



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

संचिका सं./F. No.- GEN/CB/293/2025-CBS

आदेश दिनांक/Date of Order: 02.01.2026

CAO No. 124/2025-26/CAC/CC(G)/SJS/Adj-CBS जारी दिनांक/Date of issue: 09.01.2026

संख्या:

DIN:- 20260177 000000121097

द्वारा जारी : श्रद्धा जोशी शर्मा

Issued By : Shraddha Joshi Sharma

आयुक्त, सीमाशुल्क (सामान्य)

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 धारा 129A(1B)(i) के संबंध में सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण में स्वीकार्य है, जहाँ शुल्क या शुल्क एवं जुर्माना विवादित हों, या जुर्माना, जहाँ सिर्फ जुर्माना ही विवादित हो। यह अपील इस आदेश के संप्रेषण की तारीख के तीन महीने के अंदर दायर की जाएगी। यह अपील सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण नियमावली (कार्यविधि), 1982, के प्रावधानों के अंतर्गत, यथोत्तुखंडपीठ में स्वीकार्य है।

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

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

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

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

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

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

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

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

6. (i) यदि प्रतिवादित आदेश, जिसके विरुद्ध अपील की गई है, में शुल्क एवं मांगे गए ब्याजवलगाए गए जुर्माने की राशि रु-1000 .पाँच लाख या इस से कम होतो रु ., (ii)यदि यह राशि रुपाँच लाख से अधिक .) एवं -/50000 .हो किंतु पचास लाख से अधिक न होतो रुiii) यदि यह राशि रुपचास लाख से अधिक होतो . के शुल्क -/100000 .रु का भुगतान क्रॉस्ड बैंक ड्राफ्ट के माध्यम से अधिकरण की खंडपीठ के सहायक पंजीयक के पक्ष में जिस स्थान पर खंडपीठ स्थित है, के किसी भी राष्ट्रीय क्रत बैंक की शाखा में किया जाए एवं डिमांड ड्राफ्ट अपील के साथ संलग्न किया जाए।

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

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

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

Brief Facts of the Case:

M/s. JEM Logistics Solutions (CB No. 11/1976) PAN No. AAJFJ7816Q having address - Unit No. 1A, Aawas Apartment, Ground Floor, Sahar Pipeline Road, Andheri-400059 Maharashtra (hereinafter referred to as the Customs Broker/CB) is holder of Customs Broker License No. 11/1976, issued by the Commissioner of Customs, Mumbai under Regulation 7(1) of CBLR, 2013 (now regulation 7(2) of CBLR, 2018) and as such they are bound by the regulations and conditions stipulated therein.

2. An Offence report dated 11.04.2025 along with Show Cause Notice No. 1700/2024-25/Gr.II(A-B)/NS-I/CAC/JNCH dated 04.02.2025 received from O/o the Commissioner of Customs, NS-I, JNCH. M/s Air Liquide India Holding Pvt. Ltd. (IEC-0596028539) has filed Shipping Bill No. 2801946 dated 29.07.2024 through their CB M/s. JEM LOGISTICS SOLUTIONS for Re-Export of 120 Empty Cylinder of DMF Acetylenes under CTH 73090090 imported on returnable basis vide Bill of Entry Nos. 9525296 dated 04.01.2024, 7357869 dated 14.08.2023 & 4390724 dated 28.01.2023. Further, shipping Bill No. 2801946 dated 29.07.2024 was filed on the NFEI basis & FOB value of Shipping Bill is Rs.7305470.03 & Value of each cylinder is mentioned Rs.119272.98.

2.1 During scrutiny of import documents, it was observed that exporter has imported DA PUR and DMF Acetylene under CTH 29012910 filled in cylinders on return basis (as per declaration) and paid applicable duty only on chemical/gas (Acetylene) filled in the cylinders. It was found that the importer neither declared the returnable cylinders as separate items in respective import documents nor has claimed any exemption notification/benefit for import of cylinders (imported on returnable basis). As such the importer has failed to discharge applicable duty obligation on the cylinders at the time of import.

2.2 Furthermore, as per the PESO certificate/ Licence given at the time of import (mentioned in respective import bills of entry) there was specific condition for import of said gas/chemical in cylinders, which is stated as below:

"Please note that the cylinders in question after emptied shall be returned to the supplier of the cylinders under intimation to this office. The copies of re-export bond and bank guarantee executed to The President of India through Commissioner of Customs shall be submitted to this office for reference and record. This permission does not absolve you to obtain necessary permission/license from any other authorities."

2.3 Export Docks officer asked Customs Broker /exporter to provide details regarding duty payment on cylinder at the time of import or details regarding any exemption notification claimed on import of cylinder on returnable basis, as there was not any notification mentioned in import bill of entry. Also, exporter was asked to provide details/copy of re-export bond and bank guarantee which was to be submitted at the time of import (as cylinders were imported on returnable basis). However, Customs Broker/exporter has failed to provide the same.

2.4 In addition to the above, the Export Docks officer also retrieved previous import data through the 1.5 system and a Bill of Entry bearing No. 6280765 dated 17.11.2021 was identified. This Bill of Entry pertained to the import of the same item, i.e., DMF Acetylene, classified under CTH 29012910 and filled in cylinders on a returnable basis (as per the declaration). No exemption notification was claimed for this import, and the applicable duty on DMF Acetylene was duly paid. However, the cylinders though declared as a separate item in the Bill of Entry, were incorrectly classified under CTH 29012910, which is applicable to DMF Acetylene. Consequently, duty was paid at the rate applicable to the chemical, rather than the correct classification for the cylinders. In the corresponding re-export shipping bill, the cylinders were correctly declared under RITC 73090090. This indicates that the importer had misclassified the cylinders in the original Bill of Entry, resulting in a short payment of duty.

2.5 Further, the exporter submitted a clarification via letter dated 16.08.2024, addressed to the Assistant Commissioner, Export Docks. In the letter, they stated that they had imported DMF Acetylene Gas under the following Bills of Entry: No. 9525296 dated 04.01.2024, No. 7357869 dated 14.08.2023, and No. 4390724 dated 28.01.2023. While a bond was submitted at the time of import for Bill of Entry No. 9525296 dated 04.01.2024,

under notification number 104/94-Cus dated 16.03.1994, however no Re-export (RE) bond was submitted for the shipments covered under Bills of Entry No. 7357869 dated 14.08.2023 and No.4390724 dated 28.01.2023. The exporter has therefore requested permission to re-export the concerned shipments.

2.6 Exporter/Importer further added that they serve innovative gas solutions and technologies to a wide range of Industrial and Healthcare customers, they sell a wide range of industrial gases pure and mixtures across industries for gas applications such as welding and cutting heat treatment, inert gas blanketing, oxy-combustion, annealing, wastewater treatment. They import DMF Acetylene gases in steel type of Cylinders for Industrial use and are supplied to their customers Tata, Bosch & Kaylani and many more. These gases are imported in steel types of Cylinders. The gases are used for welding/cutting purposes. These cylinders were imported on the returnable basis to their supplier for re-filing purposes. They informed that the current RE-export of 120 empty cylinders were imported with (DMF) Acetylene gases vide three Bill of Entries.

2.7 Further, exporter submitted that 48 no. of cylinders imported under B/E No. 6280765 dated 17.11.2021 were re-exported back to the shipper vide Shipping No. 8491445 dated 24.02.2022 (36 Cylinders) & 2300798 dated 22.06.2022 (12 cylinders). In view of the above, exporter humbly stated that there is some delay in re export of the above Cylinders due to delay in utilization of the gases beyond their control. They could not furnish Re-export bond at the time of Import for the reason that these Bill of Entry were cleared under RMS and also note that Customs Duty of the DMF gases were paid as applicable. They do not intend to keep the cylinders in India as all the cylinders imported are on returnable basis and since the bond and Empty Cylinders were reported back after 6 months due to the gas utilization was delayed due to internal production and hence, they were unable to meet the required time to complete the re-export process. Furthermore, they requested to kindly permit the current shipment of 120 Cylinders as it is incurring heavy demurrage apart from the loss of business and also mentioned that they were in process of scrutiny of documents in this matter and it is taking a longer time as the documents are

very old. Importer stated that the 240 cylinders purchased by them and they have paid applicable duty against 240 cylinders imported vide bill of entry No. 859360 dt.16.04.2009 & 694395 dt.25.09.2009. However, the complete reconciliation of all the transactions since 2009 will take time and will submit all the details to authority.

2.8 As per the conditions of Notification No. 104/94-Cus dated 16.03.1994, goods imported on a returnable basis are required to be re-exported within six months or within an extended period approved by the competent authority. However, the exporter/importer failed to provide any documentary evidence of such an extension. Additionally, no re-export notification was mentioned or claimed in any of the relevant Bills of Entry-No. 9525296 dated 04.01.2024, No.7357869 dated 14.08.2023, and No. 4390724 dated 28.01.2023-which are referenced in the re-export shipping bill. In their letter dated 16.08.2024 addressed to the Assistant Commissioner, Export Docks, the exporter confirmed that the cylinders were imported on a returnable basis under the said notification but acknowledged their failure to re-export the goods within the stipulated period or to submit any evidence of extension.

Relevant provisions of the said notification are as under:

"Provided that the importer, by execution of a bond in such form and for such sum as may be specified by the Assistant Commissioner of Customs or Deputy Commissioner of Customs binds himself to re-export the said containers within six months from the date of their importation and to furnish documentary evidence thereof to the satisfaction of the said Assistant Commissioner and to pay the duty leviable thereon in the event of the importers failure to do so:

Provided further that in any particular case, the aforesaid period of six months may, on sufficient cause being shown, be extended by the said Assistant Commissioner for such further period, as he may deem fit".

2.9 Accordingly, the import data for the past five years was extracted from the EDI system and thoroughly reviewed and it was found that Cylinders have been imported vide below mentioned Bills of Entry (Table-), however, bond not submitted.

