



प्रधान सीमाशुल्क आयुक्त (सामान्य) का कार्यालय
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (GENERAL)
 कस्टम ब्रोकर अनुभाग, नवीन सीमाशुल्क भवन,
CUSTOMS BROKER SECTION, NEW CUSTOM HOUSE,
 बेलार्ड इस्टेट, मुंबई - I
BALLARD ESTATE, MUMBAI - I

F. No. GEN/CB/120/2025-CBS

Date: 09.04.2025

DIN: 2025047700000000 DEDF

ORDER NO. 01 /2025-26 CBS
UNDER REGULATION 16(2) OF THE CBLR, 2018

M/s P. G. Goswamy, Custom Broker (CB License No. 11/1690; PAN- AEYPG1162K) having registered office address as 2nd Floor, 11 Shree Krishna Bhavan CHS Ltd., Sutar Pakhadi Road, Sahar Village, Andheri East, Mumbai Sub Urban, Maharashtra- 400 009. (hereinafter referred to as the Customs Broker/CB) is holder of Customs Broker License No. (11/1690), issued by the Commissioner of Customs, Mumbai under issued by the Pr. Commissioner of Customs, Mumbai under Regulation 9(1)/9(2) of CHALR, 2004 erstwhile (now regulation 7(2) of CBLR, 2018) and as such they are bound by the regulations and conditions stipulated therein.

2. An Offence report in the form SCN vide no. 08/PC/NOIDA/CUS/2024-25 dated 12.02.2025 issued by Pr. Commissioner of Customs, Noida along with letter vide F. No. DRI/2024HQ-CI/B-Cell/50D/Enq-09/2024/(Pt. I)/193 dated 12.02.2025 issued by Additional Director, DRI/Delhi was received in CB Section, NCH, Mumbai through Official e-mail of DRI, HQ, New Delhi, wherein, inter-alia, the following were informed:

Brief facts of the case:

2.1 Directorate of Revenue Intelligence, Delhi was received specific intelligence that a number of importers are indulged in import of unbranded Sanitary items and other miscellaneous generic goods at ICD Dadri Noida, Uttar Pradesh. It was further informed that the description of goods will be generic so that correct item details and value of the goods can't be ascertained by the Customs Authorities. The goods are mis-declared and undervalued so as to evade the applicable customs duties. Acting on the same, goods imported by various importers vide 27 containers were put on hold by DRI vide letter dated 15.05.2023 and 16.05.2023. Further, it is to inform that their office is investigating cases of import of undervalued and mis-declared goods by some persons using dummy IECs at ICD Dadri. On the basis of records available, it was observed that M/s P. G. Goswamy, Custom Broker (CB License No. 11/1690; PAN- AEYPG1162K) had filed the Bills of Entry on behalf of dummy importers. The list of IECs is as under: -

TABLE-I		
Sr. No.	NAME OF THE IMPORTER	IEC
1	SHREE RAM ECONOMICAL TRADERS	0517540665
2	SHRI JEE ENTERPRISES	CXMPK2898H
3	V G ENTERPRISES	BCV PG0412J
4	SHRI SI HVA TRADERS	AECFS5060G
5	STAR ENTERPRISES	AERFS1190Q
6	SHREE SHYAM CORPORATION	AYAPVS8190L
7	SHREE SAMANTH TRADE IMPEX	KTIPK6792L

8	SHRI SANTHIL ENTERPRISES	AHTPN3139K
---	--------------------------	------------

2.2. During the course of investigation, it was also revealed the M/s P. G. Goswamy has rented their Customs Broker License to Sh. Manoranjan Kumar, Controller of M/s SS Mommy International P. Ltd., in lieu of some monetary gains. To investigate the matter further, various summons was issued to M/s P. G. Goswamy for recording of statement and submission of documents required for investigation. However, they failed to appear for tending statement and also did not submit any documents. Accordingly, non-compliance had been initiated against them in Patiala House Court, New Delhi. Thus, by the act of non-appearance on summons and non-submission of documents, it appears that CB M/s P. G. Goswamy had not cooperated in the investigation and had tried to delay the investigation. Therefore, DRI, Delhi has requested this office to take appropriate action against M/s P. G. Goswamy under CBLR, 2018 read with Customs Act, 1962.

3. As per subject SCN issued by Noida Customs, the investigation was initiated in relation to goods imported by **M/s. VG Enterprises (IEC-BCVPG0412J)** and **M/s. Shri Jee Enterprises (IEC-CKMPK2898H)**. which were put on hold by DRI vide letter DRI F. No. DRI/HQ-CI/B-Cell/50D/Misc-20/2023/914 dated 11.05.2023 and letter of even no 982-983 both dated 16.05.2023 to examine the goods so as to ascertain the correctness of the declarations viz description of goods and value of goods etc., made by the importer in the subject Bills of Entry. The details of the Bills of Entry filed by MS VG Enterprises and M/s Shri Jee Enterprises are as under: -

TABLE-II								
Sl. No.	B/E No.	B/E date	Sl. No.	B/E No.	B/E Date	Sl. No.	B/E No.	B/E Date
1	5776358	02.05.2023	7	5876161	09.05.2023	13	5929841	12.05.2023
2	5776357	02.05.2023	8	5893453	10.05.2023	14	5929842	12.05.2023
3	5774470	02.05.2023	9	5893416	10.05.2023	15	5929839	12.05.2023
4	5843780	07.05.2023	10	5910562	11.05.2023	16	5945590	13.05.2023
5	5876157	09.05.2023	11	5910556	11.05.2023	17	5762103	01.05.2023
6	5876159	09.05.2023	12	5929840	12.05.2023			

4. In furtherance of investigation, goods imported by M/s. VG Enterprises and M/s. Shri Jee Enterprises at ICD Dadri were examined by DRI officers in the presence of the representative of the importers, Custom Broker and respective Custodians. The examination proceedings were recorded under various Panchnamas dated 15/16.05.2023, 18/19.05.2023, 19/20.05.2023, 22.05.2023, 24.05.2023, 25.05.2023 and 29.05.2023.

5. Further, it appeared that the description of the goods mentioned in the Bills of Entry by the importers was very generic wherein the size of item, material used in making, other required specifications, quality were not mentioned, for example Mini Hammer, Bearings, parts of Erickshaws, shower head, flange, Tap, Angle Valve, Fuel pump motor, Fuel pump for two-wheeler, Plastic Insert Inner Part (sanitary fitting) etc. Also, it appears that this modus has been adopted to avoid proper identification, determination of correct value and other compliances by customs authorities. Further, as the goods appeared to be undervalued and accordingly, goods were placed under detention on 15/16.05.2023, 18/19.05.2023, 19/20.05.2023, 22.05.2023, 24.05.2023, 25.05.2023 and 29.05.2023 and Supurdagi of these detained goods was handed over to the custodian vide Supardaginama dated 15/16.05.2023, 18/19.05.2023, 19/20.05.2023, 22.05.2023, 24.05.2023, 25.05.2023 and 29.05.2023.

