



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

संचिका सं./F. No.- GEN/1927/2022-CBS

आदेश दिनांक/Date of Order: 09.06.2026

CAO No. 11/2026-27/CAC/PCC(G)/AKP/Adj-CBS जारी दिनांक/Date of issue: 09.06.2026

DIN-20260677NO0000723377

द्वारा जारी: अजय कुमार पाण्डेय

Issued By : Ajay Kumar Pandey

प्रधान आयुक्त, सीमाशुल्क (सामान्य)

Principal Commissioner of Customs (Gen.)

मुंबई -400 001

Mumbai - 400 001

ORDER-IN-ORIGINAL मूल आदेश

ध्यान दीजिए/ N.B. :

1. यह प्रति उस व्यक्ति को निजी उपयोग हेतु निःशुल्क प्रदान की जाती है, जिसे यह जारी की जा रही है।
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2. इस आदेश के विरुद्ध अपील माँगे गए राशी के 7.5% के भुगतान पर सीमाशुल्क अधिनियम, 1962 129 की धाराA(1B)(i) के संबंधमें सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण में स्वीकार्य है, जहाँ शुल्क या शुल्क एवं जुर्माना विवादित हों, या जुर्माना, जहाँ सिर्फ जुर्माना ही विवादित हो।यह अपील इस आदेश के संप्रेषण की तारीख के तीन महीने के अंदर दायर की जाएगी। यह अपील सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण नियमावली (कार्यविधि), १९८२, के प्रावधानों के अंतर्गत, यथोत्खंडपीठ में स्वीकार्य है।

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

3. यह सूचित किया जाता है की इस आदेश के अमल में आते ही,न्याय निर्णयन अधिकारी का अधिकार क्षेत्र समाप्त होता है और सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण, पश्चिम क्षेत्री यखंडपीठ, के M/s Knowledge Infrastructure Systems Pvt. Ltd. & Others vs ADG, DRI, Mumbai के संदर्भ में जारी आदेश क्रमांक A/86617-86619/2018 दिनांक के अनुसार न्यायिक आदेश तदोड 31.05.2018 प्रांत न्याय निर्णयन अधिकारी 'functus officio' बन जाता है

It is informed that the jurisdiction of the Adjudicating Authority stands alienated with the conclusion of the present adjudication order and the Adjudicating Authority attains the status of 'functus officio' as held by Hon'ble CESTAT, Mumbai in its decision in the case of M/s Knowledge Infrastructure Systems Pvt. Ltd. &



Others vs ADG, DRI, Mumbai vide Order No. A/86617-86619/2018 dated 31.05.2018.

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

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

5. यह अपील फॉर्म C.A.-3 में दायर की जानी चाहिए जो कि सीमाशुल्क नियमावली (अपीलस), 1982 के नियम में उल्लेखित व्यक्ति 2 के उपनियम 3 के तहत निर्धारित है एवं उसी नियमावली के नियम 6 द्वारा हस्ताक्षरित एवं सत्यापित की जाएगी।

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

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

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

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

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



Brief Facts of the Case:

1. A Show Cause Notice No. 51/2022-23 dated 21.03.2023 vide F. No. GEN/1927 /2022-CBS was issued by the Principal Commissioner of Customs (General), Mumbai Zone-I to the Customs Broker M/s The Eastern Bunkerers Pvt. Ltd. (CB No.11/74) under the Customs Broker Licensing Regulations 2018, vide which an enquiry was proposed to be conducted against the said custom broker in terms of regulation 17 of the CBLR 2018.

2. M/s. The Eastern Bunkerers Pvt. Ltd. (CB No. 11/74), (PAN No. AAAC2139A), having registered address at 1107, B Wing, Western Edge II, Off Western Express Highway, Behind Metro, Borivali East, Mumbai - 400 066 (is holder of Customs Broker License No. 11/74, 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.

3. During CBLMS Validation, it came to the notice of the department that Custom Broker M/s. The Eastern Bunkerers Pvt. Ltd. (11/74) had not submitted any F-card Holder/Rule 6 Authorised Person in their CBLMS Profile. In this regard, Clarification Letter dated 05.12.2022 was issued to CB to clarify the details of Rule 6 Authorised Person in their firm.

4. Despite repeated communication, CB M/s. The Eastern Bunkerers Pvt. Ltd. did not submit their reply to the Clarification Letter dated 05.12.2022. It appears that CB had been intentionally evading the response to the Clarification Letter issued by this Office. The license of the CB was made inoperative in EDI on 21.02.2023.