TABLE-I

Sr. No.	BE No.	BE Date	Customs Broker	Item Description	Qty	Unit	Unit Price (SGD)	Assessable Value (Rs.)	Duty Paid (Rs.)
1	6689652	30.01.2020	JEM Logistics Solutions	LASAL 201 Laser Mix Gas in IOL Litre Aluminium Cylinder- 8 CYLINDER IN 1PLT (PESO NO.G/H/Q/MH/04/200(G62670) DT 23.12.2019	12.8	Kgs	718.75	520862	110657
2	8629387	28.08.2020	JEM Logistics Solutions	DMF ACETYLENE (COP)-108 CYLINDER IN 12PLT (PESO No.G/HQ/MH/04/665 (G66007) DT 27-07-20) SO CYLINDER ON RETUN BASIS	732.88	Kgs	7.44482	452474	96128
				DMF ACETYLENE (COP)-AL SG) -12 CYLINDER IN 1 PLT (PESO No.G/HQ/MH/04/665(G66007) DT 27-07-20) SO CYLINDER ON RETUN BASIS	67.12	Kgs	7.44458	41438	8804
3	2230020	04.01.2021	JEM Logistics Solutions	DMF ACETYLENE (COP)-120 CYLINDER IN 10 PLT (PESO No. G/HQ/MH/04/971 (G72305) DT 01-06-21) SO CYLINDER ON RETUN BASIS	800	Kgs	7.578	639946	135957
4	4726773	19.07.2021	Transglobal Logistics	DMF ACETYLENE (COP) -120 CYLINDER IN 10 PLT (PESO No.G/HQ/MH/04/1328(G80643) (DT 1207-21) SO CYLINDER ON RETURN BASIS	800	Kgs	7.578	589396	125217
5	6280765	17.11.2021	Transglobal Logistics	DMF ACETYLENE (COP) -48 CYLINDER IN 4PLT (PESO No.G/HQ/MH/04/1889(G84222) (DT 01-09-21) SO CYLINDER ON RETURN BASIS	360	Kgs	6.736	154962	32922
				WM250 CYLINDER (WITHOUT VALVE) CYLINDERS ARE ON RETURNABLE & ROTATION BASIS)	48	Nos	1000	3190402	677801
6	6968610	06.01.2022	DSV Coload & Clearance Pvt. Ltd.	DMF ACETYLENE (COP)-120 CYLINDER IN 10 PLT (PESO NO. G/HQ/MH/04/2299(G92181) DT 21-12-21 SO CYLINDER ON RETURNABLE BASIS)	800	Kgs	7.578	950585	201952
7	7615977	23.02.2022	JEM Logistics Solutions	DMF ACETYLENE (COP)-108 CYLINDER IN 9PLT-SO CYLINDER ON RETUN BASIS	720	Kgs	8.334	887620	188575
8	9733971	26.07.2022	JEM Logistics Solutions	DMF ACETYLENE (COP)-120 CYLINDER IN 10 PLT-SO CYLINDER ON RETUN BASIS	800	Kgs	8.334	795131	168926
9	3114209	01.11.2022	JEM Logistics Solutions	DMF ACETYLENE (COP)-84 CYLINDER IN 7 PLT-SO CYLINDER ON RETUN BASIS	518.5	Kgs	9.00104	561584	119309
10	4390724	28.01.2023	JEM Logistics Solutions	DMF ACETYLENE (COP)- 120 CYLINDER IN 10 PLT-SO CYLINDER ON RETUN BASIS	783	Kgs	12.6897	852954	181210
11	5735003	29.04.2023	JEM Logistics Solutions	DMF ACETYLENE (COP)-84 CYLINDER IN 7PLT-SO CYLINDER ON RETUNBASIS	523	Kgs	13.2987	677845	144008
12	7357869	14.08.2023	Sai Dutta Shipping Agency Pvt. Ltd.	DMF ACETYLENE (36 CYLINDER PACKED IN 3 PLT) (CYLINDER ON RETURN BASIS)	229.35	Kgs	12.9967	292529	62148
				DMF ACETYLENE (84 CYLINDER PACKED IN 7 PALLETS) (CYLINDER ON	535.15	Kgs	12.9967	682567	145011

				RETURN BASIS) R228446, R228436, R228447, R228458, R228459, R228					
13	9525296	04.01.2024	SAV Logistics	DA PUR 72M3 12 CYL PLT N3.0(F) COP - 96 CYLINDER IN 8 PLT-SO CYLINDER ON RETURN BASIS (QTY: 576M3)	585.8	Kgs	13.5691	790896	168026
14	2817053	30.03.2024	Sai Dutta Shipping Agency Pvt. Ltd.	DA PUR 72M3 12 CYL PLT N3.0(F) (24 CYLINDER PACKED IN 2 PLT) (CYLINDER ON RETURNABLE BASIS) CYL.NO. 24178, 24103, 24167, DA PUR 72M3 12 CYL PLT N3.0(F) -COP (CYLINDER ON RETURNABLE BASIS) (96 CYLINDER PACKED IN 8 P LT)(CYL.NO. 02755, 02818,	152.9	Kgs	12.9967	188716	40093
					611.6	Kgs	12.9967	754864	160371
Total Assessable Value								1,30,24,770/-	

2.10 A total of 14 Bills of Entry were identified, of which 8 were filed by the Customs Broker M/s Jem Logistics Solutions, wherein Cylinders have been imported & bond not submitted. Furthermore, with regard to B/E No. 6280765 dated 17-11-2021, the importer has misclassified the cylinders under CTH 29012910, instead of the correct classification under CTH 73110090. This misclassification has resulted short payment of customs duty, as the customs duty under CTH 29012910 is 21.245%, whereas the duty under CTH 73110090 is 30.980%. Consequently, the importer, by failing to declare the cylinders in the Bills of Entry listed in Table-1, has evaded a differential duty of Rs. 2,47,98,354/- (Rupees Two Crore Forty-Seven Lakh Ninety-Eight Thousand Three Hundred Fifty-Four Only), as detailed in Table-II.

Table-II

Sr. No.	BE No.	BE Date	No. of Cylinders Imported	Unit rate (SGD)	Conversion rate (Rs.)	AV (Rs.)	Duty Rate (%)	Applicable Duty (Rs.)	Duty Paid (Rs.)	Differential Duty (Rs.)
1	6689652	30.01.2020	8	1000	53.55	428400	30.98	132718	0	132718
2	8629387	28.08.2020	120	1000	55.75	6690000	30.98	2072562	0	2072562
3	2230020	04.01.2021	120	1000	56.4	6768000	30.98	2096726	0	2096726
4	4726773	19.07.2021	120	1000	56.05	6726000	30.98	2083715	0	2083715
5	6280765	17.11.2021	48	1000	56.35	2704800	30.98	837947	677801	160146
6	6968610	06.01.2022	120	1000	56.8	6816000	30.98	2111597	0	2111597
7	7615977	23.02.2022	108	1000	56.9	6145200	30.98	1903783	0	1903783

8	9733971	26.07.2022	120	1000	58.5	7020000	30.98	2174796	0	2174796
9	3114209	01.11.2022	84	1000	59.15	4968600	30.98	1539272	0	1539272
10	4390724	28-01-2023	120	1000	62.6	7512000	30.98	2327218	0	2327218
11	5735003	29-04-2023	84	1000	62.7	5266800	30.98	1631655	0	1631655
12	7357869	14.08.2023	120	1000	62.65	7518000	30.98	2329076	0	2329076
13	9525296	04.01.2024	96	1000	63.4	6086400	30.98	1885567	0	1885567
14	2817053	30.03.2024	120	1000	63.2	7584000	30.98	2349523	0	2349523
TOTAL			1388			8,22,34,200		2,54,76,155		2,47,98,354

2.11 It was observed that the importer has failed to obtain landing permission as mandated under Rule 32 of the Gas Cylinder Rules, 2016, in respect of the Bills of Entry listed in Table-I and Table-III. No evidence of such permission being uploaded on E-Sanchit has been found. Furthermore, the importer appears to have violated the provisions of DGFT Notification No 17/2015-20 dated 05.09.2019 by not obtaining the mandatory registration under the Steel Import Monitoring System (SIMS). Additionally, the importer has imported "Butterfly Valve under B/E No.3031932 dated 06.03.2021 without the requisite BIS certification, thereby contravening the Butterfly Valves (Quality Control) Order, 2020. It is also noted from Table-III that the importer has previously imported gas cylinders on a returnable basis by correctly availing the benefit of Notification No. 104/94-Cus. dated 16.03.1994 and as clarified by Circular No. 51/2020-Customs dated 20.11.2020. However, in the present case, it appears that the importer has deliberately neither declared the gas cylinders separately in the Bills of Entry nor paid the applicable customs duties on them. This indicates a conscious and intentional attempt to evade compliance with the relevant statutory requirements and applicable customs duties on them.

TABLE-III

Sr. No.	BE No.	BE Date	CB	CTH	Item Description	Qty	Unit Price	Assessable Value (Rs.)	Duty Paid (Rs.)
1	6946921	19.02.2020	ALL-WAYS Logistics (CHA) Pvt Ltd	28459090	DEUTERIUM GAS[D2] CAS 7782-39-0 NON-RADIOACTIVE, FLAMMABLE [ITEM NO. D G-4900- CG-1245G] UN	18.68 Kgs	3280 CAD	3946436.2	1094544

					NO.1957/CLASS2.1 CYLINDER NO. D3				
				73110090	CYLINDERS 15 NOS. ARE THE PROPERTY OF DEUTRAMED SEND TO AIR LIQUIDE (I) HO LDING PVT.LTD ON RETURNABLE BASIS AND NOT FOR SALE	1089.32 Kgs	8.26 CAD	579706.93	0
2	7938060	18.06.2020	JEM Logistics Solutions	73110090	AIR GAS TANK 17 BAR SERIAL NO C290257 MANUFACTURER CRYOLOR YEAR 2018-(Country of Origin -India)	10500 Kgs	19.59 SAR	4739548.3 1	177590 8.7
3	8177375	15.07.2020	JEM Logistics Solutions	73101010	PART NO- OICMSH250-CMS H- 250 LIQUID HELIUM / STORAGE/TRANSPOR TDEWAR S /N 4151 THRU 4162 (EMPTY STEEL SYLINDER) (12PIECES)	1857.7 Kgs	33.33 CAD	4907894.4 2	1520465. 6
4	8332763	30.07.2020	ALL- WAYS Logistics (CHA) Pvt Ltd.	28459090	DEUTERIUM GAS[D2] CAS 7782- 39- 0 NON- RADIOACTIVE FLAMMABLE [ITEM NO. D G-4900-CG- 1245G] UN NO. 1 957 /CLASS2.1 CYLINDER NO. D3	26.15 Kgs	3280.2 5 CAD	5451383.8	1511941. 3
				73110090	CYLINDERS 21 NOS.ARE THE PROPERTY OF DEUTRAMED SEND TO AIR LIQUIDE (I) HOLDING PVT.LTD ON RETURN ABLE BASIS AND NOT FOR SALE	1458.85 Kgs	8.64 CAD	800752.96	0
				28459090	Cylinder No. D3357086, D3357003, D3357036, D3357002, D3357080, D3357095, D3357082, D3357068, D3357044, D3357034, D3357094,	0.0001 Kgs	0.01 CAD	0	0
				28459090	Cylinder No. D3357069, D3357085, D3357079, D3357087, D3198156, D3197074, D3197110, D3197056, D3197127, D3337100	0.0001 Kgs	0.01 CAD	0	0
5	8810706	14.09.2020	JEM Logistics Solutions	73101010	PART NO- OICMSH250-CMS 1-1- 250 LIQUID HELIUM / STORAGE/TRANSPOR T DEWAR S /N 4163 THRU 4174 (EMPTY STEEL CYLINDER) (12PIECES)	1876.8 Kgs	30.11 USD	4760143.7	1474692. 5
6	6280559	17.11.2021	Transglob al Logistics	2845909	D2 GAS@ 99.99% (DG-4900-CG-OOIG) (QTY: 12190 G, U/P:3.48)	12.19 Kgs	3.48 CAD	2913440.2 2	808042. 6