6 Further, as per IEC details, Sh. Vinit Garg was Proprietor of M/s. VG Enterprises and Sh.

Ravi kumar, was Proprietor of M/s. Shri Jee Enterprises and both firms were registered at Upper Ground Floor, Shop No UG-5-B Plot No 28, Community Centre Pitampura, Landmark Near Wine Shop Delhi, North West Delhi-110034. Accordingly, for further investigation, the above-mentioned premises were searched and it was observed that only a sign board was hanging at the entrance of shop cum office of the importers and no computer/desktop/laptop was found inside the office premises. The search proceedings were recorded by DRI officer under Panchnama dated 19.05.2023. Therefore, it appeared that said office was not functional and no business activities were being conducted from the said premises.

6.1 Also, during the examination proceedings, it was revealed that goods were imported by M/s.VG Enterprises and M/s. Shri Jee Enterprises were cleared by Customs Brokers namely M/s. P. G. Goswamy (License No. 11/1690) & M/s. Rajesh Tripathi (License No. 02/CHA/RPR/2007). It was also gathered that both the CB licenses were obtained by M/s. SS Mommy International Private Limited on rental basis and M/s S.S. Mommy International used to pay monthly rent to both of them. Accordingly, search was conducted at the office premises of M/s. SS Mommy International Private Limited situated at B2-001, Design Arch Building, Surajpur Site-C, Greater Noida-201306. The search proceedings were recorded under panchnama dated 16.05.2023 (RUD-4). During the search, some ledgers of firms, copies of CB licences and **KYC of M/s Rajesh Tripathi, M/s P. G. Goswamy and M/s Ganpati Shipping Agency** and KYC documents of multiple importers including M/s. VG Enterprises and M/s. Shri Jee Enterprises were found, which were resumed for further investigation.

7. Valuation of 16 live Bills of Entry

Further, it was observed that the importers have provided very generic item description of the goods and no specification, brand, model, material used, etc of the goods has been provided by the importer in 16 Bills of Entry. Hence, it is not feasible to identify similar or the identical goods imported by the other importers for comparing the value declared by the other importers vis-à-vis value declared by M/s VG Enterprises and M/s Shri Jee Enterprises. Thus, to ascertain the actual value of the detained goods, recourse to valuation by Chartered Engineer and IBBI Registered Valuer was done. Chartered Engineer vide Chartered Engineer's Certificate dated 26.06.2023 provided the value of the detained goods imported by M/s VG Enterprises and M/s Shri lee Enterprises imported vide 16 Bills of Entry mentioned. A summary of the valuation report is appended below:

Name of the Importer	No. of Bills of Entry	Sum of item wise Assessable Value as declared by the importer (In Rs.)	Sum of Item-wise Assessable Value as per the Chartered Engineer (In Rs.)	% of undervaluation
SHRI JEE ENTERPRISES	2	24,41,969	56,90,120	42.92
V G ENTERPRISES	14	1,04,40,961	9,07,47,526	11.51
Total	16	1,28,82,930	9,64,37,646	13.36

In view of above, it appears that the importers had mis-declared the description of goods and also undervalued the goods to the extent of 13.36% or 7.5 approx. times of the actual value of goods imported. Therefore, it appeared that the goods have been imported in contravention of provisions of Customs Act, 1962 and the same are liable to confiscation. Accordingly, the goods imported vide 16 Bills of Entry by M/s VG Enterprises and M/s Shri Jee Enterprises were seized on 21.08.2023.

8. Statement of Key Persons:

8.1 Statement of Sh. Manoranjan Kumar, controller and husband of Director of M/s SS Mommy International Pvt Ltd:

- Statement of Sh. Manoranjan Kumar, controller and husband of Director of M/s SS Mommy International Pvt Ltd was recorded on 21.08.2024 under Section 108 of Customs Act, 1962 at DRI(HQ), New Delhi wherein he stated that his wife namely Ms. Neetu Singh and her sister-on-law, Ms. Anita Kumari, were directors in M/s SS Mommy International Pvt Ltd; that now his nephew Sh. Sonu Ranjan is the Director of the said firm; that he looks after work related to freight forwarding and marketing in M/s SS Mommy International Pvt Ltd; that M/s SS Mommy International Private Limited was involved in freight forwarding and Custom Clearance of goods; that Customs Clearances of goods was done on Custom Broker Licenses of M/s Rajesh Tripathi, M/s P. G. Goswamy and M/s Ganpati Shipping Agency;
- On being asked, he stated that the Mix goods had been imported on licenses of M/s Rajesh Tripathi, M/s P. G. Goswamy and manufacturing goods had been imported on M/s Ganpati Shipping Agency; that Rs. 300-500/- per container was paid to these CB license holders in lieu of using their licenses for import of goods;
- That in the year 2022-23, one Sh. Sunil Aggarwal brought the import related work of M/s VG Enterprises and M/s Shri Jee Enterprises; that goods have been imported in these firms on Custom Brokers licences of M/s Rajesh Tripathi and M/s P. G. Goswamy; that both these licenses were used by M/s SS Mommy International Pvt. Ltd; that mix goods had been imported in M/s VG Enterprises and M/s Shree Jee Enterprises and Rs. 5000/- per container was given to M/s SS Mommy International Pvt Ltd by these times; that sometimes Customs duty payment of these firms had also been done by M/s SS Mommy International Pvt Ltd on request of the importer only;
- On directions of Sh. Sunil Aggarwal, he had provided services of custom clearances of imported goods in various companies; that Sh. Sunil Kumar Aggarwal used to give Rs. 5000/- per container for custom clearance for which he used to do the billing.
- On being asked about the undervaluation of imported goods done by Sh. Sunil Kumar Aggarwal, he stated that Sh. Sunil Kumar Aggarwal used to do 5-6 times undervaluation of goods so as to evade the applicable Custom Duty; that he worked only for Custom clearances of goods; that in the period from December 2022 to May 2023, he had got custom cleared goods of 300 container (approx..) imported by the companies brought by Sh. Sunil Kumar Aggarwal; that Sh. Sunil Kumar Aggarwal used to send the import related documents through company's e- mail id and then he used to file the Bills of Entry on the basis of these documents;

8.2 Statement of Sh. Chandan Choudhary, Import Manager of M/s SS Mommy International Pvt Ltd:

- In his statement, he has submitted that as a manager he has the responsibility of handling Shipping line and import documentation work such as checking documents for necessary compliances, checklist before BOE etc. in M/s. SS Mommy International Private Limited; that he has never met with Proprietors of M/s. VG Enterprises and M/s. Shri Ice Enterprises; that Sh. Sunil Kumar Aggarwal and Sh. Neerav Kumar used to visit their office in relation to clearance of imported goods in these Arms; that BOE, Packing List, Commercial Invoice were provided in hard copy to him in office; that Commercial Invoice/ value of goods imported In M/s.VG Enterprises and M/s. Shri Jee Enterprises varied between 8,000 \$ to 10,000\$ which appeared to be quite low.
- that M/s SS Mommy International Pvt Ltd or Sh. Manoranjan Kumar have used Customs Broker Licenses of M/s P. G. Goswamy, M/s Rajesh Tripathi and M/s Ganpati Shipping Agency. Further, as per his knowledge, Sh. Manoranjan kumar used to give Rs. 500/- to Rs. 700/- per container; That he has seen the statement of Sh. Mohan Chander Pandey dated 09.01.2024 wherein he has mentioned that he use to contact him and provide his Aadhar and OTP to him as regards to custom clearance of goods; that he agrees with the facts stated by Sh. Mohan Chander Pandey; that, he use to take OTP from Sh. Mohan Chandra Pandey for the registration of SIMS (Steel import Monitoring System) which is mandatory compliance for the import of goods made of steel; that he has not taken OTP for any other purpose ever from Sh. Mohan Chander Pandey.