5. By the above act of omission, it appeared that the Customs Broker M/s The Eastern Bunkerers Pvt. Ltd. has violated the provisions of Regulation 7(2) of CBLR, 2018. It is the obligation of CB to intimate the department about the retirement or change of Rule 6 Authorised Person. It appears that CB M/s. The Eastern Bunkerers Pvt. Ltd. did not intimate the department about the retirement or change of Rule 6 Authorised Person in their firm. By the above act of omission, it appeared that CB M/s. The Eastern Bunkerers Pvt. Ltd. Has violated the provisions of Regulation 11(3) and 13(11) of CBLR, 2018.

6. M/s. The Eastern Bunkerers Pvt. Ltd. (CB No. 11-74) was called upon to show cause to the undersigned within 30 days of the receipt of this notice as to why:

(i) CB License should not be revoked under Regulation 14 of CBLR, 2018 for failure to comply with Regulation 7(2), 11(3) and 13(11) of CBLR, 2018.



(ii) Security Deposit should not be forfeited under Regulation 14 of CBLR, 2018 for failure to comply with Regulation 7(2), 11(3) and 13(11) of CBLR, 2018.

(iii) Penalty should not be imposed under Regulation 18 of CBLR, 2018 for failure to comply with Regulation 7(2), 11(3) and 13(11) of CBLR, 2018.

6.1 In view of the above facts and finding of the investigation, allegations of violation of Regulations 7(2), 11(3), and 13(11) of CBLR, 2018 has been made against the Custom Broker M/s The Eastern Bunkerers Pvt. Ltd. (CB No.11/74).

7. Smt. Alok Kumar, Assistant Commissioner of Customs, was appointed as the inquiry officer vide letter F. No. GEN/1927/2022-CBS dated 25.02.2026, under regulation 17 of the CBLR 2018 to inquire into the charges framed against the Customs Broker M/s The Eastern Bunkerers Pvt. Ltd. (CB No.11/74) under the Regulations 7(2), 11(3), and 13(11) of CBLR, 2018.

INQUIRY REPORT: -

8. The Inquiry Officer (hereinafter referred to as the 'IO') concluded the inquiry proceedings and submitted the Inquiry Report dated 30.03.2026 within prescribed timeline under Regulation 17, wherein all the charges levelled against the CB of violation of Regulations 11(3), 13(7), 13(8) and 13(11) of the CBLR, 2018 were held as "Proved".

9. Inquiry Officer submitted that opportunity for personal hearing was granted to Custom Broker M/s The Eastern Bunkerers Pvt. Ltd. (CB No.11/74) on 16.03.2026. On the scheduled date of hearing, the CB did not appear for the personal hearing. However, a letter dated 16.03.2026 was submitted to the Inquiry Officer by the said CB. In the said letter the CB stated that they do not require a personal hearing, and requested to decide the case on the basis of the written submission dated 10.03.2026 already submitted by them.

10. Inquiry Officer submitted that in their submission dated 10.03.2026, Custom Broker submitted that the earlier authorised employee had resigned and submitted request for cancellation of Customs Pass through letter dated 02.08.2016. However, the requirement of ensuring appointment and registration of a Regulation 6 qualified authorised employee, as contemplated under Regulation 7(2) read with Regulation 11(3) and 13(11) of CBLR, 2018, was not complied with by the CB from the year 2016 onwards. The CB acknowledges the lapse and submits that the non-compliance occurred due to lack of proper appreciation of the mandatory nature of the regulatory provisions and not with any deliberate, wilful or mala fide intention to contravene the law. The lapse was regulatory, procedural in character, and not substantive in nature.



11. Further they have also submitted that it had responded to the Show Cause Notice dated 21.03.2023 vide letter dated 20.04.2023. In the said reply they have submitted that the Rule 6 qualified authorised person associated with the firm had resigned from service on 25.07.2016; that due to the unprecedented disruption caused during the COVID-19 pandemic period, the firm was unable to appoint a new qualified authorised employee immediately; and thereafter they had requested the Department to grant a period of 90 days to enable appointment of a new authorised person in compliance with the provision of CBLR, 2018.

12. They have respectfully submitted that no personal hearing was granted to the Noticee and the matter has not been adjudicated till date in spite of the Custom Broker licence of the CB being made inoperative since 21.02.2023. The prolonged in-operation of the licence has already caused substantial hardship and has effectively operated as punitive consequences. The CB has since appointed a Regulation 6 qualified authorised employee and is presently in full compliance with the provisions of CBLR, 2018. Further, there is no allegation in the present proceedings of fraud, mis-declaration, aiding smuggling, collusion, or revenue loss. The alleged contravention pertains solely to non-compliance with a regulatory requirement relating to authorised employee and does not involve any act of dishonesty or misconduct affecting Customs Revenue.