				7311009	UN CYLINDER WITH WATER CAPACITY OF 48.8 LITRES, AND NOMINALLY A DEUTERIUM GAS (AS PER INVOICE) CYL-G-488 (CYLINDERS A	10 Nos.	375 CAD	257547.78	79787.8
7	6880127	29.12.2021	Classic Clearing & Forwarding	28459090	DEUTERIUM GAS - D2 GAS CAS NO: 7782-39-0 [ITEM No. DG-4900-CG-001G] UN NO.1957/CLASS2.1	12.19 Kgs	3480 CAD	2873064.3	796844.4
				73110090	UN CYLINDER WITH A WATER CAPACITY OF 48.8 LITRES, AND NOMINALLY A DEUTERIUM GAS VOLUME OF 7,300 LITRES (21.1 DEGREES C &	10 Nos	375 CAD	253976.58	0
8	7858944	14.03.2022	JEM Logistics Solutions	28459090	DEUTERIUM GAS - D2 GAS @ 99.99% [ITEM NO. DG-4900-CG-001G] UN NO.1957/CLASS2.1	19.504 Kgs	3480 CAD	4157815.5	1236375.2
				73110090	UN CYLINDER WITH A WATER CAPACITY OF 48.8 LITRES, AND NOMINALLY A DEUTERIUM GAS VOLUME OF 7,300 LITRES (21.1 DEGREES C	16 Nos	375 CAD	394067.31	122082.1
9	8809845	24.05.2022	JEM Logistics Solutions	84193900	ACT900CM3PFBI-ACT900 A L 400/50 WCTBH BM13 TCP/ IP DRYER (Made in Italy)	1 Nos.	17211.3 EUR	1555428.85	431398.2
10	9326372	29.06.2022	JEM Logistics Solutions	2845909	DEUTERIUM GAS- (Item- G4900-CG-001G)-D2 Gas @ 99.99%- Class 2.1,UN 1957	24.38 Kgs	3480 CAD	5537481.78	1535820.5
				7311009	UN CYLINDER WITH WATER CAPACITY OF 48.8 LITRES & NOMINALLY ADEUTERIUM GAS ON RETURNABLE BASIS 20 CYLINDER - AS PER INVOICE	20 Nos.	600 CAD	783214.3	0
11	3031932	06.03.2021	JEM Logistics Solutions	8481809	BUTTERFLY VALVE AND SPARE PARTS FOR BUTTERFLY VALVE-(COO-JAPAN)-(45pcs)	119 Kgs	11596.64 JPY	977906.14	271222.3
Total								4,51,89,807	

3. Role of Customs Broker: -

A. **Violation of Regulation 10(d) of CBLR, 2018:**

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

i) In the instant case, the Customs Broker M/s. JEM Logistics Solutions filed Bills of Entry on behalf of the importer for filled gas DMF Acetylene cylinders without obtaining the requisite landing permission under Rule 32 of the Gas Cylinder Rules, 2016, and without securing the mandatory registration under the Steel Import Monitoring System (SIMS).

ii) As per Rule 32 of the Gas Cylinder Rules, 2016, it is clearly stipulated that:

a) No imported cylinder, valve, or LPG regulator shall be landed except with the permission of the Commissioner of Customs.

b) If the Commissioner of Customs is satisfied that the gas cylinder, valve, or LPG regulator can lawfully be imported, he shall permit it to be landed.

c) Nothing in this rule shall affect the power of the Commissioner of Customs to detain the gas cylinder, valve, or LPG regulator under any other law for the time being in force."

iii) Furthermore, the Steel Import Monitoring System (SIMS) requires importers to submit advance information via an online portal for the importation of specified iron and steel items classified under Chapters 72, 73, and 86 of the ITC (HS), 2017, Schedule I. In the present instance, the Customs Broker failed to ensure that SIMS registration had been duly completed prior to the filing of the Bills of Entry. Under Regulation 10(d) of the Customs Brokers Licensing Regulations (CBLR), 2018, it is the duty of a Customs Broker to: "Advise his client to comply with the provisions of the Act, other allied Acts, and the rules and regulations made thereunder."

iv) The CB failed to advise the importer about the necessary regulatory requirements under Rule 32 and SIMS, and also did not inform the Docks Deputy/Assistant Commissioner about these regulatory lapses. This omission represents a clear deviation from the responsibilities outlined in Regulation 10(d) of CBLR, 2018. In view of the above, it appears that the Customs Broker has contravened the provisions of Regulation 10(d) by not ensuring compliance with the relevant statutory requirements and by neglecting to inform the Deputy/Assistant Commissioner of the irregularities.

(B) Violation of Regulation 10(f) of the CBLR, 2018:

“not withhold information contained in any order, instruction or public notice relating to clearance of cargo or baggage issued by the Customs authorities, as the case may be, from a client who is entitled to such information”

- i. From the offence report, it appears that the Customs Broker, M/s JEM Logistics Solutions, by acts of omission and commission, facilitated the landing of the said goods without obtaining the mandatory permission from the Commissioner of Customs. Furthermore, the goods were cleared without fulfilling compulsory requirements i.e. registration under the Steel Import Monitoring System (SIMS) and obtaining the requisite BIS certification.
- ii. In addition, the Customs Broker failed to properly declare the gas cylinders on a returnable basis in accordance with Notification No. 104/94-Customs dated 16.03.1994 and Circular No.51/2020-Customs dated 20.11.2020. It appears that Prima-facie, the Customs Broker, in collusion with the importer, knowingly and wilfully omitted to declare the cylinders separately in the Bills of Entry and did not pay the applicable duties on the imported cylinders.
- iii. Moreover, as per the conditions stipulated under Notification No. 104/94-Customs dated 16.03.1994, goods imported under this exemption are required to be re-exported within six months, or within such extended period as may be approved by the competent authority. However, the exporter failed to produce any documentary evidence of having obtained an extension for the re-export period. Additionally, no re-export notification was declared or claimed by the exporter in any of the relevant Bills of Entry despite the cylinders being mentioned in the corresponding re-export shipping bill.
- iv. Under Regulation 10(f) of the Customs Brokers Licensing Regulations, 2018, it is the responsibility of the Customs Broker to ensure strict compliance with all orders, instructions, and public notices relating to the clearance of cargo. In this instance, the Customs Broker failed to uphold this obligation, thereby contravening the provisions of Regulation 10(f) of the CBLR 2018.

- v. The CB was fully aware that any omissions or commissions by the exporter could be adversely affect their professional reputation, making it standard business practice for the CB to understand the identity and operations of their clients, as they could face investigation for any such actions.
 - vi. In view of the above, it appears that Customs Broker M/s. JEM Logistics Solutions (License No. 11/1976), failed to follow the prescribed procedures and cleared goods in violation of Rule 32 of Gas Cylinder Rules, 2016 read with Butterfly Valves (Quality Control) Order, 2020 & Compulsory SIMS Registration. Further, customs broker filed Bills of Entry without declaring cylinders separately to avoid applicable customs Duties.
4. From the investigation, it appeared that the CB M/s. JEM Logistics Solutions (CB No. 11/1976) had failed to comply with sub-regulations 10 (d) & 10(f) of the Customs Brokers Licensing Regulations, 2018 and thereby committed misconduct rendering themselves liable to penal action under the CBLR, 2018.

SUSPENSION OF CB LICENSE AND SHOW CAUSE NOTICE: -

5. In view of the Offence Report dated 11.04.2025 alongwith the Show Cause Notice No. 1700/2024-25/COMMR/GR II(A-B) NS-I/CAC/JNCH dated 04.02.2025 received from the Commissioner of Customs, NS-I, JNCH, Mumbai Zone - II, action under the CBLR, 2018 was initiated against the CB M/s. JEM Logistics Solutions (CB License No. 11/1976). In view of the Board's Instruction No. 24/2023 dated 18.07.2023, the case was not considered appropriate for immediate suspension of the CB license under Regulation 16 of CBLR, 2018. However, the inquiry under Regulation 17 of CBLR, 2018 was initiated against the CB M/s. JEM Logistics Solutions (CB License No. 11/1976) and accordingly, based on the Offence Report, the following articles of Charges were framed against the CB:

- (i) Article of Charge-I: Violation of Regulation 10(d) of CBLR, 2018.
- (ii) Article of Charge-II: Violation of Regulation 10(f) of CBLR, 2018

5.1 In light of the above, a Show Cause Notice (SCN) No. 17/2025-26 dated 08.07.2025 was issued to the CB M/s. JEM Logistics Solutions (CB License No. 11/1976) under the provisions of Regulation 17(1) of the CBLR, 2018 wherein, the CB was called upon to show cause, as to why:

- a. The Customs Broker License bearing no. 11/1976 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 Regulation 17 of the CBLR, 2018.

5.2 Also, Shri Ajay Kumar Tadia, Deputy Commissioner of Customs, was appointed as Inquiry Officer (IO) to conduct the inquiry proceedings in the matter. The IO concluded the inquiry proceedings and submitted the Inquiry Report dated 06.10.2025, which is discussed below.