8.3 Statement of Sh. Sunil Kumar Aggarwal:

- was recorded under Section 108 of the Customs Act, 1962 on 13/14.02.2024 wherein he stated that he started the import of gift items from China in his firm M/s Shree Ram Economical Traders Shree Ram Economical Traders from year 2017 to 2019; that his younger brother, Sh. Suddhir Aggarwal and Sh. Neerav (his cousin brother) use to import mix items viz sanitary items, fabric, E- rickshaw parts, auto parts etc from China.
- that they had contacted Sh. Mintu, Prop. of M/s S.S. Mommy International for customs clearance work; that customs duty payment and other miscellaneous expenses were made from M/s S.S. Mommy International; that Sh. Mintu, after customs clearance of imported goods, used to send the goods at their godown located at B-81, Wazirpur Industrial Area, New Delhi;
- Further, he stated that M/s V.G. Enterprises was formed by Sh. Vinit Garg with the help of Sh. Neerav Aggarwal; that he along with Sh. Neerav used to import the goods in M/s VG Enterprises from China; that the imported goods were sold to various domestic buyers and the payment of same were deposited by domestic buyers in the bank account of M/s VG Enterprises which was used for payment of Customs Broker and payment to the Chinese Supplier.
- On being asked, he stated that they earn profit in the range of 2-3 % in the imported goods; on being asked that they have sold 414 groos of spark plug vide invoice no. 1687 dated 22.04.2023 to M/s Puran Auto Traders for an amount of Rs. 79,943/-, however the same item was imported vide SI.No. 2 of BE no. 5570338 dated 18.04.2023 for an amount of Rs. 79,918/- , he stated that sometimes the quality of the product is low and hence the products are sold at same and lower price. 29.12 On being asked as to why his phone does not contain any call, chat or any record regarding his business transactions, he stated that he had thrown the mobile phone which contained the call, chats and record regarding his business transactions; that he had started using different phones after DRI held their consignments of M/s VG Enterprises and M/s Shri Jee Enterprises; that he changes his phone after every 2-3 months after their case;
- On being shown the panchnamas dated 15/16.05.2023, 17/18.05.2023, 19/20.05.2023, 22.05.2023, 24.05.2023, 25.05.2023, 29.05.2023 regarding examination of goods imported by M/s VG Enterprises and M/s Shri Jee Enterprises and the Chartered Engineer cum Govt Approved Valuer's report dated 26.06.2023, he stated that he agrees with the Chartered Engineer's report dated 26.06.2023 and he along with Sh. Neerav has undervalued the imported goods vide 16 containers in M/s VG Enterprises and M/s Shri Jee Enterprises.
- On being asked about the Custom Clearance of goods in M/s VG Enterprises and M/s Shri Jee Enterprises, he stated that they used to contact Sh. Mintu and P.G. Goswamy for custom clearance and they used to pay Rs. 40,000/- in cash and Rs. 5,000/- as per Invoice, to them 30. Statement of Sh. Neerav Kumar was recorded u/s 108 of the Customs Act, 1962 on 13/14.02.2024(RUD-38) wherein he stated that he started the import of goods in M/s Shri Enterprises(his own firm) with Sh. Sudhir Aggarwal (his cousin brother) since 2018; that he along with Sh. Sunil Kumar Aggarwal opened the firm M/s Shri Jee Enterprises in his friend's name viz Sh. Ravi Garg in April 2022 and looked after import of goods, sale and purchase of goods etc in M/s Shri Jee Enterprises since then till date; that that he along with Sh. Sunil Kumar Aggarwal opened the firm M/s VG Enterprises in his friend's name viz Sh. Vinit Garg in April 2023 and looked after import of goods, sale and purchase of goods etc in M/s VG Enterprises since then till date.
- On being asked, he stated that he along with Sh. Sunil Kumar Aggarwal has imported goods viz sanitary, E- rickshaw parts, fabric, Handicraft toys, power tools etc in M/s VG Enterprises and M/s Shri Jee Enterprises; that they have sold the goods imported in said firms to domestic buyers; that for customs clearance of goods of said firms, they used to contact Sh. Deepanshu and Sh. Chandan for making the import documents; that Sh. Deepanshu and Sh. Chandan worked for a firm viz M/s SS Mommy international Private Limited of M/s PG Goswamy (Custom Broker); that he along with Sh. Sunil Kumar Aggarwal used to direct Sh. Inderjeet for making the sales invoices of the goods imported in M/s VG Enterprises and M/s Shri Jee Enterprises.

8.4. Statement of Sh. Neerav Kumar:

- On being asked, he stated that he along with Sunil Kumar Aggarwal has imported goods viz. sanitary, E-rickshaw parts, fabric, Handicraft toys, power tools etc. in M/s V G Enterprises and M/s Shri Jee

Enterprises; that they have sold the goods imported in said firms to domestic buyers; that for customs clearance of goods of said firms, they have used to contact Deepanshu and Sh. Chandan for making the import documents; that Sh. Deepanshu and Sh. Chandan worked for a firm viz M/s SS Mommy International Pvt. Ltd. of M/s P G Goswamy (Customs Broker); that he along with Sh. Sunil Kumar Aggarwal used to direct Sh. Intderjeet for making the sale invoices of the goods imported in M/s V G Enterprises and M/s Shri Jee Enterprises.

- On being asked as to why his phone does not contain any call, chat or any record regarding his business transactions, he stated that after DRI held their consignments of M/s VG Enterprises and M/s Shri Jee Enterprises, he used to delete the chats and mobile numbers after every 2-3 days; that he used to delete the chats with Sh. Sunil Kumar Aggarwal so as to hide his business transactions with Sh. Sunil Kumar Aggarwal.
- On being shown the Panchanamas dated 15/16.05.2023, 17/18.05.2023, 19/20.05.2023, 22.05.2023, 24.05.2023, 25.05.2023, 29.05.2023 regarding examination of goods imported by M/s VG Enterprises and M/s Shri Jee Enterprises and the Chartered Engineer cum Govt Approved Valuer's report dated 26.06.2023, he stated that he agrees with the Chartered Engineer's report dated 26.06.2023.

8.5. Statement of Sh. Inderjeet, Employee of Sh. Sunil Kumar Aggarwal: In his statement, he stated that he was working in M/s KK Traders which was controlled by Sh. Sunil Kumar Aggarwal; he stated that as per his knowledge, Sh. Sunil Kumar Aggarwal was the owner/controller of more than 15 IECs including M/s V G Enterprises and M/s Shree Jee Enterprises.

8.6. Statement of Sh. Dinesh Kumar Meena, Employee of Sh. Sunil Kumar Aggarwal: In his statement dated 13.02.2024 under Section 108 of the Customs Act, 1962, he stated that he was working as supervisor of godown located at B-81, Gr. Floor, Wazirpur Industrial Area; that Sh. Sunil Kumar Aggarwal had taken the said godown on rent; that the goods imported by Sh. Sunil Kumar Aggarwal were stored in the said godown; that he used to look after the work of loading and unloading of the imported goods in the said godown; that the imported goods were sold to various domestic buyers from the said godown; that apart from him, Sh. Inderjeet, employee of Sh. Sunil Kumar Aggarwal used to visit the said godown and sometimes Sh. Sunil Aggarwal also visited the said godown; that his monthly salary was also paid to him by Sh. Sunil Kumar Aggarwal.

