 In light of the above, a Show Show Cause Notice (SCN) No. 20/2024-25 dated 24.06.2024, was issued to the CB under the provisions of 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. 11/2730 issued to them should not be revoked under regulation 14 read with regulation 17 of the CBLR, 2018;
- b. Security deposited should not be forfeited under regulation 14 read with regulation 17 of the CBLR, 2018;
- c. Penalty should not be imposed upon them under regulation 18 read with regulations 17 of the CBLR, 2018.

5.2 Also, Shri Indiraj Meena, Deputy Commissioner of Customs was appointed as Inquiry Officer (IO) to conduct the inquiry proceedings in the matter. The IO submitted the inquiry report dated 21.08.2024, which is discussed below.

INQUIRY REPORT:

6. The Inquiry Officer completed the inquiry proceedings and submitted the inquiry report dated 21.08.2024, wherein all the articles of charges levelled against the CB M/s. Global Clearance & Logistics (CB No. 11/2730) viz. charges of violation of Regulations 10(b), 10(d), 10(e), 10(m) and 10(q) were held as 'Conclusively Proved'.

COMMENTS OF INQUIRY OFFICER (IO):-

7. The IO, having gone through the Show Cause Notice No. 20/2024-25 dated 24.06.2024, along with the relied upon document like Investigation report in the form of SCN No. 447/2023-24, statements of all the persons taken during the investigation and alleged Articles of Charges or contraventions mentioned in Show Cause Notice as well as legal provisions reflected in CBLR, 2018, proceeded with ex-parte Inquiry Proceedings in the present case of CB M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P) in this subject matter as the CB did not appear for hearings and hence the IO examined the Articles of Charges levelled against the charged CB on their merits.

8. **Article of Charge-1: Violation of Regulation 10(b) of the CBLR, 2018: -**

"10(b)-A Customs broker shall transact business in the Customs Station either personally or through an authorized employee duly approved by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be".

8.1 The IO stated that it is alleged in the Show Cause Notice that Customs Broker M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P) transacted business with unauthorized person viz. Shri Pravin Madharji Bhanushali. The said article of Charge has been levelled against the CB on the following ground:-

"From the Offence Report, it is observed that the Importer, Shri Rupesh Mahesh Patade in his statements dated 04.09.2023 and, 02.02.2024 admitted that one Shri Praveen Madhavji Bhanushali, associate of CB Firm i.e. M/s. Global Clearance & Logistics advised him to import insecticides by mis-declaring as "Propylene Glycol"; Mr. Pravin Madhavji Bhanushali was the person who was in contact with him on behalf of Customs Broker firm and there was no other person with whom he had dealings regarding importation of insecticides except Mr. Pravin Madhavji Bhanushali and M/s. C. M. Biotech. Therefore, it appeared that Shri Pravin Madharji Bhanushali, who is neither Customs pass Holder nor an Authorized employee of the CB firm, not only represented himself to the Importer as an Associate of CB firm but also colluded with him in aiding and abetting the illegal importation of insecticide i.e. Matrine and Uniconazole. Moreover, the Importer was in contact with Mr. Pravin Madhavji Bhanushali only on behalf of the Customs Broker firm. Therefore, it appeared that the Customs Broker, M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P), has violated the Regulations 10 (b) of CBLR, 2018".

8.2 The IO observed that Mr. Rupesh Mahesh Patade, Owner of M/s. Global Mind, in his statement recorded on 04.09.2023 and 02.02.2024 admitted that one Shri Praveen Madhavji Bhanushali, associate of CB Firm i.e. M/s. Global Clearance & Logistics advised him to import insecticides by mis-declaring as "Propylene Glycol". He further stated that the CB was authorized by him and Mr. Pravin Madhavji Bhanushali was the person who was in contact with him on behalf of Customs Broker firm. He further stated that he didn't know the address of Mr. Pravin Madhavji Bhanushali and Customs Broker Firm M/s Global Clearance & Logistics. Thus, it is apparent that the only person who was interacting

with Mr. Rupesh Mahesh Patade, Owner of M/s. Global Mind and Customs Broker M/s. Global Clearance & Logistics was Mr. Pravin Madhavji Bhanushali.