INQUIRY REPORT: -

6. The Inquiry Officer (here in after referred to as the 'IO') concluded the inquiry proceedings and submitted the Inquiry Report dated 06.10.2025, wherein amongst the charges levelled against the CB, the charge of violation of Regulation 10(d) was held as 'Not Proved' and the charge of violation of Regulation 10(f) of the CBLR, 2018 was held as 'Partially Proved'.

FINDINGS OF THE INQUIRY OFFICER: -

7. Ongoing through the records of the matter, evidence available and submissions of the CB, the IO came to the below findings:

8. The IO submitted that he had gone through the Show Cause Notice No. 17/2025-26 CBS dated 08.07.2025 vide F. No. GEN/CB/293/2025-CBS along with the relied upon documents. The IO submitted that he had gone through the records of the Personal Hearings; that he had also gone through the alleged Articles of Charges and contraventions mentioned in Show Cause Notice as well as legal provisions reflected in CBLR, 2018. In

view of the detailed submissions and documentary evidence provided by the Customs Broker, the IO stated as below:

9. In reference of violation of Regulation 10(d) of CBLR, 2018: -

9.1 Inapplicability of Gas Cylinder Rules, 2016: The IO submitted that the provisions of Rule 32 of the Gas Cylinder Rules, 2016 apply specially to compressed gas. It has been adequately demonstrated that the gas in question does not fall under the definition of 'compressed gas' as per Rule 2 of the said Rules. Consequently, the IO stated that the requirement for landing permission under Rule 32 does not arise. The IO submitted that he had relied on gas cylinder rule, 2016.

9.2 Non-Applicability of SIMS Registration: In this context, reference is invited to DGFT Policy Circular No. 29/2015-20, read with Public Notice No. 106/2019 dated 26.11.2019 issued by the Jawaharlal Nehru Customs House (JNCH), which categorically clarifies that the provisions of the Steel Import Monitoring System (SIMS) shall not apply to goods imported solely for the purpose of re-export on a returnable basis and not intended for domestic consumption. Upon examination of the documents placed on record, it is evident that the subject goods have been imported exclusively for re-export on a returnable basis and are not intended for use in the domestic market. Accordingly, the IO found that the said goods do not fall within the ambit of mandatory SIMS registration requirements.

9.3 Butterfly Valve (Quality Control) Order, 2020 Not Applicable: For ease of reference and clarity, the relevant scope of the standard IS 13095:2020 is reproduced below:

"This standard covers double flanged and water type of metal seated, resilient seated cast iron, ductile iron and carbon steel, stainless steel, aluminium and lined butterfly valves for general purpose. Butterfly valves for industrial uses like oil and gas, power, chemical, food, pharmaceutical, marine, defence, and fire services are not covered in the scope of this standard."

The IO submitted that the Customs Broker, in their written submission, had contended that the valves under import do not fall within the ambit of IS 13095:2020, as they are specifically intended for industrial use, particularly in gas-related applications.

The IO submitted that this submission is consistent with the contents of paragraph 8 of Show Cause Notice No. 17/2025-26 dated 08.07.2025, wherein it has been indicated to docks officer vide the letter dated 16.08.2024-that the importer deals with industrial applications such as welding, cutting, annealing and waste-water treatment etc. Accordingly, the IO found that the scope of IS 13095:2020 does not encompass valves used in such industrial contexts Accordingly, the IO found that the subject goods are outside the scope of the said IS 13095:2020. Moreover, the relevant Quality Control Order (QCO) clearly provides exemptions for goods imported specifically for the purpose of export or re-export. As the present consignment is intended for re-export, it squarely falls within the scope of this exemption. Further, the IO found that the imported valves are not liable to compliance under IS 13095:2020.

9.4 No Breach of Regulation 10(d) of CBLR, 2018: The IO submitted that since the cited legal provisions (Gas Cylinder Rules, BIS and SIMS) do not apply to the goods and circumstances in this case, nothing adverse has been done by the Customs Broker in respect of obligation to advise the importer under Regulation 10(d) and accordingly, there is no question arise to notify the Deputy/Assistant Commissioner under Regulation 10(d) as no violation has been observed. Therefore, the IO submitted that the allegation of non-compliance with Regulation 10(d) is unfounded and unsustainable.

9.4.1 Further, the IO submitted that he had also relied upon Ratanship Shipping Pvt. Ltd. Versus Commissioner of Customs (General), Mumbai 2015(330) E.L.T 488 (Tri. - Mumbai);

In the CESTAT, West Zonal Bench, Mumbai, where in it is stated that in absence of any finding on charges of aiding and abetting in fraud, charges under said regulation 13(d) & 13 (e) ibid not proved.

"Having considered the rival contentions, we find that the appellant-CHA have handled about 45 Bills of Entry out of the total 54 Bill of Entry filed by the importers during the years 2006 to 2008. It is further evident that in the first few Bills of Entry, there have been no misdeclaration. Once, the appellant- CHA developed trust in its dealing with the importers, thereafter, in some Bills of Entry (5 in No.), importers

have resorted to giving forged and fabricated documents through fax to the appellant-CHA for filing the Bill of Entry by making minor alteration in the quantity or description or value, which cannot be noticed by a man of ordinary prudence, No facts are coming on record to indicate that the appellant-CHA have aided and abetted the importers in evasion of customs duty. However, evidences which have come on record indicate that the importers have misled successfully the CHA, Revenue and Bank by fabrication and forgery of documents being minor manipulation, which is not easily made out unless one compares the documents with the investigative eyes. We are satisfied about the facts after going through the copy of documents produced before us and filed during the course of hearing. The original and forged documents look all the same at the first glimpse. Only on careful scrutiny the difference and/or manipulation committed could be noticed. As such, we find that the learned Commissioner is in error, in absence of any finding of aiding and abetting, in holding the charges as proved under Regulations 13(d) & (e) as proved. We also take notice of the finding recorded in para 43f(ii) of the impugned order where the learned Commissioner has recorded -"I find merits in the submission made by the charged CHA in defence of this charge. I find that the charge has been framed in the first place because of the fact that forgery of official document and signatures were committed by the importers and the CHA is sought to be charged under CHALR, 2004 for violation of Regulation 13(i), However, nothing has come on record to even remotely suggest the violation of this regulation by the CHA."

9.5 In light of the above and documents on record, the IO submitted that the defence provided by the Customs Broker is cogent, legally tenable, and supported by documentary evidences. The IO submitted that the allegations of violation of Regulation 10(d) of the CBLR, 2018 are not substantiated by facts or law. Further, establishing a violation requires evidence of the CB's knowledge and involvement in the non-compliance. In the present context, the IO found that there is no evidence to prove that Customs Broker was involved in the case. In view of the foregoing, the IO submitted that the charge levelled against the Customs Broker for breach of Regulation 10(d) of the Customs Brokers Licensing Regulations, 2018, is not established and therefore stands 'Not Proved'.

10. In reference of violation of Regulation 10(f) of CBLR, 2018: -

"not withhold information contained in any order, instruction or public notice relating to clearance of cargo or baggage issued by the Customs authorities, as the case may be, from a client who is entitled to such information"

10.1 Applicability of Regulatory Provisions: -

The IO submitted that the Customs Broker has asserted that the provisions of Rule 32 of the Gas Cylinder Rules, 2016, Steel Import Monitoring System (SIMS), and BIS Certification under the Butterfly Valves (Quality Control) Order, 2020, are not applicable in the instant matter as the provisions of Rule 32 of the Gas Cylinder Rules, 2016 apply specifically to compressed gas and the same is discussed above in details. It has been adequately demonstrated that the gas in question does not fall under the definition of "compressed gas" as per Rule 2 of the said Rules. Consequently, the requirement for landing permission under Rule 32 does not arise. The IO submitted that the Customs Broker, in their written submission, had contended that the valves under import do not fall within the ambit of IS 13095:2020, as they are specially intended for industrial use, particularly in gas-related applications. Based on the evidence on record and representations made, the IO found that there is no evidence to establish any deliberate contravention of these statutory provisions by the Customs Broker in reference to above mentioned regulations.

10.2 In this context, reference is invited to DGFT Policy Circular No. 29/2015-20, read with Public Notice No. 106/2019 dated 26.11.2019 issued by the Jawaharlal Nehru Customs House JNCH, which categorically clarifies that the provisions of the Steel Import Monitoring System (SIMS) shall not apply to goods imported solely for the purpose of re-export on a returnable basis and not intended for domestic consumption. Upon examination of the documents placed on record, it is evident that the subject goods have been imported exclusively for re-export on a returnable basis and are not intended for use in the domestic market. Accordingly, the IO found that the said goods do not fall within the ambit of mandatory SIMS registration requirements.

10.3 Compliance with board circulars: -

In this regard, the following statutory provisions and circulars are relevant: Notification No. 104/94-Customs dated 16.03.1994; Circular No. 31/2005-Customs dated 25.07.2005; Circular No. 51/2020-Customs dated 20.11.2020; Circular No. 51/2020- dated 20.11.2020 provides exemption from Customs duty and Integrated Goods and Services Tax (IGST) for containers of durable nature imported into India, subject to certain conditions. The key condition for availing this exemption is that the containers must be re-exported within six months from the date of import.

10.3.1 Further, it is mandatory for the importer to execute a bond at the time of importation to safeguard government revenue, in the event of failure to comply with the re-export requirement. The bond ensures that the applicable duties can be recovered if the conditions of exemption are breached. In circumstances where re-export cannot be carried out within the initial six-month period, the bond period can be extended upon submission of a formal request to the jurisdictional Assistant Commissioner or Deputy Commissioner, in accordance with the provisions laid down in Circular No.31/2005-Customs.

10.3.2 The IO observed that the Customs Broker had not submitted any documentary evidence to indicate that the importer executed the required bond at the time of import or that any requests were made for extension of the bond period in cases where re-export did not occur within the stipulated timeframe. The IO submitted that as per the applicable provisions the primary responsibility for execution and compliance with the bond conditions lies with the importer. The IO submitted that It is evident that the importer had failed to execute or extend the bond as required under law. Further, as per regulation 10(f) of CBLR 2018, the IO submitted that it is the duty of the CB not only to be conversant with the legal framework but also to ensure that the importer is fully informed of the compliance requirements, particularly in situations involving conditional exemptions. Additionally, the IO submitted that if any non-compliance or delay is observed on part of the importer, the CB is obligated to inform the Customs authorities to protect the interests of government revenue.