8.7. Statement of Shri Rakesh (Cousin Brother of Sh. Sunil Kumar Aggarwal): The statement was recorded on 13-14/02/2024 wherein he stated that he is also involved with his cousin brother Sh. Sunil Aggarwal in the business of import of goods from China since 2020; that Sh. Sunil Aggarwal has collected multiple IECs and imports goods in India from China in these multiple IECs; that he gets a commission of Rs. 2000-3000/- per container for helping Sh. Sunil Aggarwal in the said work; he further added that Sh. Sunil Kumar Aggarwal uses many IECs for import of goods; the import is made in the name of different companies but all goods are imported by Sh. Sunil Aggarwal only; further he added that Sh. Sunil Kumar Aggarwal imports goods at undervalued prices and he helps Sh. Sunil Aggarwal in the same.

8.8. Summons to the Importers: Further, Summons dated 15.06.2023, 20.06.2023, 03.07.2023, 25.07.2023 and 25.09.2023 were issued to **Sh. Vinit Garg, Proprietor of M/s. VG Enterprises** and **Sh. Ravi Kumar, Proprietor in M/s. Shri Jee Enterprises** but they failed to appear for tendering statement. Further, as the proprietors of M/s. VG Enterprises and M/s. Shri Jee Enterprises were not appearing in compliance of the Summons, an application regarding non-compliance of summons was filed in Hon'ble Patiala House Court, New Delhi as non-compliance of summons is a punishable offense under section 174 and 175 of erstwhile India Penal Code, 1860.

9. Thereafter, GSTR1 Data of M/s. VG Enterprises and M/s. Shri Jee Enterprises was scrutinized and summons were issued to major buyers of these firms viz M/s Samadhan Combine, M/s. Durga Bath Impex and M/s Durga International for further investigation in the matter.

10. Statements of the Proprietors of Firms:

Further, on 11.08.2023, Sh. Vinit Garg, Proprietor of M/s. VG Enterprises and Sh. Ravi Kumar, Proprietor in M/s. Shri Jee Enterprises along with Sh. Neerav Kumar appeared in DRI office. **Statement of Sh. Vinit Garg, Proprietor in M/s. VG Enterprises was recorded u/s. 108 of the Customs Act, 1962 on 11.08.2023** wherein he stated **that the said firm was incorporated on directions of Sh. Neerav Rumar**; that all work related to procurement from overseas supplier and goods sold to domestic buyers were handled by Sh. Neerav Kumar; that all banking transactions made in M/s. VG Enterprises was handled by Sh. Neerav Kumar; that Sh. Neerav Kumar can explain about the mis-declaration of the imported goods in the said firm. Thus, it was evident that Sh. Vinit Garg is the dummy Proprietor of the firm and Sh. Neerav Kumar is the beneficial owner/controller of M/s VG Enterprises. **Further, Sh. Ravi Kumar appeared in DRI office on 11.08.2023 and Statement of Sh. Ravi Kumar Proprietor in M/s. Shri Jee Enterprises was recorded 11.08.2023 under Section 108 of the Customs Act, 1962 but his statement could not be recorded considering his request to record it later due to some health issues.**

11. Past import data:

From the investigation, it is apparent that Sh. Sunil Kumar Aggarwal and Sh. Neerav Kumar were the masterminds who conceived the entire scheme of making undervalued and mis-declared imports through several dummy firms owned / controlled by them. On perusal of the past made imports made by the importing firms controlled by Sh. Sunil Kumar Aggarwal and Sh. Neerav Kumar, it was observed that the goods imported by M/s VG Enterprises and Shree Jee Enterprises (which were detained in May'2023) have also been imported in the past by other importing firms controlled by Sh. Sunil Kumar Aggarwal and Sh. Neerav Kumar.

Further, in his statement, Sh. Pankaj Khanna (employee of Sh. Sunil Kumar Aggarwal), has submitted that he has collected cash to the tune of Rs. 35 crores in last 3 years also indicates that the goods were undervalued and were sold at higher prices, and the differential amount was collected in cash. Further, from the import data of the past 4 years of the said importers, it has also been observed that the multiple suppliers have provided goods to the importing firms controlled by Sh. Sunil Kumar Aggarwal and Sh. Neerav Kumar. Further, during investigation, the goods imported by M/s VG Enterprises and M/s Shri Jee Enterprises were found to be undervalued and in the past also, the suppliers of M/s VG Enterprises and M/s Shri Jee Enterprises had also supplied goods to the importing firms controlled by Sh. Sunil Kumar Aggarwal and Sh. Neerav Kumar in the past. Total 17 importing firms have been noticed which were controlled by Sh. Sunil Kumar Aggarwal and Neerav Kumar in the past wherein these both persons have imported undervalued goods from the multiple suppliers and supplied the same in local market in higher prices.

12. After considering all past data of IEC being used by Sh. Sunil Kumar Aggarwal and Sh. Neerav Kumar, the differential duty was worked out to Rs. 2,24,31,00,371/- which are recoverable under Section 28(4) of the Customs Act, 1962 along with applicable interest. In the instant case, the Customs Broker M/s P. G. Goswamy had been made party and penalty under Section 112 of the Customs Act, 1962 has been proposed on the CB for their acts of Commission/omission for having abetted Sh. Sunil Kumar Aggarwal and Sh. Neerav Kumar in the fraudulent import of goods in their firms resulting in evasion of appropriate Customs duty as applicable.

13. As discussed supra, huge misdeclaration and under-valuation was noticed in the past consignments imported by Sh. Sunil Kumar Aggarwal and Sh. Neerav Kumar in the name of the dummy / proxy IECs under investigation, mis-declaration and under-valuation has also been corroborated by the documents/ forensic evidences gathered during investigation. Thus, the entire scheme has the characteristics of a large, well-thought-out operation to effect benami / proxy imports in order to evade duties of Customs.

14. In view of the above statements of Sh. Sunil Kumar Aggarwal, Sh. Neerav Kumar, Sh. Inderjeet, Sh. Pankaj Khanna, Sh. Dinesh and Sh. Rakesh, it appears that Sh. Sunil Kumar Aggarwal and Sh. Neerav Kumar were the beneficial importers (in terms of Rule 2(3A) of Customs Act, 1962) of M/s VG Enterprises and M/s Shri Jee Enterprises and were involved in undervaluation of goods

imported in M/s VG Enterprises and M/s Shri Jee Enterprises and thus had evaded customs duty to the tune of Rs. 76.66 crores for the period FY 2022-23 and FY 2023-24. Thus, Sh. Sunil Kumar Aggarwal and Sh. Neerav Kumar appeared to have committed offences punishable under the provisions of Section 135(1) (a) (i) (A) & (B) and Section 135 (1) (b) (i) (A) & (B) of the Customs Act, 1962. Accordingly, both the above-mentioned persons were arrested on 14.02.2024 under the provisions of Sub-section (1) and sub-section (4) (b) of Section 104 of the Customs Act, 1962. Both the accused were remained under judicial custody till 28.03.2024.