8.3 The IO stated that the opportunities of personal hearing were also granted to the noticee i.e. CB M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P) on 08.07.2024, 16.07.2024, on 18.07.2024, 29.07.2024 and on 31.07.2024. However, the CB has neither attended the hearing nor produced any proof such as copy of the Customs Pass issued to Shri Pravin Madharji Bhanushali. Hence, it is apparent that Shri Pravin Madharji Bhanushali, who is neither Customs pass Holder nor an Authorized employee of the CB firm, not only represented himself to the Importer as an Associate of CB firm but also colluded with him in aiding and abetting the illegal Importation of insecticide i.e. Matrine and Uniconazole. Thus, it is apparent that the CB M/s. Global Clearance & Logistics neither transact business in the Customs Station either personally or through an authorized employee duly approved by the Deputy Commissioner of Customs or Assistant Commissioner of Customs. Therefore, the IO held that the charge of violation of Regulation 10(b) of the CBLR, 2018 is 'conclusively proved'.

9. Article of Charge-11: Violation of Regulation 10(d) of the CBLR, 2018-

"10(d)- 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;"

9.1 The IO stated that it is alleged in the Show Cause Notice that Customs Broker M/s Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P) given wrong advise through unauthorized person viz. Shri Pravin Madharji Bhanushali to M/s. Global Mind to mis-declare the description of the goods as propylene Glycol instead of the actual description of the insecticide i.e. Matrine and Uniconazole and did not bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, in case of non-compliance-actually ended up conspiring and conniving with the importer

in smuggling of prohibited goods. The said article of Charge has been levelled against the CB on the following grounds:

"From the Offence Report, it is noticed that the importer, M/s. Global Mind has mis-declared the description of the goods as propylene Glycol instead of the actual description of the insecticide i.e. Matrine and Uniconazole, vide impugned Bill of Entry and also violated policy restriction imposed under Section 9 and Section 17 of the Insecticides Act, 1968. Moreover, the Importer, Shri Rupesh Mahesh Patade in his statements dated 02.02.2024 accepted that he was aware that there was requirement of license for importation of insecticide. Therefore, it appeared that the CB, which was being represented to the Importer by an unauthorized person, one Shri Pravin Madhavji Bhanushali, in place of advising his client to comply with the provisions of the Customs Act, 1962 and Insecticides Act, 1968, indulged itself into actively conspiring, conniving and colluding in smuggling of insecticides by mis-declaring the description of the goods. Hence, it appeared that the Customs Broker, M/s Global Clearance & Logistics did not bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, in case of non-compliance actually ended up conspiring and conniving with the Importer in smuggling of prohibited goods and therefore, appeared to have violated the Regulation 10(d) of CBLR 2018".

9.2 The IO observed that during investigations conducted by the SIIB (Import), Air Cargo Complex, Mumbai, representative samples were drawn in triplicate from each drums. The said samples were forwarded to Central Insecticides Laboratory (CIL), Faridabad, Haryana vide letter F. No. CUS/ SIIB/MISC/597/2023-SIIB (I) dated 21.09.2023 to ascertain the exact nature & composition of the goods imported under Bill of Entry no. 7558202 dated 28.08.2023, which was filed by the charged CB M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P). The Central Insecticides Laboratory vide test report mentioned in para 2.4.1 & 2.4.2 of the SCN confirmed the presence of "Matrine and Uniconazole", which is a high potency insecticide and it falls under Schedule of the Insecticides Act, 1968 and Rules 86 Regulations made thereunder. Such insecticides, their source and their supplier are required to be registered

with the Central Insecticides Board (CIB), in terms of section 9 of the Insecticides Act, 1968, prior to its importation into India.

9.3 The IO further submitted that the Investigations conducted by the SIIB (Import), Air Cargo Complex, Mumbai revealed that the importer M/s. Global Mind by mis-declaring the said goods as "Propylene Glycol", has violated policy restriction imposed under Section 9 of the Insecticides Act, 1968 and Section 17 of the said Act. Further, the import or manufacture of such insecticides is governed by Section 17 of the Insecticides Act 1968, and are also prohibited goods for the purpose of Sections 9 and 17 of the Insecticides Act, 1968 and Section 2(33) of the Customs Act, 1962.

9.4 The IO observed that Mr. Rupesh Mahesh Patade, Owner of M/s. Global Mind, in his statement recorded on 04.09.2023 and 02.02.2024 admitted that one Shri Praveen Madhavji Bhanushali, associate of CB Firm i.e. M/s. Global Clearance & Logistics advised him to import insecticides by mis-declaring as "Propylene Glycol". He has further admitted that he was aware that there was requirement of license for importation of insecticide. Thus, it is apparent that the CB, which was being represented to the Importer by an unauthorized person, one Shri Pravin Madhavji Bhanushali, in place of advising his client to comply with the provisions of the Customs Act, 1962 and Insecticides Act, 1968, indulged itself into actively conspiring, conniving and colluding in smuggling of insecticides by mis-declaring the description of the goods and did not bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, in case of non-compliance-actually ended up conspiring and conniving with the importer in smuggling of prohibited goods. Hence, the IO held that the CB M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P has deliberately violated the provisions of Regulations 10 (d) of the CBLR, 2018, therefore, the charge of violation of Regulation 10(d) of the CBLR, 2018 is 'conclusively proved'.