10.3.3 In the instant case, the IO found that the importer or Customs Broker did not submit the executive bonds under the exemption notification and not ensured timely submission

of bond extension requests in cases where re-export was delayed. Thus, the IO submitted that it is CB responsibility to convey the such regulations/obligations to the importer to protect the interests of government revenue. Thus, the IO stated that the responsibility imposed under Regulation 10(f) of the CBLR, 2018 has not been fulfilled by the Customs Broker. The IO submitted that while the ultimate duty to comply lies with the importer but the Customs broker role cannot be ignored as he plays a critical facilitative and advisory role and a failure in this role undermines regulatory compliance and revenue safeguards.

10.4 In light of the above, the IO submitted that the allegations of violation of Regulation 10(f) of the CBLR, 2018 are Partially Proved by facts or law as in the Show Cause Notice dated 08.07.2025 issued under the CBLR, 2018, it was alleged that landing permission was not taken by the importer/CB and the goods were cleared without fulfilling compulsory requirement i.e. registration under the SIMS and obtaining the requisite BIS certification. However, the allegation stands Not Proved as there is no evidence to establish any deliberate contravention of these statutory provisions by the Customs Broker as elaborated supra. Further, the IO submitted that it was also alleged that Notification No. 104/94 - Customs dated 16.03.1994 and Circular No. 51/2020-Customs dated 20.11.2020 was not fulfilled while importation of subject goods. In this regard, the IO found that goods were not imported/re-exported under the provisions of Notification 104/94 -Customs dated 16.03.1994 and Circular No. 51/2020-Customs dated 20.11.2020 as discussed supra. In view of the foregoing and considering the pending adjudication of the Show Cause Notice in the Customs Act, 1962, the IO submitted that the charge levelled against the Customs Broker for breach of Regulation 10(f) of the Customs Brokers Licensing Regulations, 2018, stands 'Partially Proved'.

11. SUMMARY OF THE FINDINGS: -

From the above said discussions as mentioned above and after taking consideration of Customs Broker submission, the IO concluded the findings as under;

Sr. No.	Charges against the CB	Findings
1.	Violations of Regulation 10(d) of CBLR, 2018	Not Proved
2.	Violations of Regulation 10(f) of CBLR, 2018	Partially Proved

12. Under the provisions of Regulation 17(6) of the CBLR, 2018, a copy of the Inquiry Report dated 06.10.2025 was shared with the CB vide letter dated 04.11.2025 and further, to uphold the Principle of Natural Justice an opportunity of personal hearing was granted to the CB on 09.12.2025.

RECORDS OF PERSONAL HEARING: -

13. The personal hearing in the matter was held on 09.12.2025 before me. Shri R.K. Tomar, counsel for the CB and Shri M.S. Saiyad, authorised representative of the CB appeared for the hearing. They submitted a written reply dated 09.12.2025 and reiterated the same. Accordingly, the written submission of the CB was taken on record.

WRITTEN SUBMISSION OF THE CB: -

14. At the outset, the Customs Broker submitted that they had always been diligent in discharging their obligations as mandated under provisions of the CBLR 2018. The CB submitted that they had also complied with all the Rules and Regulations under the Customs Act, 1962 and all the other allied Acts to the best of their ability

14.1 In respect of the present case, the CB submitted that there was no loss of revenue as the subject-cylinders were either duty paid or the same had been in rotation for import of the gas and re-export of the empty cylinders to the supplier. The details of the same have been meticulously prepared and copy thereof is annexed hereto as Annexure-A.

14.2 The CB submitted that the importer had paid Customs Duty on maximum number of the said cylinders imported by them, and the duty payment details are part of the Annexure-A. The CB submitted that the cylinders were imported on returnable basis where no Customs duty was leviable. The CB submitted that the said SCN mentioned that the importer had correctly availed benefit of Notification No.104/94-Cus dated 16-03-1994 and as clarified by Circular No. 51/2020-Customs dated 20-11-2020 in the past (refer para 13, last two lines on page 4 and first two lines on page 5 of the said SCN). This being the case, when the empty cylinders were either duty paid or re-exported, there is no cause to

allege that the CB had not taken sufficient safeguards to the effect that there was no loss of revenue.

14.3 Further, the CB submitted that in respect of obtaining permission under Rule 32 of the Gas Cylinder Rules 2016, the CB submitted that the same applies to cylinders containing compressed gas whereas in the present case, the gas was not compressed gas. The CB stated that as per Rule 2 of the Gas Cylinder Rules 2016, a 'gas cylinder' or 'cylinder' is one which is a closed metal container having a volume exceeding 500 ml but not exceeding 1000 litres intended for the storage and transport of compressed gas. However, the gas contained in the cylinders imported by the importer was not compressed gas, therefore, the cylinders cannot be considered as "CYLINDERS" for the purpose of the Gas Cylinder Rules 2016. The definition of a gas cylinder as per Rule 2 of the Gas Cylinder Rules 2016 is as under:

Rule 2. Definitions in these rules unless the context otherwise requires,

(xxvii) "gas cylinder" or "cylinder" means any closed metal container having a volume exceeding 500 ml but not exceeding 1000 litres intended for the storage and transport of compressed gas, including any liquefied petroleum gas (LPG) container or compressed natural gas (CNG) cylinder fitted to a motor vehicle as its fuel tank but not including any other such container fitted to a special transport or under- carriage and includes a composite cylinder and cryogenic container, however, the water capacity of cylinder used for storage of CNG, nitrogen, compressed air, etc., may exceed 1000 litres up to 3000 litres provided the diameter of such cylinder does not exceed 60 cm;

14.4 Further, the CB submitted that in respect of obtaining permission under the Gas Cylinder Rules 2016, the same applies only when the gas imported in the cylinders is "compressed gas". Attention is invited to the Rules 29 to 32 of the Gas Cylinder Rules 2016, which are as under

Rule 29: Licence for import of gas cylinders:

- 1) No person shall import any gas cylinders filled or intended to be filled with any compressed gas except under and in accordance with the conditions of a licence granted under these rules and the relevant provisions of Foreign Trade (Development and Regulation) Act, 1992 (22 of 1992).

- 2) No person shall import any valve and LPG regulator intended to be fitted on the gas cylinder except under and in accordance with the conditions of approval or licence granted under these rules.
- 3) The person importing cylinders shall have necessary infrastructure, handling transportation and storage facility including emergency action plan and qualified and trained technical manpower.
- 4) If the import of the cylinders filled with compressed gas is exceeding the quantity exempted under rule 44 of these rules, licence to store compressed gas in cylinders granted in Form F is obligatory

Rule 30: Declaration by the master of ship or ship's agent:

1. The master of every ship carrying cylinder filled with compressed gas for importation into India, or the agent for such ship, shall give, the Conservator of the Port not less than forty-eight hours' notice of its intended arrival at the port.
2. The master of every ship carrying such cylinders shall deliver to the pilot, before entering any port, a written declaration under his signature in Form A:

Provided that if the agent for such ship delivers to the Conservator of the Port a written declaration referred to in sub-rule (2) under his signature, no such declaration shall be made by the master of the ship.

3. Every declaration delivered to a pilot under sub-rule (2) shall be made over by him without delay to the Conservator of the Port and all declarations received by the Conservator of the Port shall be forwarded by him, with all convenient dispatch, to the Commissioner of Customs of the Port.

Rule 31: Production of licence for import:

Every person desiring to import cylinder filled with any compressed gas or intended to be so filled, valve and LPG regulator shall produce personally or through his agent, before the Commissioner of Customs his licence for the import of such gas cylinder, valve or LPG regulator, as the case may be.

Rule 32: Permission of the Commissioner of Customs:

- 1) No imported cylinder, valve and LPG regulator shall be landed except with the permission of the Commissioner of Customs.
- 2) If the Commissioner of Customs is satisfied that the gas cylinder, valve and LPG regulator can lawfully be imported, he shall permit it to be landed.
- 3) Nothing in this rule shall affect the power of the Commissioner of Customs to detain the gas cylinder, valve and LPG regulator under any other law for the time being in force.

14.5 The CB submitted that the above provisions of the Gas Cylinder Rules 2016 are very clear that the same apply to the import of compressed gas. The CB further submitted that it is not the case of the Revenue that the gas imported in the said cylinders was compressed gas. In view of the same, the said SCN has attempted to impose irrelevant laws. The CB submitted that the Gas Cylinder Rules 2016 do not apply to the present case at all.

14.6 The CB submitted that the other allegation is in respect of the Butterfly Valve (Quality Control) Order 2020 dated 17-06-2020 (refer para 13 of the said SCN). The CB submitted that the Butterfly Valve (Quality Control) Order 2020 dated 17-06-2020 also does not apply to the present case (copy enclosed as Annexure-B hereto). The CB submitted that the said cylinders and the valves were together re-exported (for the legal purposes, re-export and export are the same). Item No. 2 of the Butterfly Valve (Quality Control) Order 2020 states that this order shall not be applicable for goods or articles meant for export. The relevant part of the Order is as under:

2. Compulsory use of Standard Mark- The goods or articles specified in column (1) of the Table below shall conform to the corresponding Indian Standard as specified in column (2) of the said Table and shall bear the Standard Mark under a licence from the Bureau of Indian Standard as per Scheme-I of Schedule-II of BIS (Conformity Assessment) Regulations, 2018: Provided that nothing in this Order shall apply to goods or articles meant for export.

14.7 In respect of applicability of Steel Import Monitoring System (SIMS) [introduced vide Notification No. 17/2015-20 dated 05-09-2019] in the present case, the CB submitted that the same is not applicable for items imported on returnable basis as the same are not for domestic consumption. The CB stated that the BIS authority had issued a Summary of IS 13095: 2020 - Butterfly Valves for General Purpose (Copy placed as Annexure-C) which states that Butterfly Valves for industrial uses like oil and gas, power, chemical, food, pharmaceutical, marine, defence, and fire services are not covered under the scope of this standard. Further, the DGFT had issued Policy Circular No. 29/2015-20 dated 04-12-2019 (copy enclosed as Annexure-D) wherein it has been clarified that SIMS is not

applicable to import of items which are not for domestic consumption. The relevant part of the same is as under:

Can returnable steel racks imported on temporary import and FOC basis be exempt from SIMS registration and given fee waiver;

Response: These are not for domestic consumption and on returnable basis; hence SIMS not applicable.