15. For furtherance of investigations, summons dated 17.08.2023, 17.10.2023 and 09.01.2024 were issued to M/s PG Goswamy (CHA) but Ms. PG Goswamy, Prop. of M/s PG Goswamy did not appear on any of the summons. It appears that he is avoiding the investigation on one pretext or another and is deliberately evading the investigation. As M/s PG Goswamy, Custom Broker failed to appear in compliance to the summons, non-compliance proceedings were initiated against M/s. PG Goswamy in the Hon'ble CMM Court, Patiala House New Delhi but M/s. PG Goswamy also did not appear in the court on said date, thus also dishonoured the directions of the Hon'ble Court.

16. Summary: -

16.1. Therefore, in view of the above said offence report, it appears that CB had violated the provisions of Regulation 1(4), 10(a), 10(d), 10(e), 10(n) and 10(q) of CBLR, 2018 as discussed in earlier issued Suspension Order vide no. 52/2024-25 dated 25.03.2025. It is observed that violations of following provisions of CBLR, 2018 have been committed by the Customs Broker:

16.1.1 Violation of Regulation 1(4) of CBLR, 2018: *“Every license granted or renewed under these regulations shall be deemed to have been granted or renewed in favour of the licensee, and no license shall be sold or otherwise transferred”;*

It is evident from the offence report that the Proprietor of M/s P G Goswamy has given his license to M/s SS Mommy International Pvt. Ltd. on some monetary benefits. As per Regulation 1(4) of CBLR, 2018, no license can be sold or transferred, thus, in the instant case, CB had violated the provisions of Regulation 1(4) of CBLR, 2018.

16.1.2 Violation of Regulation 10(a) of CBLR, 2018: *“obtain an authorisation from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Broker and produce such authorisation whenever required by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be”;*

On scrutiny of subject offence report, it appears that all IECs which were used by the syndicate of Sh. Sunil Kumar Aggarwal and Sh. Neerav Kumar, were found fictitious and proxy. Further, it has been observed that the Customs Broker license of M/s P. G. Goswamy was utilized by Sh. Manoranjan Kumar, Controller of M/s SS Mommy International Pvt Ltd on some monetary limits as the same is stated by Sh. Manoranjan Kumar in his statement dated 21.08.2024. Hence, it appears that CB had given his license on rent basis. Further, CB has not come forward to record statement, which indicates that they want to avoid the investigation. Further, Sh. Vinit Garg, Proprietor of M/s V G Enterprises has stated in his statement dated 11.08.2023, that he has given his IEC to Sh. Neerav Kumar and does not know anything about mis-declaration of goods. Thus, it appears that the goods were imported on dummy IECs and they did not give any authorization to CB to carry out customs clearance of their imported cargo. Thus, it appears that CB had violated the provisions of Regulation 10(a) of CBLR, 2018.

16.1.3 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”;*

From the statements of Sh. Sunil Kumar Aggarwal, Sh. Neerav Kumar, Sh. Inderjeet, Sh. Pankaj Khanna, Sh. Dinesh and Sh. Rakesh, it is revealed that Sh. Sunil Kumar Aggarwal and Sh. Neerav Kumar have imported all the goods on the name of proxy/fictitious IECs. As per statement dated 21.08.2024 of Sh. Manoranjan Kumar, Controller of M/s SS Mommy International Pvt. Ltd., the services of the Customs Broker M/s P. G. Goswamy was utilized by them for mixed goods and Rs. 300-500/- per container was paid to CB license holder in lieu of using their licenses for import of goods. From the analysis of offence report, it appears that neither the Customs Broker has met with the actual IEC holders nor with the beneficial owner of the goods.

Thus, it appears that the subject CB license was used by unauthorized persons and CB does not appear to be comply with the provisions of the Regulation 10(d) under which CB has to advise his client to follow the provisions of the act, other allied acts and the rules and regulations thereof. Thus, it appears that CB has neither advised his client about customs rules and regulations nor informed any discrepancy to the Customs authorities.

Hence, in view of the above, it appears that CB had violated the provisions of Regulation 10(d) of the CBLR, 2018

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

On scrutiny of the offence report, it appears that CB had not exercised due diligence and did not impart correct information with reference to any work related to clearance of cargo. As per statement dated 21.08.2024 of Sh. Manoranjan Kumar, Controller of M/s SS Mommy International Pvt. Ltd., the services of the Customs Broker M/s P. G. Goswamy was utilized by them for mixed goods and Rs. 300-500/- per container was paid to CB license holder in lieu of using their licenses for import of goods. From the analysis of offence report, it appears that CB has never get connected with IEC holders and actual owners of the goods and had given his license to unauthorized persons on some illegitimate monetary benefit, which resulted into mis-use of license by the syndicate of Sh. Sunil Kumar Aggarwal and Sh. Neerav Kumar by mis-declaring or undervaluation of goods on the name of benami/bogus/proxy IECs. Had CB paid due diligence in his customs clearance work, such massive fraud would have been detected at very early stage and legitimate govt. revenue could be saved, but CB failed to do so.

From the above facts, CB does not appear to be comply with the provisions of the Regulation 10(e) under which CB has to exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage. Hence, it appears that CB has failed to fulfilled the obligations stipulated under the provisions of Regulations 10(e) of CBLR, 2018.

16.1.5 Violation of Regulation 10(n) of CBLR, 2018: *“verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information”;*

As per the offence report, the said Customs Broker license was utilized by one Sh. Manoranjan Kumar, controller of M/s SS Mommy International Pvt. Ltd. on some monetary benefits to the proprietor of M/s P. G. Goswamy. It is pertinent to mention that Sh. Manoranjan Kumar is not an employee/partner/director of CB firm M/s P. G. Goswamy. As per the statement dated 16.01.2024 of Sh. Chandan Chaudhary, Import Manager of M/s SS Mommy International Pvt Ltd, the subject license was used by Sh. Manoranjan Kumar or M/s SS Mommy International Pvt. Ltd. on the direction of Sh. Sunil Kumar Aggarwal and Neerav Kumar. It is also stated by Sh. Chandan Chaudhary that they had never met with IECs holders of the goods. Further, vide the statement dated 11.08.2024, Sh. Vinit Garg, Proprietor of importing firm M/s V G Enterprises was recorded under which he stated that he

had given his IEC to Sh. Neerav Kumar on some monetary benefit and he does not know anything, about mis-declaration of goods. Hence, it appears that the subject goods were imported on dummy IECs.

Thus, it is evident that authorized person of the Customs Broker has never met with the IEC holders and it appears that they did not verify the antecedent of these importing firms as stipulated in Regulation 10(n) of CBLR, 2018 under which CB to verify the antecedent, correctness of IEC code, identity of his client and the functioning of his client at the declared addresses by using reliable, independent, authentic documents, data or information. If the Customs Broker had conducted antecedent verification of the said importing firms, such fraudulent IECs would have been detected before the import occurred.

Consequently, it appears that CB has failed to fulfil obligations stipulated under Regulation 10(n) of the CBLR, 2018.

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

It appears that the CB has knowingly mis-used his license and given the same to unauthorized persons which helped Shri Sunil Kumar Aggarwal and Sh. Neerav Kumar in the Customs Clearance of the fraudulent consignments on the name of various fictitious importing firms. Further, it is also observed that CB has not turned up for any statement/submission before the investigation agency which indicates that they do not want to co-operate with the Customs authorities.