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

"10(e)- 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",

10.1 The IO stated that it is alleged in the Show Cause Notice that Customs Broker M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P) did not exercised due diligence and involved in conceptualization of a modus operandi for smuggling of prohibited goods and aided and abetted the importer for effecting the same in gross violation of Insecticides Act, 1968 and Customs Act, 1962. The said article of Charge has been levelled against the CB on the following grounds:

"From the Offence Report, it is noticed that the importer, Shri Rupesh Mahesh Patade in his statements dated 02.02.2024 admitted that he was aware that the imported consignment was insecticide Le. Matrine & Uniconazole, since CIB certificate, which was required for importation of insecticide was not available with him, he mis-declared it in terms of CTH of propylene glycol as suggested by the unauthorized and only representative of the Customs Broker, as far as the transaction with the importer is concerned. Therefore, it appeared that the Customs Broker, instead of exercising due diligence in imparting the correct information that the consignment, which was insecticide Le. Matrine & Uniconazole, must not be imported without a valid certificate of registration issued by the Secretariat of Central Insecticide Board and Registration Committee, went one step further and advised the Importer with some modus to mis-declare it in terms of CTH of propylene glycol for enabling the smuggling of restricted goods. Hence, it appeared that the CB, which was entrusted with very important duty of imparting correct information w.r.t the clearance of insecticides to the Importer, actually ended up in conceptualization of a modus operandi for smuggling of prohibited goods and aided and abetted the importer for effecting the same in gross violation of Insecticides Act, 1968. Therefore, it appeared that the Customs Broker, M/s Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFC7760P), failed to comply with the Regulation 10(e) of CBLR, 2018".

10.2 The IO observed that during investigations conducted by the SIIB (Import), Air Cargo Complex, Mumbai, representative samples were drawn in triplicate from each drum. The said samples were forwarded to Central Insecticides Laboratory (CIL), Faridabad,

Haryana vide letter F. No. CUS/ SIIB/MISC/597/2023-SIIB(I) dated 21.09.2023 to ascertain the exact nature & composition of the goods imported under Bill of Entry no. 7558202 dated 28.08.2023, which was filed by the charged CB M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFC7760P).

10.3 The IO stated that the Central Insecticides Laboratory vide test report mentioned in Para 2.4.1 & 2.4.2 of the SCN confirmed the presence of "Matrine and Uniconazole", which is a high potency insecticide and it falls under Schedule of the Insecticides Act, 1968 and Rules 86 Regulations made there under. Such insecticides, their source and their supplier are required to be registered with the Central Insecticides Board (CIB), in terms of section 9 of the Insecticides Act, 1968, prior to its importation into India.

10.4 The IO further submitted that the Investigations conducted by the SIIB (Import), Air Cargo Complex, Mumbai revealed that the Importer M/s Global Mind by mis-declaring the said goods as "Propylene Glycol", has violated policy restriction imposed under Section 9 of the Insecticides Act, 1968 and Section 17 of the said Act. Further, the import or manufacture of such insecticides is governed by Section 17 of the Insecticides Act, 1968, and are also prohibited goods for the purpose of Sections 9 and 17 of the Insecticides Act, 1968 and Section 2(33) of the Customs Act, 1962.

10.5 The IO observed that the importer, Shri Rupesh Mahesh Patade in his statements dated 02.02.2024 admitted that he was aware that the imported consignment was Insecticide i.e. Matrine & Uniconazole, since CIB certificate, which was required for importation of insecticide was not available with him, he mis-declared it in terms of CTH of propylene glycol as suggested by the unauthorized and only representative of the Customs Broker, as far as the transaction with the importer is concerned. Thus, it is apparent that the Customs Broker, instead of exercising due diligence in imparting the correct information that the consignment, which was insecticide i.e. Matrine & Uniconazole, must not be imported without a valid certificate of registration issued by the

Secretariat of Central Insecticide Board and Registration Committee, went one step further and advised the Importer with some modus to mis-declare it in terms of CTH of propylene glycol for enabling the smuggling of restricted goods. Hence, the IO held that the CB M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P has deliberately violated the provisions of Regulations 10(e) of the CBLR, 2018, therefore, the charge of violation of Regulation 10(e) of the CBLR, 2018 is 'conclusively proved'.