14.8 The CB further submitted that in pursuance to the above clarification by the DGFT, the Commissioner of Customs (NS-1), Mumbai Zone-II, JNCH had issued Public Notice No. 106/2019 dated 26-11-2019 reiterating that SIMS shall not be applicable to returnable steel racks imported on temporary import and on FOC basis as they are not meant for domestic consumption. A copy of the same is placed herewith as Annexure-E. The CB submitted the relevant part of the Public Notice No. 106/2019 dated 26-11-2019 is reproduced hereunder:

Further, as clarified by Policy Circular No. 29/2015-20 dated 04.10.2019 issued by DGFT, the following points are to be noted.

- a. SIMS registration will not be applicable on air-freighted goods as this mode is used for emergency/small volume-high value goods required at short notice.
- b. Once SIMS registration has been obtained, any number of consignments can be imported by a single SIMS registration within the validity of the registration.
- c. SIMS is applicable to imports through Advance Authorisation, DFIA and imports to SEZs.
- d. SIMS shall not be applicable to returnable steel racks imported on temporary import and on FOC basis as they are not meant for domestic consumption.

14.9 In view of the above, the CB submitted that the Revenue had made erroneous and illegal application of the Gas Cylinder Rules, 2016, the Butterfly Valve (Quality Control) Order 2020 and SIMS provisions. The CB submitted that this had resulted in unlawful issuance of the said SCN as there is no case made out of violation of any of the laws mentioned therein. Therefore, the allegation of non-compliance of Regulation 10(d) and 10(f) of the CBLR 2018 are not applicable at all.

14.10 The CB submitted that allegation in the said SCN (refer para 14 thereof) that the Customs Broker had filed the Bills of Entry on behalf of the importer without obtaining

requisite landing permission under Rule 32 of the Gas Cylinder Rules 2016 and without securing the mandatory registration under the Steel Import Monitoring System (SIMS).

14.11 However, The CB submitted that it has been very clearly explained that neither Rule 32 of the Gas Cylinder Rules 2016 nor Steel Import Monitoring System (SIMS) apply to the goods imported (for re-export and on returnable basis) by the importer. When these Rules do not apply, there is no cause to allege that the CB did not comply with Regulation 10(d) of the CBLR 2018.

14.12 Further, the CB submitted regarding SIMS applicability as per Table – III of the said SCN the details are as follows:

Sr. No	BE No. & Date	Remarks
1.	7938060 Dated 18-06-2020	SIMS was made applicable w.e.f. 16-10-2020 therefore SIMS not obtained for this BE
2.	8177375 Dated 15-07-2020	SIMS was made applicable w.e.f. 16-10-2020 therefore SIMS not obtained for this BE
3.	8810706 Dated 17-09-2020	SIMS was made applicable w.e.f. 16-10-2020 therefore SIMS not obtained for this BE
4.	7858944 Dated 14.03.2022	SIMS applied
5.	8809845 Dated 24-05-2022	SIMS not applicable as the goods were valve CTH 84818090
6.	9326372 Dated 29-06-2022	SIMS applied
7.	3030932 Dated 06.03.2021	SIMS not applicable as the goods were valve CTH 84818090

The CB submitted that the requirement of SIMS was made effective from 16-10-2020 as per Public Notice No. 19/2015-20 dated 28-09-2020, a copy of which is placed as Annexure-F. In view of the above, the CB submitted that they had complied with the SIMS regulations wherever it was required.

14.13 Further, the CB submitted that they had filed following Shipping Bills for re-export of the cylinders:

Sr. No.	Shipping Bill Nos. and date	Sr. No.	Shipping Bill Nos. and date
1.	3702921 dated 24-08-2022	9.	2459260 dated 14-07-2023
2.	5484325 dated 15-11-2022	10.	6515926 dated 04-01-2024
3.	2300798 dated 22-06-2022	11.	2801946 dated 29-07-2024
4.	8461632 dated 06-02-2021	12.	9159278 dated 16-04-2024
5.	6061178 dated 17-11-2021	13.	4980262 dated 03-09-2025
6.	8491445 dated 24-02-2022	14.	9007107 dated 17-03-2022
7.	8867851 dated 28-03-2023	15.	7154087 dated 09-01-2025
8.	3784200 dated 11-08-2021		

14.14 The CB added that it may be appreciated that provisions of Regulation 10(d) of the CBLR 2018 mandate as under:

(d) 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;

The CB submitted that the allegation of violation of the above Regulation is based on non-compliance with the provisions of Rule 32 of the Gas Cylinder Rules 2016 nor Steel Import Monitoring System (SIMS) by the importer and that the CB did not advise their client to comply with the same. However, when the said provisions of Rule 32 of the Gas Cylinder Rules 2016 nor Steel Import Monitoring System (SIMS) did not apply there is no ground for the allegation to sustain. It is further submitted that the CB had always complied with the obligations cast on them under CBLR 2018 without fail. Accordingly, the CB submitted that there is no violation of Regulation 10(d) of the CBLR 2018 by them.

14.15 The CB submitted that the Inquiry Officer had found that the violation of Regulation 10(d) is not proved against the CB. Further, it appears that the Hon'ble Competent Authority has agreed with the same as there is no Disagreement Memo in respect of the above finding. Therefore, further submissions in respect of the same are not being made. However, the CB submitted that in case the Hon'ble Competent Authority desires to re-visit merits of the same, the CB may be provided opportunity to present their case.

14.16 The said SCN further mentions that the CB had violated provisions of Regulation 10(f) of the CBLR 2018. Provisions of the same are as under:

(f) not withhold information contained in any order, instruction or public notice relating to clearance of cargo or baggage issued by the Customs authorities, as the case may be, from a client who is entitled to such information;

14.17 The CB submitted that the above allegation also based on the same grounds, as in the above case, that the Customs Broker did not comply with the provisions of Rule 32 of the Gas Cylinder Rules 2016, Steel Import Monitoring System (SIMS) and BIS Certification for the Butterfly Valves (Quality Control) Order 2020.

14.18 The CB submitted that it had been amply explained in the above para's that the provisions of Rule 32 of the Gas Cylinder Rules 2016, Steel Import Monitoring System (SIMS) and BIS Certification for the Butterfly Valves (Quality Control) Order 2020 do not apply in the present case. This being the case, the CB submitted that there is no ground to allege that the Customs Broker had withheld any information contained in any order, instruction or public notice relating to clearance of cargo issued by the Customs authorities from their clients. Therefore, the CB submitted that this allegation also fails to stand.

14.19 The CB submitted that the Inquiry Officer had found that the violation of Regulation 10(1) of the CBLR 2018 is partly proved against the CB. In respect of the same, the CB submitted that the Inquiry Officer had made the following remark in Para 20.2.4 of his report dated 06-10-2025: -

In the instant case, I find that the importer of Customs Broker did not submit the executive bonds under the exemption notifications and not ensured timely submission of bond extension request in cases where re-export was delayed. Thus, it is CB responsibility to convey such regulations /obligations to the importer to protect the interests of Government revenue. Thus, the responsibility imposed under Regulation 10(f) of the CBLR 2018 has not been fulfilled by the Customs Broker. While the ultimate duty to comply lies with the importer but Customs Broker role cannot be ignored as he plays a critical facilitative and advisory role and a failure in this role undermines regulatory compliances and revenue safeguard.

14.20 The CB submitted that regarding submission of Bond for duty free import and re-export of the said cylinders, the CB submitted that most of the said cylinders are Customs duty paid and the same can be exported/imported without any revenue implication. The CB submitted that the duty payment documents had been provided to the Customs Authorities at JNCH, Nhava Sheva by the importer. The import/re-import/re-export clauses are prominently appearing in both the Shipping Bill as well as the Bills of Entry.

14.21 In respect of the above, the CB submitted that the importer had been importing the gas filled cylinders for a long time, even prior to the CB coming in picture for clearance of their consignments. The CB Further submitted that as explained above, the importer had paid Customs duty on a number of cylinders, which fact is also a subject matter before the

Hon'ble Adjudicating Authority for the SCN dated 04-02-2025 issued under provisions of the Customs Act, 1962.

14.22 The CB further submitted that the importer had made available the details of Bills of Entry whereby import of cylinders (filled with gas) had taken place. They had also provided details of re-export and duty payment of the cylinders as the case may be. The details of the same are provided in ANNEXURE-A herewith. The CB provided details of the Shipping Bills for the re-export of empty cylinders made through them by the importer/exporter. The CB stated that all these details are verifiable as the relevant data is available in the EDI system of the Department.

14.23 The CB submitted that regarding non-submission of the re-export bond, and extension thereof wherever there was delay in their re-export, it is submitted that such documents are provided by the importer/exporter to the Customs Brokers. The CB submitted that since the exporter/importer was dealing with export/import of the said cylinders through a number of Customs Brokers in the past, even before the charged CB herein was engaged by them, there was bonafide belief that the re-export bond is not required in the present case. This bonafide belief was also generated as a number of the said cylinders were duty paid and some of the said cylinders for rotational transactions (import of gas filled cylinders and re-export of the same after emptying). There was no segregation of the cylinders on the basis of their duty paid nature, re-export nature or in any other manner. However, now the importer has submitted a detailed list of said cylinders, part of which is submitted here as ANNEXURE-A.

14.24 The CB further stated that they have been very diligent in the matter of revenue and also procedural aspects of the import/export trade. The CB submitted that since the importer has been importing and exporting the goods regularly for a long time and these issues were never raised by any authority, they had followed the practice earlier followed by other Customs Brokers in the past.

14.25 The CB submitted that they had been conducting their operations very diligently and efficiently. The issues involved in the present proceedings are primarily of the nature

of procedural aspects, which have been complied with in substantial manner. Further, the CB submitted that there is no adverse revenue implication for the Department.

14.26 The CB submitted that having complied with the Rules and Regulations substantially, the revocation of the CB License of the Customs Broker will result in issues of livelihood and employment of the Customs Broker and their employees. The SCN dated 04-02-2025 [issued under Section 28(4) read with Section 124 of the Customs Act, 1962] which is converted into Offence Report dated 11-04-2025, is still to be adjudicated therefore there is no conformity of the allegations made in the said SCN. The CB submitted that any adverse action on the Customs Broker in absence of confirmation of the allegations will be against principle of natural justice and lead to issues of livelihood of the Customs Broker and their employees.