13. Case Laws submitted by the CB:

(i) CB submitted that it is a settled principle of administrative law that revocation of a Customs Broker licence is the most drastic civil consequence contemplated under the Regulations and therefore must be exercised strictly in accordance with the doctrine of proportionality. The penalty imposed must bear reasonable nexus with the gravity and nature of the misconduct established.

(ii) In *Kunal Travels (Cargo) V. CC* The Hon'ble Delhi High Court held that "revocation of licence is justified only where the misconduct is grave, deliberate and has revenue implications or reflects complicity in illegal activity. The Court cautioned that technical or procedural lapses, in absence of fraudulent intent, do not automatically warrant the extreme step of licence cancellation. The decision underscores that regulatory discipline can be maintained through lesser penalties where the breach is not fundamental.

(iii) In *N.C. Singha & Sons v. CC*, the Tribunal held that "procedural infractions without malafide intention or revenue consequence do not justify revocation and that the punishment must be balanced and reasonable. The Tribunal emphasised that the objective of the Regulations is to ensure compliance and not to impose disproportionate penalties where the violation is technical in nature."



(iv) CB submitted that In KTR LOGISTICS SOLUTIONS PVT. LTD. Versus CUS., CHENNAI 2020 (371) E.L.T. 685 (Mad.) IN THE WGH COURT OF JUDICATURE AT MADRAS

If an order of suspension is passed suspending the license of the Customs Broker, either as imminent action or pending enquiry, all farther proceedings to be completed and a final order to be passed preferably within a time frame; (b) no such final order passed within such time, suspension of the license is to be treated as deemed to have been lapsed and the license is deemed to have been restored. (c) If no final order is passed even after the extended time-limit, official as to why the time-limit was not adhered to at every stage. (d) Based on the explanation/report submitted by the concerned officials, suitable action /corrective measure should be taken against the erring officials for not adhering to the time-limit, after giving them an opportunity of hearing; (e) However, before taking such action, it is to be seen as to whether such inaction within the time frame was due to some Bonafide reason beyond the control of such authority or at the fault or deliberate non-cooperation of the license:"

14. Applying the above settled principles to the present case, they have submitted that although the non-compliance continued for a period of time, it was not accompanied by any fraudulent conduct, misrepresentation, suppression of facts, or revenue implication. They had responded to the Show Cause Notice vide letter dated 20.04.2023.

15. The licence has already remained inoperative since 21.02.2023, resulting in substantial financial hardship, reputational damage and business disruption. The prolonged in operation has itself operated as a significant punitive consequence. Imposition of revocation in addition would amount to disproportionate punishment for a procedural lapse that stands corrected. The imposition of penalty, forfeiture of security deposit and revocation of the licence would result in triple jeopardy for a single violation of regulation 7(2) of CBLR,2018.

16. It is prayed by the CB that:

- (i) The proposal for revocation under Regulation 14 of CBLR, 2018 be dropped
- (ii) Customs Broker Licence No. 11/74 be restored and made operative
- (iii) Such reasonable penalty under Regulation 18 as deemed fit may be imposed, which the Noticee undertakes to comply with. The Noticee assures this Hon 'ble Authority of strict and scrupulous compliance with all provisions of CBLR, 2018 henceforth.



FINDINGS OF THE INQUIRY OFFICER: -

17. Inquiry Officer found that CB M/s. The Eastern Bunkerers Pvt. Ltd. (11/74) had not submitted any F-card Holder/Rule 6 Authorised Person in their CBLMS Profile. In this regard, Clarification Letter dated 05.12.2022 was issued to CB to clarify the details of Rule 6 Authorised Person in their firm. Despite repeated communication, CB did not submit their reply to the Clarification Letter dated 05.12.2022. CB had been evading the response to the Clarification Letter issued by this Office. The license of the CB was made inoperative in EDI on 21.02.2023. Hence, the above mentioned case laws submitted by the CB are not relevant in this matter. As per material available on record, Inquiry Officer also found that M/s Eastern Bunkerers Pvt. Ltd submitted a letter for adding the name of Mr Anil Kirtilal Shah in their licence on 22.11.2025.