11. Article of Charge - IV: Violation of Regulation 10(m) of the CBLR, 2018: -

"10(m)- A Customs broker shall discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay".

11.1 The IO stated that it is alleged in the Show Cause Notice that Customs Broker M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P) did not discharge their duties with utmost speed and efficiency. The said article of Charge has been levelled against the CB on the following grounds:

"From the Offence Report, it is noticed that the Customs Broker M/s Global Clearance & Logistics was summoned under Section 100 of the Customs Act, 1962 on three different occasions and Mr. Pravin Madhovji Bhanushali, the one representing the Customs Broker before the Importer was also summoned on two occasions for recording of their respective statements by the Investigation Agency However, neither the Customs Broker, M/s Global Clearance & Logistics nor Mr. Provin Madhavji presented themselves before the Investigative Agency. For either recording of their statements or for furnishing of documents, vital for progress of investigation, such an act of Customs Broker of not responding despite repeated summons hindered the natural pace and progression of the investigation. Therefore, the Customs Broker, M/s Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWPG7760P), appeared to have failed to discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay and appeared to have failed to comply with the provisions of regulation 10 (m) of the CBLR. 2018."

11.2 The IO observed that during the course of investigations conducted by the SIIB (Import), Air Cargo Complex, Mumbai, the Customs Broker M/s. Global Clearance & Logistics was summoned under Section 108 of the Customs Act, 1962 on three different

occasions and Mr. Pravin Madhavji Bhanushali, the one representing the Customs Broker before the Importer was also summoned on two occasions for recording of their respective statements by the Investigation Agency. The IO found that, neither the Customs Broker, M/s. Global Clearance & Logistics nor Mr. Pravin Madhavji presented themselves before the Investigative Agency for either recording of their statements or for furnishing of documents, vital for progress of investigation. Such an act of Customs Broker of not responding despite repeated summons hindered the natural pace and progression of the investigation. Hence, the IO held that it is apparent that the Customs Broker, M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P), have failed to discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay and have failed to comply with the provisions of regulation 10 (m) of the CBLR, 2018, therefore, the charge of violation of Regulation 10(m) of the CBLR, 2018 is 'conclusively proved'.

12. Article of Charge-V: Violation of Regulation 10(q) of the CBLR 2018: -

"10(q)- A Customs broker shall cooperate with the Customs authorities and shall join Investigation promptly in the event of an inquiry against them or their employees".

12.1 The IO stated that it is alleged in the Show Cause Notice that Customs Broker M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P) did not cooperate with the Customs Authorities and did not join investigations promptly. The said article of Charge has been levelled against the CB on the following grounds:

"From the Offence Report, it is noticed that the Customs Broker M/s. Global Clearance & Logistics did not appear for recording of statement despite repeated summons. The Importer in his statement credited one Pravin Madhavji Bhanushali of advising him with some modus to declare the restricted pesticides in terms of CTH of propylene glycol for hoodwinking the department. The said person as per the submission of the Importer was the sole representative of the Customs Broker as far as the transaction with him was concerned. Therefore, it appeared that the very credibility of the CB Is being questioned and is credited as a mastermind. Moreover, the zero response and complete absence from

the investigations on the part of the CB reflects the non-adherence of the responsibilities, with which they are entrusted with, under Regulation 10(q) of the CBLR, 2018. Therefore, the Customs Broker, M/s. Global Clearance & Logistics, which neither co-operated with the Customs authorities nor joined investigation proceedings, appeared to have violated Regulation 10(q) of CBLR, 2018."

12.2 The IO observed that during the course of investigations conducted by the SIIB (Import). Air Cargo Complex, Mumbai, the Customs Broker M/s Global Clearance & Logistics was Summoned under Section 108 of the Customs Act, 1962 on 10.01.2024, 19.01.2024 and 05.02.2024 having DIN No. 20240179040000 81388C, 202401790A000016631B and 202401790A000000C79F respectively. However, the Customs Broker M/s. Global Clearance & Logistics didn't turn up to record their statement. Moreover, Mr. Pravin Madhavji Bhanushali, associate of Customs Broker M/s. Global Clearance & Logistics was also summoned on 06.02.2024 and 20.01.2024 having DIN No. 202401790A000000079F and 202401790A000000A84F respectively. However, Mr. Pravin Madhavji Bhanushali also didn't appear for recording his statement. Thus, the IO held that the zero response and complete absence from the investigations on the part of the CB reflects the non-adherence of the responsibilities, with which they are entrusted with, under Regulation 10(q) of the CBLR, 2018, therefore, the charge of violation of Regulation 10(q) of the CBLR, 2018 is 'conclusively proved'."