14.27 Under the circumstances, the CB submitted that it would be unfair and in contravention of principles of natural justice to revoke CB License of the Customs Broker, or forfeit their security deposit or impose penalty on them. In view of the same, the CB prayed that the CB License of the Customs Broker may not be revoked, their security deposit may not be forfeited and no penalty may be imposed on them and they may be permitted to operate in normal course.

14.28 The CB submitted that they will be highly obliged for grant of the prayers as above for revocation of suspension of the CB License and grant of permission to the CB to operate normally.

14.29 In view of the above facts, submissions, and legal position, the CB respectfully prayed that the Hon'ble Competent Authority may be pleased to:

- i. That the said SCN issued to the Customs Broker may be dropped;
- ii. That the CB License of the Customs Broker may not be revoked and they may be permitted to conduct their business and operate the same in normal course.
- iii. That the security deposit may not be forfeited;
- iv. That no penalty may be imposed on the Customs Broker;
- v. Any other relief as deemed fit in the facts and circumstances of the case.

DISCUSSIONS AND FINDINGS: -

15. I have gone through the facts and records of the case; the Offence Report dated 11.04.2025 along with Show Cause Notice No. 1700/2024-25/Gr.II(A-B)/NS-I/CAC/JNCH dated 04.02.2025 issued by the Commissioner of Customs, NS-I, JNCH; Show Cause Notice No. 17/2025-26 dated 08.07.2025 issued under Regulation 17(1) of the CBLR, 2018; Inquiry Report dated 06.10.2025, PH records dated 09.12.2025 and the CB's written submission dated 09.12.2025.

16. To put in brief, the case against M/s. JEM Logistics Solutions (CB No. 11/1976) arose following an investigation into Shipping Bill No. 2801946 dated 29.07.2024 filed for the re-export of 120 empty cylinders on behalf of M/s Air Liquide India Holding Pvt. Ltd. Scrutiny of the import data and past records revealed that the importer had systematically imported DMF Acetylene and DA PUR gases in cylinders on a returnable basis in the past without separately declaring the cylinders or executing the mandatory re-export bonds required under Notification No. 104/94-Cus dated 16.03.1994. This procedural lapse led to the identification of a loss of revenue due to the misclassification and non-declaration of these containers. Furthermore, the findings revealed that the clearances were conducted in violation of allied Acts, specifically the Gas Cylinder Rules, 2016, SIMS registration, and BIS Quality Control Orders, thereby charging the Customs Broker with professional misconduct and negligence under Regulations 10(d) and 10(f) of the CBLR, 2018.

16.1 I find that in view of the said offence report received from the Commissioner of Customs, NS-I, JNCH action under CBLR, 2018 has been initiated against the CB M/s. JEM Logistics Solutions (CB No. 11/1976) for apparent act of violations of Regulations 10(d) & 10(f) of the CBLR, 2018. I find that Regulation 16 was not invoked in the present case. However, an inquiry under Regulation 17 of CBLR, 2018 has been conducted and the Inquiry Officer (IO) concluded that the charges against the CB of violation of Regulation 10 (d) could not be proved whereas that of violation of Regulation 10 (f) of the CBLR, 2018 was partially proved.

17. I find that the charge of violation of Regulation 10(d) of the CBLR, 2018 has been levelled against the CB on the grounds that 'the Customs Broker M/s. JEM Logistics Solutions filed Bills of Entry on behalf of the importer for filled gas DMF Acetylene cylinders without obtaining the requisite landing permission under Rule 32 of the Gas Cylinder Rules, 2016, and without securing the mandatory registration under the Steel Import Monitoring System (SIMS); that the Steel Import Monitoring System (SIMS) requires importers to submit advance information via an online portal for the importation of specified iron and steel items classified under Chapters 72, 73, and 86 of the ITC (HS), 2017, Schedule-I. In the present instance, the Customs Broker failed to ensure that SIMS registration had been duly completed prior to the filing of the Bills of Entry. Under Regulation 10(d) of the Customs Brokers Licensing Regulations (CBLR), 2018, it is the duty of a Customs Broker to advise his client to comply with the provisions of the Act, other allied Acts, and the rules and regulations made thereunder; that the CB failed to advise the importer about the necessary regulatory requirements under Rule 32 and SIMS, and also did not inform the Docks Deputy/Assistant Commissioner about these regulatory lapses. This omission represents a clear deviation from the responsibilities outlined in Regulation 10(d) of CBLR, 2018. In view of the above, it appears that the Customs Broker has contravened the provisions of Regulation 10(d) by not ensuring compliance with the relevant statutory requirements and by neglecting to inform the Deputy/Assistant Commissioner of the irregularities.'

17.1 I find that the inquiry officer, in this regard observed that the provisions of Rule 32 of the Gas Cylinder Rules, 2016 apply specially to compressed gas. It has been adequately demonstrated that the gas in question does not fall under the definition of "compressed gas" as per Rule 2 of the said Rules. Consequently, the IO stated that the requirement for landing permission under Rule 32 does not arise. Upon examination of the documents placed on record, it is evident that the subject goods have been imported exclusively for re-export on a returnable basis and are not intended for use in the domestic market. Accordingly, the IO found that the said goods did not fall within the ambit of mandatory SIMS registration requirements. The IO submitted that the Customs Broker, in their written submission, had

contended that the valves under import do not fall within the ambit of IS 13095:2020, as they are specifically intended for industrial use, particularly in gas-related applications. The IO submitted that this submission is consistent with the contents of paragraph 8 of Show Cause Notice No. 17/2025-26 dated 08.07.2025, wherein it has been indicated to docks officer vide the letter dated 16.08.2024-that the importer deals with industrial applications such as welding, cutting, annealing and waste-water treatment etc. Accordingly, the IO found that the scope of IS 13095:2020 does not encompass valves used in such industrial contexts. Accordingly, the IO found that the subject goods are outside the scope of the said IS 13095:2020. In view of the foregoing, the IO submitted that the charge levelled against the Customs Broker for breach of Regulation 10(d) of the Customs Brokers Licensing Regulations, 2018, is not established and therefore stands 'Not Proved'.

17.2 I have perused the defence submission of the CB wherein the CB contends that the charge of failing to advise the client is legally unsustainable because the underlying "allied acts" mentioned in the SCN specifically the Gas Cylinder Rules, 2016, SIMS registration, and BIS Quality Control Orders were not applicable to the subject transactions. The CB argues that the Gas Cylinder Rules only apply to "compressed gas," whereas the imported gas did not meet this statutory definition. Furthermore, they highlight that DGFT and JNCH Public Notices explicitly exempt goods imported on a returnable basis from SIMS registration and BIS standards, as these items are not intended for domestic consumption. The CB further stated that the BIS authority had issued a Summary of IS 13095: 2020 - Butterfly Valves for General Purpose which states that Butterfly Valves for industrial uses like oil and gas, power, chemical, food, pharmaceutical, marine, defence, and fire services are not covered under the scope of this standard. Since these regulations did not apply to the cargo, the CB maintains there was no "non-compliance" to report, and thus no violation of their advisory duty under Regulation 10(d) occurred.

17.3 Having gone through the facts of the case and the available records I find that the Inquiry Officer has held the charge of violation of Regulation 10(d) as 'Not Proved'.

Keeping in view all the aspects of the Inquiry Report, I find substance in the Inquiry Officer's findings and concur with the same. Accordingly, I hold the charge of violation of Regulation 10(d) of the CBLR, 2018 as Not Proved and drop the said charge levelled against the CB.

18. I find that the Charges of violation of Regulation 10(f) of the CBLR, 2018, have been levelled against the CB on the grounds that 'the Customs Broker, M/s JEM Logistics Solutions, by acts of omission and commission, facilitated the landing of the said goods without obtaining the mandatory permission from the Commissioner of Customs. Furthermore, the goods were cleared without fulfilling compulsory requirements i.e. registration under the Steel Import Monitoring System (SIMS) and obtaining the requisite BIS certification; that the Customs Broker failed to properly declare the gas cylinders on a returnable basis in accordance with Notification No. 104/94-Customs dated 16.03.1994 and Circular No.51/2020-Customs dated 20.11.2020. It appears that Prima-facie, the Customs Broker, in collusion with the importer, knowingly and wilfully omitted to declare the cylinders separately in the Bills of Entry and did not pay the applicable duties on the imported cylinders; that as per the conditions stipulated under Notification No. 104/94-Customs dated 16.03.1994, goods imported under this exemption are required to be re-exported within six months, or within such extended period as may be approved by the competent authority. However, the exporter failed to produce any documentary evidence of having obtained an extension for the re-export period. Additionally, no re-export notification was declared or claimed by the exporter in any of the relevant Bills of Entry despite the cylinders being mentioned in the corresponding re-export shipping bill; that as per Regulation 10(f) of the Customs Brokers Licensing Regulations, 2018, it is the responsibility of the Customs Broker to ensure strict compliance with all orders, instructions, and public notices relating to the clearance of cargo; that the Customs Broker M/s. JEM Logistics Solutions (License No. 11/1976), failed to follow the prescribed procedures and cleared goods in violation of Rule 32 of the Gas Cylinder Rules, 2016 read with Butterfly Valves (Quality Control) Order, 2020 & Compulsory SIMS Registration. Further, customs broker filed Bills of Entry without declaring cylinders separately to avoid

applicable customs Duties thereby contravening the provisions of Regulation 10(f) of the CBLR 2018.

18.1 I find that the inquiry officer, in this regard, has observed that, the Customs Broker has asserted that the provisions of Rule 32 of the Gas Cylinder Rules, 2016, Steel Import Monitoring System (SIMS), and BIS Certification under the Butterfly Valves (Quality Control) Order, 2020, are not applicable in the instant matter as the provisions of Rule 32 of the Gas Cylinder Rules, 2016 apply specifically to compressed gas and the same is discussed above in details. It has been adequately demonstrated that the gas in question does not fall under the definition of "compressed gas" as per Rule 2 of the said Rules. Consequently, the requirement for landing permission under Rule 32 does not arise. The IO submitted that the Customs Broker, in their written submission, had contended that the valves under import do not fall within the ambit of IS 13095:2020, as they are specially intended for industrial use, particularly in gas-related applications. Based on the evidence on record and representations made, the IO found that there is no evidence to establish any deliberate contravention of these statutory provisions by the Customs Broker in reference to above mentioned regulations.