18. Inquiry Officer found that CB has also submitted in their submission that the requirement of ensuring appointment and registration of a Regulation 6 qualified authorised employee, as contemplated under Regulation 7(2) read with Regulation 11(3) and 13(11) of CBLR, 2018, was not complied with from the year 2016 onwards. They accepted the lapse and submits that the non-compliance occurred due to lack of proper appreciation of the mandatory nature of the regulatory provisions and not with any deliberate, wilful or mala fide intention to contravene the law. It is settled principle of law that one which is admitted need not to be proved.

19. Inquiry Officer found that that CB M/s. The Eastern Bunkerers Pvt. Ltd. did not intimate the department, about the retirement or change of Rule 6 Authorised Person in their firm. By the above act of omission, Inquiry Officer found that CB M/s. The Eastern Bunkerers Pvt. Ltd. has violated the provisions of Regulation 7 (2), 11(3) and 13(11) of CBLR, 2018 and found as proved.

20. SUMMARY OF THE FINDINGS:

The IO concluded the findings of the inquiry as under:

1.	Violation of Regulation 7(2) of CBLR, 2018	Proved
2.	Violation of Regulation 11(3) of CBLR, 2018	Proved
3.	Violation of Regulation 13(11) of CBLR, 2018	Proved

21. Under the provisions of Regulation 17(6) of the CBLR, 2018, a copy of the Inquiry Report dated 30.03.2026 was shared with the CB vide email dated

24.04.2026 and further, to uphold the Principle of Natural Justice, an opportunity of personal hearing was granted to the CB on 20.05.2026.

RECORDS OF PERSONAL HEARING: -

22. An opportunity for a Personal Hearing was granted to the CB, M/s. The Eastern Bunkerers Pvt. Ltd. (11/74), on 20.05.2026 at 12:30 p.m. Shri Arvind Agarwal, Director of the CB firm, appeared for the Personal Hearing before the Principal Commissioner of Customs (General). During the hearing, he had reiterated his earlier submissions made before the Inquiry Officer on 10.03.2026. Accordingly, their written submissions dated 10.03.2026 as already discussed in detail on above, were taken on record. Consequently, the matter was taken up for final adjudication based on the facts of the case, the Inquiry Officer's report, their written submissions, and the evidence available on record.

DISCUSSIONS AND FINDINGS: -

23. I have carefully gone through the Show Cause Notice No. 51/2022-23 dated 21.03.2023 issued under Regulation 17(1) of the CBLR, 2018; the Inquiry Report dated 30.03.2026; the CB's written submission dated 10.03.2026, and the records of personal hearing accorded to the Noticees/their authorised representative, and all other documents and evidence available on record. In compliance with the principles of natural justice, sufficient opportunities were granted to the Noticees to present their defence through written submissions as well as during personal hearing. All the submissions advanced by the Noticees have been carefully considered and taken on record before proceeding to adjudicate the present proceedings on merits.

24. I find that during CBLMS Validation in the year 2022, it came to the notice of the Department that CB M/s. The Eastern Bunkerers Pvt. Ltd. (11/74) had not submitted any F-card Holder in their CBLMS Profile. Consequently, two letters dated 05.12.2022 and 24.01.2023 were issued to CB to clarify the details of the F-card holder in their organization. Despite repeated communications vide email and phone, CB have not filed their response to the aforesaid letters. In view of the non-compliance with Regulation 7(2) of the Customs Brokers Licensing Regulations, 2018, the Customs Broker Licence of the said firm was rendered inoperative with effect from 21.02.2023. Subsequently, Show Cause Notice No. 51/2022-23 dated 21.03.2023 was issued to the Customs Broker as to why their License should not be revoked for their failure to comply with provisions of CBLR, 2018 and penalty should not be imposed on them for violation of CBLR, 2018. In response to the said Show Cause Notice, the Customs Broker submitted a reply vide letter dated 20.04.2023, wherein it was admitted that the firm had



continued to operate as a Customs Broker from 2016 till the date of suspension of its licence on 21.02.2023.

25. Upon careful consideration of the allegations contained in the Show Cause Notice, the written submissions advanced by the Noticee, the Inquiry Report dated 30.03.2026 and the evidence available on record, I find that the following principal issues arise for determination in the present proceedings:

- i) Whether the CB licence is liable to be revoked under Regulation 14 of CBLR, 2018; the Security Deposit is liable to be forfeited under Regulation 14 of CBLR, 2018; and Penalty is required to be imposed on the CB under Regulation 18 of CBLR, 2018 for failure to comply with Regulations 7(2) (mandatory presence of authorised person), 11(3) (maintenance of records), and 13(11) (obligations of employees/authorised representatives) of of CBLR, 2018.
- ii) Whether the violations committed by the CB is limited to a technical/regulatory requirement regarding the authorised employee and does not involve any amount of fraud, mis-declaration, aiding smuggling, collusion, or any revenue loss.
- iii) Whether revocation of a Customs Broker license is required to be exercised against the CB as per the doctrine of proportionality.