13. As discussed above, the Inquiry Officer has concluded the inquiry proceedings and held that the Articles of Charge levelled against the CB viz. violation of Regulation 10(b), 10(d), 10(e), 10(m) and 10(q) of CBLR, 2018 are 'conclusively proved'. Under the provisions of Regulation 17(6) of CBLR, 2018, a copy of the Inquiry Report dated 21.08.2024 was shared with the CB and for the sake of Principle of Natural Justice, opportunities of personal hearing were granted to the CB.

RECORDS OF PERSONAL HEARING:-

14. The Personal Hearing, under Regulation 17(6) of CBLR, 2018, in the present case was fixed on 30.09.2024. However, due to some administrative reasons the hearing was postponed on 16.10.2024. Again due to some administrative reasons the hearing was postponed on 24.10.2024. Neither the CB nor their representative appeared for the hearing on 24.10.2024. Hence, further opportunities of personal hearing were granted to the CB on 13.11.2024, 11.12.2024 and 09.01.2025, however the CB never appeared for hearing. It is also learnt that the CB has never responded to the Customs Authorities, neither during the investigation by SIIB (Import), Air Cargo Mumbai nor during the inquiry proceedings under CBLR, 2018. Hence, the matter was taken up for adjudication on ex-parte basis.

DISCUSSIONS AND FINDINGS:-

15. I have gone through the facts of the case, the materials brought on record, the offence report received in the form of SCN No. 447/2023-24 dated 22.02.2024, received from SIIB (Import), ACC, Mumbai; the suspension order no. 04/2024-25 dated 17.04.2024; the suspension continuation order no. 20/2024-25 dated 11.06.2024; the Show Cause Notice No. 20/2024-25 dated 24.06.2024 issued under CBLR, 2018 and the inquiry report dated 21.08.2024.

16. I find that the present case has been booked and investigated by SIIB (Import), Air Cargo Complex, Mumbai Zone-III against the importer M/s. Global Mind (IEC-0314062882) for fraudulent import of insecticides/pesticides ("Matrine and Uniconazole") vide Bill Of entry No. 7558202 dated 28.08.2023, which was filed by the charged CB M/s. Global Clearance & Logistics (CB No. 11/2730) on behalf of the importer. I refrain from reiterating the brief facts of the case as the same have already been discussed above in detail.

17. I find that Mr. Rupesh Mahesh Patade, the owner of the importer firm in his statement dated 04.09.2023, has admitted that Sh. Mr. Praveen Madhavji Bhanushali, associate of CB firm i.e. M/s Global Clearance & Logistics advised him to import insecticides in such manner i.e. by declaring the same as Propylene Glycol. Further, I find that Mr. Rupesh Mahesh Patade (importer) in his statement dated 02.02.2024 admitted that Mr. Praveen Madhavji Banushali, the associate of CB firm i.e. M/s Global clearance and Logistics, advised him to mis-declare the said goods as propylene glycol in place of insecticide i.e. Matrine and Uniconazole, although he (Mr. Rupesh Mahesh Patade) was aware about the requirement of licence from CIB for importation of insecticide. Hence, I find that it is a matter of fact that the goods imported by the importer M/s. Global Mind, vide Bill of Entry No. 7558202 dated 28.08.2023, were insecticide i.e. "Matrine and Uniconazole" and the same have been imported by the importer without a license from Central Insecticides Board (CIB) for importation of such insecticide. From the statements of Sh. Rupesh Mahesh Patade (importer), it is evident that the CB has acted in a very negligent manner in handling the impugned import consignment. I rely on the apex court judgement in the matter of Systems & Components [2004 (165) E.L.T. 136 (S.C.)] which says as under:-

"It is a basic and settled law that what is admitted need not be proved".

18. I find that summonses were issued to the Custom Broker M/s. Global Clearance & Logistics (CB No. 11/2730) and to Sh. Praveen Madhavji Banushali, however none appeared before the investigation agency for recording of statements under section 108 of Customs Act, 1962.