The IO observed that the Customs Broker had not submitted any documentary evidence to indicate that the importer executed the required bond at the time of import or that any requests were made for extension of the bond period in cases where re-export did not occur within the stipulated timeframe in compliance of Notification No. 104/94-Customs dated 16.03.1994. The IO submitted that as per the applicable provisions the primary responsibility for execution and compliance with the bond conditions lies with the importer. The IO submitted that it is evident that the importer had failed to execute or extend the bond as required under law. Further, as per regulation 10(f) of CBLR 2018, the IO submitted that it is the duty of the CB not only to be conversant with the legal framework but also to ensure that the importer is fully informed of the compliance requirements, particularly in situations involving conditional exemptions. Additionally, the IO submitted that if any non-compliance or delay is observed on part of the importer, the CB is obligated to inform the Customs authorities to protect the interests of Government revenue. In light of the above, the IO submitted that the allegations of violation of Regulation 10(f) of the CBLR, 2018 are partially proved by facts or law as in the Show Cause Notice dated

08.07.2025 issued under the CBLR, 2018, it was alleged that landing permission was not taken by the importer/CB and the goods were cleared without fulfilling compulsory requirement i.e. registration under the SIMS and obtaining the requisite BIS certification however the allegation stands Not Proved as there is no evidence to establish any deliberate contravention of these statutory provisions by the Customs Broker as elaborated supra. Further, the IO submitted that it was also alleged that Notification No. 104/94 -Customs dated 16.03.1994 and Circular No. 51/2020-Customs dated 20.11.2020 was not fulfilled while importation of subject goods. In this regard, the IO found that goods were not imported/re-exported under the provisions of Notification 104/94 -Customs dated 16.03.1994 and Circular No. 51/2020-Customs dated 20.11.2020 as discussed supra. In view of the foregoing and considering the pending adjudication of the Show Cause Notice in the Customs Act, 1962, the IO submitted that the charge levelled against the Customs Broker for breach of Regulation 10(f) of the Customs Brokers Licensing Regulations, 2018, stands 'Partially Proved'.

18.2 I have gone through the CB's submission in this regard wherein the CB has asserted that the provisions of Rule 32 of the Gas Cylinder Rules, 2016, Steel Import Monitoring System (SIMS), and BIS Certification under the Butterfly Valves (Quality Control) Order, 2020, are not applicable in the instant matter as the provisions of Rule 32 of the Gas Cylinder Rules, 2016 apply specifically to compressed gas and the same is discussed above in details. It has been adequately demonstrated that the gas in question does not fall under the definition of "compressed gas" as per Rule 2 of the said Rules. Consequently, the requirement for landing permission under Rule 32 does not arise. The IO submitted that the Customs Broker, in their written submission, had contended that the valves under import do not fall within the ambit of IS 13095:2020, as they are specially intended for industrial use, particularly in gas-related applications. The CB further adds that with respect to the applicability of the provisions of Notification No. 104/94-Customs dated 16.03.1994 their conduct was guided by a 'bonafide belief' that formal re-export bonds were not required. This belief stemmed from the fact that the importer had cleared similar 'rotational' transactions through multiple other Customs Brokers for years without the department ever raising such objections, thereby establishing a standard industry practice

which the CB followed. The CB further contends that there was no actual loss of revenue or intent to evade duty, as a significant portion of the cylinders were already duty-paid or were meticulously documented for re-export, with all data being transparently available in the EDI system. They argue that the failure to seek bond extensions was a purely procedural oversight in a long-standing business relationship where the importer frequently utilized several brokers, making the segregation of duty-paid versus returnable cylinders complex. Consequently, the CB prays that since compliance was substantially met and no fraud was committed, the extreme penalties of license revocation or security forfeiture should not be imposed, as they would disproportionately affect the livelihoods of the CB and its staff.

18.3 On going through the records of the case, relevant documents and the CB's submission I find that, the IO held this charge as 'Partially Proved' based on the failure to execute bonds and seek extensions for the re-export of cylinders under Notification 104/94-Cus. I find that this failure goes to the very heart of the CB's professional responsibility. The CB argued that because the importer had cleared goods through other brokers in the past without such requirements, they held a bonafide belief that re-export bonds were not required. This defence is legally untenable. It is pertinent to state that the essence of issuing a Customs Broker's license is not for the purpose of following "market practice" but for the strict adherence to the Customs Act and Notifications. Notification 104/94-Cus is a conditional notification. The benefit is predicated on the execution of a bond and re-export within six months. By clearing the eight Bills of Entry without ensuring these bonds were in place (Table-I), the CB allowed the importer to enjoy the benefit of duty-free import while bypassing the mandatory safeguards intended to protect the Revenue. The CB further contends that the ultimate responsibility for compliance lies with the importer. It goes without saying that while the importer is the owner of the goods, the CB is the authorized agent whose primary role is to ensure that the clearance process is legally compliant. Regulation 10(f) prohibits the withholding of information regarding instructions or public notices. By failing to inform the importer about correct applicability of Notification No. 104/94-Cus. dated 16.03.1994 and the necessity of re-export extensions for the imported cylinders delayed beyond the six-month limit, the CB effectively withheld vital procedural

requirements from their client. This resulted in the differential duty risk and the resultant non-compliance giving rise to the recovery proceedings and the consequent issuance of show cause notice under the Customs Act, 1962.

The CB further cited the *Ratanship Shipping* case to argue that they should not be held liable in the absence of fraud or aiding and abetting. I find that this case is distinguishable. The present matter is not about 'hidden forgery' but about procedural negligence. The CB was fully aware that the cylinders were returnable, as they filed the subsequent re-export shipping bills correctly under CTH 73090090. If a CB knows a cylinder is returnable, they must know it requires a bond under Notification 104/94 – Cus dated 16.03.2024. Failing to file this bond or seek an extension is not a minor manipulation by the importer that the CB couldn't see; it is a fundamental failure of the CB to apply the very notification they were using to clear the goods. From the foregoing discussions, it is evident that the CB facilitated the clearance of goods without the mandatory re-export bonds, and failed to manage the timeline for re-exports, leading to a significant revenue risk. This constitutes a clear violation of the due diligence and informative duties cast upon the CB under Regulation 10(f) of the CBLR, 2018. Consequently, I hold the CB guilty of violation of Regulation 10(f) of the CBLR, 2018.

19. I find that a Customs Broker occupies a very important position in the Custom House and is supposed to safeguard the interests of both the importers/exporters and the Customs Department. A lot of trust is kept in CB by the Government Agencies; however, by their acts of omission and commission, the Customs Broker M/s. JEM Logistics Solutions (CB No. 11/1976) has violated Regulation 10(f) of the Customs Brokers Licensing Regulations (CBLR), 2018. I find that for the violation of obligations provided under CBLR, 2018 and for their act of omission and commission, the CB M/s. JEM Logistics Solutions (CB No. 11/1976) has rendered itself liable for penal action under the CBLR, 2018. Hence, while deciding the matter, I rely on the following case laws:

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

Hon'ble CESTAT Mumbai in M/s. Noble Agency V/s. Commissioner of Customs, Mumbai that:

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

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

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

20. As discussed above, I conclude that the CB is guilty of violation of Regulation 10(f) of the CBLR, 2018. Regulation 10(f) requires a CB to be a vigilant intermediary who ensures all procedural instructions are followed. The failure to ensure the execution of Re-export Bonds and the failure to track and seek extensions for delayed re-exports is a grave procedural omission. I also observe that despite the omission on the part of the importer and the CB, the empty cylinders were re-exported which establishes the fact that the cylinders were not imported for domestic consumption and acted as the mere carrier/

container for the chemical gases. Hence, under the factual matrix of the case and considering the defence arguments of the CB, the findings of the Inquiry Officer, to some extent and applying the principle of proportionate punishment as well as the doctrine of benefit of doubt I am not inclined to revoke the License of the CB as the punishment of revocation of license is harsher and disproportionate to the offence committed. However, I am of the considered view that the ends of justice will be met by forfeiture of security deposit under Regulation 14 of the CBLR, 2018 and imposing a penalty on the CB, under Regulation 18 of the CBLR, 2018 which suffices both as a punishment for the infraction and as a deterrent to future violations. In this regard, I place reliance on the following caselaws:

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

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

in all cases. On the other hand, there may be cases where the authorities may be of the view that licensee does not deserve a renewal either. Position would be different there. Though we have not dealt with the question of proportionality, it is to be noted that the authorities while dealing with the consequences of any action which may give rise to action for suspension, revocation or nonrenewal have to keep several aspects in mind. Primarily, the effect of the action vis-a-vis right to carry on trade or profession in the background of Article 19(1)(g) of the Constitution has to be noted. It has also to be borne in mind that the proportionality question is of great significance as action is under a fiscal statute and may ultimately lead to a civil death."

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

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

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

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

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

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

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

21. In view of the above judgements 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 of the CB. However, for their acts of omission and commission, the Customs Broker M/s. JEM Logistics Solutions (CB License No. 11/1976) is held liable and guilty for violating the provisions of the CBLR, 2018 as mentioned above. Accordingly, I pass the following order:

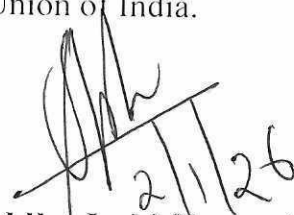
ORDER

22. I, 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 forfeiture of Rs. 1,00,000/- (Rs. One Lakh Only) from the security deposit furnished by the CB M/s. JEM Logistics Solutions (CB License No. 11/1976) under Regulation 14 of the CBLR, 2018.

(ii) I, hereby impose a penalty of Rs. 50,000/- (Rupees Fifty Thousand only) on M/s. JEM Logistics Solutions (CB License No. 11/1976) under Regulation 18(1) of the CBLR, 2018.

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


(Shraddha Joshi Sharma)
 Commissioner of Customs (Gen.)
 NCH, Mumbai-I

To,

M/s. JEM Logistics Solutions (CB License No. 11/1976)

Unit No. 1A, Aawas Apartment,
Ground Floor, Sahar Pipeline Road,
Andheri, Mumbai – 400059.

Copy to:

1. The Pr. Chief Commissioner/ Chief Commissioner of Customs, Mumbai - I, II, III Zone.
2. The Pr. Commissioner of Customs, NS-I, JNCH.
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 Department, NCH
7. Office Copy