17. Further, it is also noticed that non-compliance proceedings were initiated against them in the Hon'ble CMM Court, Patiala House, New Delhi but M/s P. G. Goswamy did not present themselves before the court and dishonoured the directions of the Hon'ble Court and thus, it appears that the CB has not fulfilled the obligations laid under Regulation 10(q) of CBLR, 2018.

Accordingly, the subject license was suspended vide Order No. 52/2024-25 dated 25.03.2025 by the competent authority and has given an opportunity of Personal Hearing on 02.04.2025 (12.15pm).

18. Personal Hearing Records:

Reply dated 29.03.2025 of the CB was received via email and CRU and the same was received in this office on 01.04.2025. In reply, CB submitted Vakalatnama in which Sh. Akhil Krishan Maggu, Advocate has been authorized to represent the case and it is also requested to conduct the hearing in virtual mode as per Board instruction vide F.No. 390/Misc/3/2019-JC dated 21.08.2020. Accordingly, Virtual hearing was conducted on 02.04.2025(02.30pm). Both Sh. Akhil Krishan Maggu, Advocate and Smt. Preceila Goswamy have attended the hearing and they submitted that they have given written reply dated 29.03.2025 and they reiterated the same.

19. The brief of the CB submission dated 29.03.2025 is as follow:

Sh. Akhil Krishan Maggu (herein referred to as the authorized representative of the CB) has stated that the Regulation 10(q) has been invoked in the subject suspension order and DRI alleges that the noticee had not co-operated in the investigation and had tried to delay the investigation. *In this regard, he stated that the said allegations are wrong and mis-leading as the DRI in its own complaint before the Ld. CJM, Patiala House Court, New Delhi has admitted in writing that the noticee had sent the documents via mail to DRI and the mail conversations are also attached with the said complaint to DRI. Hence, violation of Regulation 10(q) is wrong, false, mis-leading and denied.*

Further, the authorized representative of the CB stated that *the noticee has not contravened any provisions of CBLR, 2018 and the noticee has obtained all the proper KYC documents from the importer as per the provisions of the Customs Act, 1962 as well as CBLR, 2018. That it is clarified that the noticee was only the Customs Broker only for the import consignments and nothing more has been the role of the Customs Broker. That the noticee had all the KYC documents of the importers whose import shipments was handled by the noticee as a Customs broker. That the noticee only acted as a Customs Broker and nothing more than that.*

20. The point wise submission of CB is as follows:

A. *The allegations against the noticee stem out solely on the basis of assumptions and presumptions of the department and also on the basis of certain statements. The noticee has not contravened any provisions of the Customs Act, 1962 or CBLR, 2018.*

B. *That furthermore, the impugned order fails to show and prove as to how and in what manner the noticee has dealt with the subject import goods or is in collusion with the said importers.*

C. *That, in fact, there is no case against the noticee who has acted as a bonafide custom broker and this fact is brought on record and be verified form the fact that the KYC of each and every exporter is with the noticee and the same is in terms with the board circular 09/2010-Customs Dated 08.04.2010.*

D. *That, it is surprising that, though action is being taken against the noticee custom broker who only acted as a bonafide customs broker.*

E. *That it is pertinent to mention here that proper KYC was duly done by the noticee and the noticee showed the same to the proper officers while handling the import consignments and is further also willing to submit all the KYC as well as relevant documents of the importers) for whom the noticee acted as bonafide customs broker.*

F. *That the noticee had no mens rea as the noticee was never to be benefitted anywhere. Attention is invited towards the judgement of Hon'ble Delhi High Court in the case of Kunal Travels (Cargo) vs. Commissioner of Customs (I&G), /GI Airport, New Delhi reported as 2017 (354) ELT 0447 Del. The judgement reads as follows:*

"that there can be no presumption of CHA's deliberate intention to defraud-No mens rea Thus, the noticee cannot be said to have violated CBLR 2018, as it is not shown anywhere in the impugned order it has been explained and clarified that how the noticee aided or abetted the said importers) the entire fraud.

G. *That the importer(s) cannot be said to be a fictitious as it was verified from the various Government sites like DGFT, GST network who provided the IEC as well as the GSTIN respectively. That it is also submitted that all the documents were duly received by the appellant viz. copy of Aadhar card and other KYC documents, hence, the obligation on the part of noticee was complied. Further, the importers) cannot to be said to non-existent/ factious as the impugned order at para 10 records that statements of the proprietors of the importers were recorded, hence, how can the importers be stated to be non-existent / fictitious.*

H. *That it is worthwhile to mention that the employee of the noticee took the KYC from the importers) physically and the KYC was never provided by any other person apart from the importers) themselves, and the noticee duly completed the KYC formalities. Attention is invited in the matter of Setwin Shipping Agency vs. Commissioner of Customs (General), Mumbai reported as 2010 (250) ELT 141 (Tri-Mumbai), wherein it was held by the Hon'ble Tribunal, Mumbai that:*

"Proprietor of CHA verified existence over phone and got authorization from exporter-Impossible for CHA to verify physical existence of exporters and importers."

I. *That the Hon'ble Delhi High Court in Commissioner of Customs Vs. Shiva Khurana reported as (2019) 367 ELT 550 had an occasion to examine the provisions of Regulation 13(o) of the 2004*

Regulations, which Regulation is similar to Regulation 10(n) of the Licensing Regulations, and the relevant observations are as follows :

"in the opinion of this Court is to be read in the context of then CHA's duty as a mere agent rather than as a Revenue official who is empowered to investigate and enquire into the veracity of the statement made orally or in a document. If one interprets Regulation 13(o) reasonably in the light of what the CHA is expected to do, in the normal course, the duty cast is merely to satisfy itself as to whether the importer or exporter in fact is reflected in the list of the authorized exporters or importers and possesses the Importer Exporter Code (IEC) Number. As to whether in reality, such exporters in the given case exist or have shifted or are irregular in their dealings in any manner (in relation to the particular transaction of export), can hardly be the subject matter of "due diligence" expected of such agent unless there are any factors which ought to have alerted it to make further inquiry. There is nothing in the Regulations nor in the Customs Act which can cast such a higher responsibility as are sought to be urged by the Revenue. In other words, in the absence of any indication that the CHA concerned was complicit in the facts of a particular case, it cannot ordinarily be held liable."

J. That the department failed to show any strong motive of the noticee for indulging in such an activity. To this extent attention is invited in the matter of *Ajay Agarwal & Co. Commissioner of Customs (Prev.)* where, the Hon'ble Tribunal (Delhi Bench) reported as 2021 SCC On Line CESTAT 4207 has taken the view that:

"Moreover, we find that revenue could not bring in any evidence to show that the appellant Custom Broker had any fiduciary interest in the alleged malpractice if any on the part of the appellant. In fact, there should be a strong motive for Custom Broker for indulging in such an activity. Revenue has not brought out any evidence, whatsoever as to the benefit that customs Broker got by indulging in such activity. There could however, be a gain for the importer. As per the averment of Authorised Representative for the Revenue, further investigations are in progress. While refraining from offering any finding on the role by importer in the said activity, we are of the considered opinion that no case has been prima facie, made against the appellant so as to warrant the suspension of Licence."