19. I find that the inquiry officer has also granted adequate opportunities to the CB for appearing for hearing during the inquiry proceedings however, no any response has been received from the CB. I refrain from reiterating the findings of the inquiry officer as the same have been discussed in detail in forgoing paras, however, on a careful perusal of the

reasons assigned by the inquiry officer and as extracted above, I find that the inquiry officer has conducted a meticulous exercise to examine and appreciate the evidence on record and came to a categorical finding that the CB was guilty of non-performance of the statutory duties cast upon them and accordingly the inquiry officer has held that the all the charges levelled against the CB, are 'conclusively proved'. In view of the above discussions and under the factual matrix of the present case I find that the conclusion of the inquiry officer is sustainable and accordingly I am inclined to accept the inquiry officer's report and hold that the CB M/s. Global Clearance & Logistics (CB No. 11/2730) has violated the provisions of Regulation 10(b), 10(d), 10(e), 10(m) and 10(q) of CBLR, 2018.

20. While deciding the matter, I rely upon following judgements: -

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 CHA 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 CHA is supposed to safeguard the interest of both the importers and the Customs. A lot of trust is kept in CHA by the importers/exporters as well as by the government agencies. To ensure appropriate discharge of such trust, the relevant regulations are framed. Regulation 14 of the CHA Licensing Regulations lists out obligations of the CHA. Any contravention of such obligations even without intent would be sufficient to invite upon the CHA 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 CHA 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 CHA, 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."

21. Further, with regard to the timelines prescribed under Regulation 17 of CBLR, 2018, I rely on the following case laws and 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.”

22. I find that the CB license was put under immediate suspension vide order no. 04/2024-25 dated 17.04.2024 and such suspension was continued vide order no. 20/2024-25 dated 11.06.2024. In view of the above discussed facts and for their acts of omission and commission, the CB M/s. Global Clearance & Logistics (CB No. 11/2730) is held liable and guilty for violating the provisions of CBLR, 2018 as mentioned above. I hold that the CB has failed to discharge his duties cast upon him with respect to Regulation 10(b), 10(d), 10(e), 10(m) & 10(q) of CBLR, 2018 and is liable for penal action. Accordingly, I pass the following order:

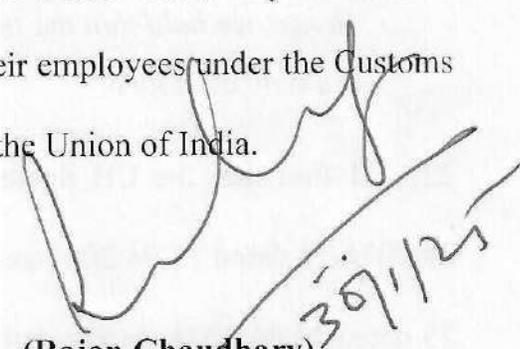
ORDER

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

- i. I hereby order for revocation of the CB license held by M/s. Global Clearance & Logistics (CB No. 11/2730; PAN – AAWFG7760P) under Regulation 14 of CBLR, 2018.
- ii. I hereby order for forfeiture of entire amount of security deposit furnished by the CB M/s. Global Clearance & Logistics (CB No. 11/2730; PAN – AAWFG7760P) under Regulation 14 of CBLR, 2018.

- iii. I hereby impose penalty of Rs. 50,000/- (Rs. Fifty Thousand Rupees Only) on M/s. Global Clearance & Logistics (CB No. 11/2730; PAN – AAWFG7760P) under Regulation 18 of the CBLR, 2018.
- iv. I hereby order that the CB immediately surrender the original License as well as all the F, G & H cards issued there under immediately.

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.


(Rajan Chaudhary)
Principal Commissioner of Customs(G)
NCH, Mumbai-I

To,

M/s. Global Clearance & Logistics (CB No. 11/2730)
Office No. 308, 3rd Floor,
Building No. 4, Sangrila CHS,
Near Punjab National Bank, 90 Feet Road,
Sakinaka, Andheri (East),
Mumbai-400 072

Copy to:

1. The Pr. Chief Commissioner/ Chief Commissioner of Customs, Mumbai I,II, III Zone.
2. All Pr. Commissioners/Commissioners of Customs, Mumbai I, II, III Zone.
3. DRI, MZU, Mumbai.
4. SIIB (X), ACC, Sahar, Mumbai.
5. CIUs of NCH, ACC & JNCH
6. EDI of NCH, ACC & JNCH
7. ACC (Admn), Mumbai with a request to circulate among all departments.
8. JNCH (Admn) with a request circulate among all the concerned.

9. Cash Department, NCH, Mumbai.

10. Notice Board

11. Office Copy