26. I find that Regulation 7(2) of CBLR 2018 exists to ensure that no Customs Broker firm or company operates without a qualified professional at its helm. It is the regulatory safeguard that links the grant and continuation of a license to actual competence, rather than just corporate existence or financial capacity. Regulation 7(2) is a core eligibility and continuing compliance provision under the Customs Brokers Licensing Regulations, 2018. Its primary purpose is to ensure that every Customs Broker entity (especially companies, firms, or associations) always maintains at least one professionally qualified person who has passed the Regulation 6 examination.

27. Regulation 7(2) of CBLR 2018

The applicant who has paid the fee referred to in sub-regulation (1) shall be granted a license. by the Principal Commissioner or Commissioner of Customs, as below:

(a) An individual shall be granted the license in Form 81 if that individual has passed the examination referred to in regulation 6.

(b) A customs broker's license may be granted to any company, firm or association in Form 82 if at least one director, partner or an authorised employee, as the case may be, has passed the examination referred to in regulation 6:



Provided that at any given time such director, partner or an authorised employee shall not engage himself for transacting business under these regulations on behalf of more than one such firm or company:

Provided further that where a company or a firm which has been granted a license under this regulation undergoes any change in the directors, or managing director or partner, such change shall forthwith be communicated by such licensee to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, within one month of such change:

Provided further that where a company or a firm which has been granted a license under this regulation undergoes any change in the directors, or managing director or partner, such change shall for with be communicated by such licensee to the Principal Commissioner of Customs, as the case may be, within one month of such change:

Provided also that where a company or firm which has been granted a license under this regulation undergoes any change whereby there is a change in the PAN, the licensee shall apply for a fresh license to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, within sixty days of such change".

27.1 Regulation 7(2) is not a mere procedural requirement but a substantive and continuing eligibility condition for grant and continuation of a Customs Broker license to a company/firm. The regulation mandates that at all time there must be at least one director, partner, or authorised employee who has qualified the Regulation 6 examination. This requirement ensures professional competence, accountability, and integrity in the handling of Customs business. The Noticee operated without any qualified person for over seven years (from August 2016 until 2023 when the Department made the CB licence inoperative) and during the period from 02.08.2016 to 21.02.2023, the CB had filed 04 Shipping Bills and 284 Bills of Entry without having any qualified person. This constitutes continuous and prolonged violation spanning over 7 years (2016–2023), not a one-time technical lapse. The explanation of “lack of proper appreciation” of the law does not constitute a valid defence in regulatory violations, as licensed Customs Brokers are expected to be fully aware of their statutory obligations and to comply with such licensing conditions. Ignorance or negligence of licensing conditions cannot be condoned.

28. Regulation 11(3) of CBLR, 2018

“Notwithstanding anything contained in sub-regulation (1), in case of any firm or a company where a license has ceased to be in force because of the death or retirement of any partner or director or an authorised employee, who has passed

the examination referred to in regulation 6, the firm or the company may apply for replacement of the name of the demised person by the name of another partner, director or authorised employee who has passed the examination referred to in regulation 6....”

28.1 The qualified (Regulation 6) authorised employee of M/s. The Eastern Bunkerers Pvt. Ltd. resigned in July 2016. The CB submitted a request only for cancellation of the Customs Pass of the resigned employee (letter dated 02.08.2016), but did not apply for replacement by appointing and registering a new qualified person. As a result, the license effectively continued without any Regulation 6 qualified person for more than 7 years. Regulation 11(3) provides a specific mechanism for replacement when the qualified person leaves. The CB failed to invoke this provision and continued operating without fulfilling the mandatory requirement of Regulation 7(2). This is a continuing violation of the obligation to maintain the eligibility condition of the license. It is not a one-time lapse but a persistent failure to restore compliance after the departure of the qualified employee.

29. Regulation 13(11) of CBLR, 2018

“Any change in the persons issued a F card or G card or H card and actually engaged in the work in the Customs Station on behalf of a licensee firm or company shall be communicated forthwith by the firm or the company, as the case may be, to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, and no new person other than 'F', 'G' or 'H' card holders, shall be allowed to work in the Customs Station as a duly authorised employee on behalf of that firm or company.”