K. Further, nowhere in CBLR, 2018 it is states that the custom broker has to physically personally meet the directors of the IC holder. L. That the KYC documents of the importers viz. IEC, PAN Card No, Aadhar Card, and other documents which are collected on terms of boards circular no. 09/2010-Customs Dated 08.04.2010 are enough along with no legal requirement of physical verification of premises. In this case, all these documents were there. Attention is invited in the matter of *APS Freight & Travels Pvt. Ltd vs. Commissioner of Customs (General) New Delhi* reported in 2016(344) ELT 602 Tri-Del, where the Hon'ble Tribunal, New Delhi held that:

"the admitted facts of this are that the importer's details as available in IEC, PAN Cards, Bank Account and Electricity have been checked by the Appellant. No physical verification of premises is mandated in the Regulations nor is it a general requirement as per business practice."

L. That the KYC documents of the importers viz IEC, PAN card no. Aadhar Card and other documents which are collected on terms of Board Circular No. 09/2010-Customs dated 08.04.2010 are enough along with no legal requirement of physical verification of premises. In this case, all these documents were there. Attention is invited in the matter of *APS Freight & Travels Pvt. Ltd. vs Commissioner of Customs (Gen) New Delhi* reported in 2016(344) ELT 602 Tri-Del, where the Hon'ble Tribunal, New Delhi held that:

"the admitted facts of this are that the importer's details as available in IEC, PAN Cards, Bank Account and Electricity have been checked by the Appellant. No physical verification of premises is mandated in the Regulations nor is it a general requirement as per business practice."

M. That the IEC code of the importer(s) was also verified from the DGFT Website, and the Hon'ble Tribunal, Mumbai in the matter of *Baraskar Brothers vs. Commissioner of Customs (General), Mumbai* reported as 2013(294) ELT 0415 Tri-Bom, held that:

**Appellant has taken due diligence to find out through DGFT website, whether IE Codes are genuine or not, which were found to be genuine."*

In the present case also, verification from DGFT was done.

N. Reliance is further placed upon the following;

- i. *Thawerdas Wadhoomal -vs- CC, Mumbai - reported in 2008 (221) ELT 252 holding that: "CHA is not supposed to look into the details of the genuineness of the importer/exporter when IEC number is procured by the exporter and the same approved by the Bombay High Court in the case of Commissioner -vs- Thawerdas Wadhoomal - reported in 2009 (240) E.L. T. A143 (Bom.)*
- ii. *WCI Shipping Pvt. Ltd., -vs- CC - 2020 (372) E.L.T. 369 (Tri.- Chennai held that "When the importer consciously conceals certain facts from the CB, it cannot be presumed that the CB has abetted in such offence _merely because he has not met the importer face to face*
- iii. *M/s Trinity International Forwarders -vs- CC (Preventive) Final Order No.54942/2023 dated 02.05.2023, had held that"once the KYC documents is verified and submitted to the Customs, and also in view of the existence of the /EC at the time of filing the bill of entry.*

O. That there is no evidence on record to show that the noticee was ever involved with any or all the mentioned importers) to defraud the exchequer. Further it is also stated that there is no evidence to show the knowledge of the noticee in any of any non-compliance done by any of the importers). Attention is invited in the matter of *Krishna Shipping Agency vs. Commissioner of Customs (Airport & Administration), Kolkata, reported as 2017 (348) ELT 0502 Tri-Cal* wherein the Hon'ble Tribunal, Kolkata held that:

"at no stage the appellant had knowledge of any irregularity in export/import consignments.... order of revocation of license is set aside".

P. That there is no evidence on record to show that the noticee ever ill-advised its clients to not comply with the provisions of the act. Further it is also stated that there is no evidence to show the knowledge of the appellant in any of any non-compliance done by the importer(s). Attention is invited in the matter of *Krishna Shipping Agency vs. Commissioner of Customs (Airport & Administration), Kolkata, reported as 2017 (348) ELT 0502 Tri-Cal*.

Q. That it is pertinent to mention here that all the KYC documents viz. Aadhar, PAN Card, IEC details, and other documents of the importer(s) were duly attested by the importer(s) themselves. Attention is invited in the matter of *Him Logistics Pvt. Ltd vs. Commissioner of Customs, New Delhi, reported as 2016 (338) ELT 725 (Tri-Del)* wherein the Hon'ble Tribunal, New Delhi held that:

"Absence of physical verification of importer-Undisputedly, appellant verifying copies of Partnership Deed of importer firm, IEC, PAN Card and Voter ID of Partner- No stipulation or legal requirement of physically verifying business or residential premises of importer."

That further it was affirmed by the Double Bench of the Hon'ble Delhi High Court in the matter of *Commissioner of Customs vs. Him Logistics Pvt. Ltd, reported as 2017 (348)ELT 625 (Del)*, and it was held that:

"Tribunals order holding respondent verified IEC Copy, PAN Card, Telephone Bill, Partnership Deed and Voter ID of Partners of importing firm, cannot be faulted-Such order based on fact finding not interferable-Regulation 11 of CBLR."

R. That further the Hon'ble Tribunal, New Delhi in the case of *M/s Perfect Cargo & Logistics Versus Commissioner of Customs, New Delhi having Customs Appeal No. 50875 Of 2021* held the following:

"12. In this case, there are no details in the SCN or in the inquiry report or in the impugned order as to how the DGARM came to the conclusion that the exporters did not exist and how after considering the defence submissions, the Commissioner came to a conclusion that the appellant had violated Regulation 10(n) of CBLR, 2018, Inis case has been made and the licence has been revoked not only taking the alleged communication from GARM as conclusive proof that the exporters did not exist but also inferring from it that the appellant has not conducted the verification as per Regulation 10(n) of CBLR, 2018. The SCN did not even supply a copy of the communication from the DGARM to the appellant, let alone the details of its inquiries which led to the conclusion that the exporters did not exist. The entire case, therefore, is not built on conclusive evidence.

13. We are surprised that the Commissioner found it proper to deprive the appellant and its employees of their livelihood in such a casual and callous manner. The impugned order cannot be sustained and needs to be set aside.

14. The appeal is allowed and the impugned order is set aside with consequential relief to the appellant. The respondent shall restore the Customs Broker licence of the appellant within 10 days of receiving a copy of this order. Registry shall serve a copy of this order on the respondent."

S. That further the Hon'ble Tribunal, Kolkata in the case of *M/s Baid International Services Pvt. Ltd. Versus Commissioner of Customs (Airport & Air Cargo Complex, Commissionerate), Kolkata* having Customs Appeal No. 75597 Of 2022 held the following:

"19. We are deeply anguished by the impugned order passed by the Ld. Adjudicating Authority merely on surmises and conjectures. While the issue is no more *res integra* and has been dwelt extensively by this Tribunal in the case of (i) *Perfect Cargo and Logistics vs. Commissioner of Customs, New Delhi* (Final Order No. 50347/2022. (ii) *Mauli Worldwide Logistics v. Commissioner, Customs (Airport & General), New Delhi*, Final Order No.50561/2022, the fact remains that the Ld. Commissioner has observed at more than one place in the impugned order that the Customs Broker had in his possession, the requisite KYC documents and also tendered the same to the authorities at the time of hearing of the case and during the course of enquiry.

20. As far as revenue loss on account of IGST, is concerned, nothing in the CBLR, even remotely suggests that it is the responsibility of the Customs Broker to ensure its realisation. The Customs Broker has no real role to play in availment or payment of /GST. To pass on this burden as a responsibility on the Customs Broker is simply hypothetical wishful and beyond the parameters of law."