29.1 The resignation of the F-card holder (qualified authorised employee) of M/s. The Eastern Bunkerers Pvt. Ltd. in 2016 was a material change that required immediate intimation to the Department. While they informed about the cancellation of the pass, they failed to communicate the ongoing absence of any qualified F-card holder. More importantly, they did not appoint and register any new F-card holder for over seven years. By continuing to hold and (presumably) operate the license without a qualified authorised employee, they violated the clear mandate that no person other than F/G/H card holders shall be allowed to work on their behalf. The CB also failed to respond to the official Clarification Letter dated 05.12.2022, which directly asked for details of the Rule 6 Authorised Person. This shows not only initial non-compliance but also continued disregard of departmental oversight.

30. These provisions are not mere technical formalities. They form the backbone of the Customs Broker licensing regime to ensure professional competence, accountability, and proper supervision of Customs business.

Operating a Customs Broker firm for seven years without any Regulation 6 qualified person undermines the very purpose of the licensing system under Section 146 of the Customs Act, 1962.

31. I find that CB M/s. The Eastern Bunkerers Pvt. Ltd. (11/74) had not submitted any F-card Holder/Rule 6 Authorised Person in their CBLMS Profile. In this regard, Clarification Letter dated 05.12.2022 was issued to CB to clarify the details of Rule 6 Authorised Person in their firm. Despite repeated communication, CB did not submit their reply to the Clarification Letter dated 05.12.2022. CB had been evading the response to the Clarification Letter issued by this Office. The license of the CB was made inoperative in EDI on 21.02.2023. The CB M/s Eastern Bunkerers Pvt. Ltd has submitted a letter for adding the name of Mr Anil Kirtilal Shah in their licence on 22.11.2025.

32. The CB vide letter dated 14.01.2026, stated that their authorised person had intimated the Department vide letter dated 02.08.2016 for cancellation of the Customs pass and had surrendered the original pass by own. However, it is admitted by the CB that they continued to operate as a Customs Broker from 2016 till the date of suspension of licence on 21.02.2023, without appointment of any authorised F-Card holder, which is a mandatory requirement under Regulation 7(2) of CBLR, 2018.

33. Thus, I find that the Noticee M/s. The Eastern Bunkerers Pvt. Ltd. (License No. 11/74) has made the following clear and explicit admissions in their written submissions:

- i) The authorised employee who had passed the Regulation 6 examination resigned from service on 25.07.2016. They did not appoint any new Regulation 6 qualified authorised employee / director / partner from 2016 onwards until recently. They failed to ensure compliance with the mandatory requirement under Regulation 7(2) read with Regulations 11(3) and 13(11) of CBLR, 2018 for a continuous period of more than 7 years.
- ii) They acknowledge the lapse in not maintaining a Regulation 6 qualified person. They admit that they did not comply with the continuing obligation to have at least one qualified authorised employee.
- iii) That the non-compliance occurred due to lack of proper appreciation of the mandatory nature of the regulatory provisions and on account of the disruption caused by the COVID-19 pandemic.

34. I, thereof, observe that the Noticee has thus admitted the entire factual matrix of the allegations made in the Show-Cause-Notice. The contravention of Regulations 7(2) (mandatory presence of authorised person), 11(3) (maintenance of records), and 13(11) (obligations of employees/authorised

representatives) of CBLR, 2018 is no longer in dispute. The defence of the Noticee is now confined to the nature and gravity of the violation, absence of mala fide intention, mitigating circumstances, and proportionality of the proposed penalty/revocation.

35. The COVID-19 pandemic (2020-2021) cannot explain the non-compliance for the period 2016-2020 (pre-pandemic) or the continued failure even after normalcy was restored in late 2021. Thus, I find that the Noticee had ample time (several years) to appoint a qualified person but chose not to. Reliance on the pandemic is an afterthought and does not explain the multi-year prolonged inaction.

36. The license was made inoperative because of the Noticee's own persistent violation, not due to any delay or fault on the part of the Department. The Noticee failed to respond to the Clarification Letter dated 05.12.2022 despite repeated reminders, which demonstrates lack of diligence and bonafides and disregard for regulatory oversight. The license was made inoperative in EDI on 21.02.2023 precisely due to this non-compliance, not due to any arbitrary action by the Department. Self-inflicted hardship cannot be a ground to escape consequences. Allowing restoration without adjudicating the violations would undermine the regulatory framework and encourage other brokers to delay compliance. The Department has acted within the scheme of Regulation 14 & 17. Subsequent appointment of a qualified person does not erase the past contravention.

37. I find that the plea that the violation is merely "procedural" is not acceptable. Maintenance of a qualified authorised employee is the foundation of the licensing regime under CBLR, 2018. Prolonged absence of such a person renders the entity unfit to transact Customs business. Regulation 14(b) allows revocation or penalty for failure to comply with any provisions of CBLR 2018 — independent of fraud, smuggling, or revenue loss. Absence of fraud or revenue loss is a mitigating factor, but it does not absolve the Noticee from consequences for breach of a mandatory licensing condition. Maintaining qualified authorised personnel is fundamental to ensure proper handling of Customs work, accountability, and integrity of the clearance process. Repeated violation of this core requirement renders the broker unfit under Regulation 14(c) as well. My above view that the existence of mens rea is not an essential ingredient to establish contravention of a civil law, is supported by the judgments of the Supreme Court in the case of *Chairman, SEBI v. Shriram Mutual Fund - 2006 (5) S.C.C. 361* and *Pine Chemicals Suppliers v. Collector of Customs*, followed and applied by the High Court of Madras in *Commissioner of Customs (Export), Chennai-I v. Bansal Industries [2007 (207) E.L.T. 346]*. I also place reliance on the decision of the Hon'ble

jurisdictional High Court in the case of *Sankar Pandi v. Union of India* reported in 2002 (141) E.L.T. 635 (Mad.) which decision has thereafter been upheld by the Hon'ble Apex Court [2018 (360) E.L.T. A214 (S.C.)], wherein a similar penalty under Customs Act, 1962 without having the element of mens rea has been upheld.

38. The Noticee has contended that revocation of the Customs Broker license would be disproportionate and has invoked the doctrine of proportionality. The doctrine requires that the penalty imposed must be fair, balanced, and bear a reasonable relationship with the gravity and circumstances of the violation.

39. After careful consideration of the facts, admissions, mitigating circumstances, and the doctrine of proportionality, I hold that the violations alleged in the Show Cause Notice stand admitted and undisputed:

i. Violation of Regulation 7(2) of CBLR, 2018

Regulation 7(2) mandates that a Customs Broker license to a company/firm shall be granted and continued only if at least one director, partner, or authorised employee has passed the Regulation 6 examination. This is a core eligibility and continuing compliance condition. The Noticee operated the license for more than seven years without any qualified person, which is a serious substantive breach.

ii. Violation of Regulation 11(3) of CBLR, 2018

Regulation 11(3) provides a specific mechanism for replacement of a qualified person in case of death or retirement/resignation of the earlier qualified partner/director/authorised employee. The Noticee only intimated the cancellation of the resigned employee's pass but failed to apply for replacement by appointing a new qualified person. This resulted in the license continuing without fulfilling the basic eligibility requirement, which is a clear violation of Regulation 11(3).

iii. Violation of Regulation 13(11) of CBLR, 2018

Regulation 13(11) mandates that any change in the persons issued F-card (or G/H card) and actually engaged in Customs work shall be communicated forthwith to the Deputy/Assistant Commissioner of Customs. The Noticee failed to intimate the continued absence of any qualified F-card holder after 2016. They also failed to respond to the Clarification Letter dated 05.12.2022 issued by the Department, which further aggravates the violation.

40. The Noticee has admitted a prolonged non-compliance with Regulation 7(2) read with Regulations 11(3) and 13(11) of CBLR, 2018 for over seven

years. While this is a serious breach of a mandatory licensing condition, I also acknowledge that the violation is purely regulatory in nature and does not involve any allegation of fraud, mis-declaration, smuggling, collusion, or revenue loss. Further, the Noticee has admitted the lapse without contesting the facts and is ready to pay the penalty under Regulation 18 as deemed fit by the Adjudicating Authority. The Noticee has subsequently appointed a Regulation 6 qualified authorised employee and is now in full compliance with CBLR, 2018. Moreover, the license has already remained inoperative since 21.02.2023, causing substantial financial hardship and business disruption. This prolonged inoperation has itself served as a significant punitive consequence.

41. I am of the view that revocation of licence is the most severe penalty under the Regulations and should be reserved for cases involving grave misconduct, dishonesty, or repeated violations with aggravating factors. In the present case, although the duration of non-compliance is significant, the absence of mala fide intent, revenue implication, or any threat to the Customs revenue tilts the balance in favour of a lenient but deterrent approach. A complete revocation would cause disproportionate hardship after the Noticee has already suffered the consequences of an inoperative license for a considerable period and has now rectified the deficiency. The objective of the Regulations is to ensure compliance rather than to destroy the livelihood of the broker permanently for a regulatory lapse that stands corrected.

42. As discussed above, I conclude that the CB, M/s. The Eastern Bunkerers Pvt. Ltd. (License No. 11/74), is guilty of violating Regulations 7(2), 11(3), and 13(11) of the CBLR, 2018. In view of the detailed discussion and analysis above, it is established that the CB has failed to discharge the professional and statutory obligations mandated under the Customs Brokers Licensing Regulations, 2018. The evidence on record confirms that the Customs Broker had operated the license for more than seven years without any qualified person. Furthermore, by continuing customs clearance operations and filing 284 Bills of Entry and 04 Shipping Bills during the 07 years period in the absence of a Regulation 6 qualified person, the Customs Broker failed to exercise the requisite degree of supervision and monitoring of their staff.

43. Thus, the unauthorized operation appears to be a consequence of diminished diligence rather than deliberate connivance. I also take note of the

CB's submission regarding judicial precedents such as Kunal Travels (Cargo) V. CC, N.C. Singha & Sons v. CC, wherein it was held that technical or procedural lapses, in absence of fraudulent intent, do not automatically warrant the extreme step of licence cancellation. The decision underscores that regulatory discipline can be maintained through lesser penalties where the breach is not fundamental. Considering that the CB has now appointed a new 'F' Category qualified person to regularize their operations, I find the extreme action of revocation of the Customs Broker's License or the forfeiture of the security deposit to be unwarranted. Hence, under the factual matrix of the case and applying the Principle of Proportionality, I am not inclined to revoke the License or forfeit the security deposit, as such punishments would be disproportionately harsh compared to the administrative nature of the primary infraction. However, I am of the considered view that the ends of justice will be met by imposing a penalty on the CB under Regulation 18 of the CBLR, 2018, which suffices both as a corrective measure for the regulatory breach and as a deterrent to future lapses in statutory compliance. In this regard, I place reliance on the following case laws:

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

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



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

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

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

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

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

importer to enable the fraud to take place. No such culpability is forthcoming in respect of the appellant herein.....”

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

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

20. Having gone through the facts of the case and evidence on record, it is noted that the role of the CB, although marked by negligence and a significant lapse in professional caution regarding the monitoring of their authorized personnel, appears to be one of administrative omission and failure to adhere to prescribed standards rather than a premeditated *modus operandi* to bypass Customs laws. This distinction is of material importance while determining the proportionality of punishment under the licensing regulations. The objective of action under the CBLR is not punitive alone but also corrective and deterrent, aimed at ensuring that Customs Brokers adhere to the high standards of diligence and responsibility expected of them as licensed intermediaries. In the present case, the regulatory lapses established on record regarding the unauthorized filing of 284 Bills of Entry and 04 Shipping Bills while the license was legally inoperative justify the imposition of a monetary penalty under Regulation 18 of the CBLR, 2018, and forfeiture of security deposit under Regulation 14 of the CBLR, 2018 so as to underscore the seriousness of the obligations violated and to deter recurrence of such lapses in future. However, having regard to the nature of the violations and the fact that revocation of the license would have severe and disproportionate consequences on the livelihood of the CB and its employees, the extreme penalty of revocation or forfeiture of security deposit is not warranted.

44. In view of the above considerations and the “Doctrine of Proportionality,” which propagates the idea that a punishment for an offence should be proportional to the gravity of the offence, I am not inclined to revoke the license or to forfeit the security deposit of the CB. However, for their acts of omission and commission, the Customs Broker, M/s. The Eastern Bunkerers Pvt. Ltd. (License No. 11/74), is held liable and guilty for violating the provisions of Regulations 7(2), 11(3), and 13(11) of the CBLR, 2018, as mentioned above. I hold that the CB has failed to discharge the duties cast upon them, and the interest of justice would be met by the imposition of a penalty under Regulation CBLR, 2018. Accordingly, I pass the following order:



ORDER

45. 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 impose a penalty of **Rs. 50,000/- (Rupees Fifty Thousand only)** on the Customs Broker M/s. The Eastern Bunkerers Pvt. Ltd. (License No. 11/74) under Regulation 18(1) of the CBLR, 2018.

46. 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.


9.6.26

(AJAY KUMAR PANDEY)

Principal Commissioner of Customs (General)
New Customs House, Mumbai
प्रधान आयुक्त सीमाशुल्क (सामान्य)
AJAY KUMAR PANDEY
Principal Commissioner of Customs (General)
नवीन सीमाशुल्क भवन, मुंबई - 400 001
New Customs House, Mumbai - 400001.

To,

M/s. The Eastern Bunkerers Pvt. Ltd. (License No. 11/74)

Copy to:

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