T. That the Hon'ble Delhi High Court in the matter of *M/s Aradhya Export Import Consultants Pvt. Ltd. Versus Commissioner of Customs (Airport and General), New Customs House, New Delhi* bearing Custom Appeal number 81 of 2023 had set aside the order passed the Ld. CESTAT, whereby the custom broker license of the appellant therein was revoked on the allegations of violation Regulations 10(e) and 10(n) of CBLR, 2018.

U. That as per the offence report, the alleged offences relate to transaction during the month of May, 2023 when the noticee filed the bills of entry on behalf of its importer(s) clients. Whereas the offence report has been issued in February, 2025 after more than two years. Further, investigation started in May, 2023 itself when DRI had put the subject containers on hold. Further, the CBEC Circular No. 09/2010 dated 08.04.2010, wherein para 7.2 it is stipulated that offence report have to be submitted within 30 days of offence or detection. But in the present case, admittedly, the offence report is furnished after almost two years of detection of the alleged offence. It is submitted that the department is going contrary to their own circular which is illegal as held by Hon'ble Supreme Court in *Paper Products Ltd. Versus Commissioner of Central Excise* reported as 1999 (112) E.L.T. 765 (S.C.).

V. That the Hon'ble Tribunal, Delhi in *M/s Transpeed Logistics Pvt. Limited Vs. Commissioner of Customs (Airport & General) New Customs House, Near IGI Airport New Delhi* bearing Customs Appeal No. 54037 of 2018-Cus. had set aside the suspension of the custom broker therein on this ground also.

W. That there is no confession of the noticee wherein it can be showed that the noticee had any knowledge or connived in surreptitious import. Attention is invited towards the following:

a. Hon'ble Tribunal, Mumbai in the matter of *G.M. Enterprises vs. Commissioner of Cus (Exports), Nhava Sheva* reported as 2010 (262) ELT 796 held that:

"Penalty on CHA-CHA acted in bonafide belief of documents supplied to him for preparing Shipping Bills and no statement of CHA was recorded and there is no statement of exporter showing knowledge of CHA about misdeclaration of goods-Penalty on CHA not leviable."

b. Hon'ble Tribunal, Ahmedabad in the matter of *Adani Wilmar Ltd. vs. Commissioner of Customs (Preventive), Jamnagar* reported as 2015 (330) ELT 549 held that:

"Penalty-Imposition of on CHA-Breach of CHALR, 2004 for not advising importer to comply with relevant provisions of law-No evidence on record that CHA aware of alleged irregularity-Imposition of Penalty on CHA not justified."

c. Hon'ble Tribunal, Chennai in the matter of V. Esakia Pillai vs. Commissioner of Customs, Chennai reported as 2001(138) ELT 802 held that:

"Penalty on CHA-Surreptitious export-Neither confession of CHA nor statement of exporter or anybody else on record to show that CHA had knowledge or information or connived in surreptitious export-Penalty not imposable."

X. That it is very surprising to note that the entire allegations and the case of the department against the custom broker noticee is based on the statement of Sh. Manoranjan Kumar hence, in the interest of justice the noticee would like to cross-examine Sh. Manoranjan Kumar. Noticee relies upon the following:

- i. Ayaaubkhan Noorkhan Pathan vs. the State of Maharashtra & Ors. decided on 08.11.2012 in civil appeal no. 7728 of 2012 wherein it is held that right to cross examination is an integral part and parcel of the principles of natural justice.*

Y. That the department may kindly appreciate the fact that the noticee sought to controvert the allegations made in the impugned order on the basis of the statements of the persons relied upon in the impugned order as the same are inherently false and denied. The noticee is relying upon Laxman Exports Ltd. Vs. Collector of Central Excise decided on 18.4.2003 by the three Judges Bench of the Apex Court reported in 2005 10 SCC 634 Basudev Garg Vs. Commissioner of Customs, Customs AA of the Division Bench of this Hon'ble Court delivered on 12.04.2013 Writ Petition 1854 of 2000 1992 decided on 28.08.2009 titled J.K. Cigarette Ltd. & Ors. Vs. Collector of Central Excise & Ors., wherein it has been held that cross-examination is an integral part and parcel of the principles of natural justice. As well as in terms of Section 9 D of the Central Excise Act 1944 and 138B of the Customs Act in the quasi judicial proceedings. The cross examination is valuable right given to the noticee. (Andaman Timber Industries vs. Commissioner of Central Excise Kolkata decided on 020d September, 2015 by Justice A.K. Sikri and Rohington Fali Nariman in Civil Appeal No. 4228 of 2006 by the Apex Court).

Z. That the Hon'ble Supreme Court of India in Ayaaub khan Noorkhah Pathan Vs. The State of Maharashtra & Ors. Decided on 08.11.2012 in Civil Appeal No. 7728 of 2012, after relying various authoritative judgments, has held that cross-examination is an integral part and parcel of principles of natural justice. It was held as under: "Cross-examination is one part of the principles of natural justice:

23. A Constitution Bench of this Court in State of M.P. v. Chintaman Sadashiva Vaishampayan, AIR 1961 SC 1623, held that the rules of natural justice, require that a party must be given the opportunity to adduce all relevant evidence upon which 'he relies, and further that, the evidence of the opposite party should be taken in his presence, and that he should be given the opportunity of cross examining the, witnesses examined by that party. Not providing the said opportunity to cross-examine witnesses, would violate the principles of natural justice.

24. in Lakshman Exports Ltd. v. Collector of Central Excise, (2005) 10 SCC 634, this Court, while dealing with a case under the Central Excise Act, 1944, considered a similar issue i.e. permission with respect to the cross-examination of awitness. In the said case, the assessee had specifically asked to be allowed to cross-examine the representatives of the firms concern, to establish that the goods in question had been accounted for in their books of accounts, and that excise duty had been paid. The Court held that such a request could not be turned down, as the denial of the right to cross-examine, would amount to a denial of the right to be heard i.e. audi alteram partem.

26. In K.L. Tripathi v. State Bank of India & Ors., AIR 1984 SC 273, this Court held that, in order to sustain a complaint of the violation of the principles of natural justice on the ground of absence of opportunity of cross-examination, it must be established that some prejudice has been caused to the appellant by the procedure followed. A party, who does not want to controvert the veracity of the evidence on record, or of the testimony gathered behind his back, cannot expect to succeed in any subsequent grievance raised by him, stating that, no opportunity of cross-examination was / provided to him, specially when the same was not requested, and there was no dispute regarding the veracity

of the statement. (See also: *Union of India v. P.K. Roy*, AIR 1968 SC 850,' and *Channabasappa Basappa Happali v. State of Mysore*, AIR 1972 SC 32).

29., In *Rajiv Arora v. Union of India & Ors.*, AIR 2009 SC 11 00, this Court held:

"Effective cross-examination could have been done as regards the correctness or otherwise of the report, if the contents of them were proved. The principles analogous to the provisions of the Indian Evidence Act as also the principles of natural justice demand that the maker of the report should be examined, save and except in cases where the facts are admitted or the witnesses are not available for cross-examination or similar situation. The High Court in its impugned judgment proceeded to consider the issue on a technical plea, namely, no prejudice has been caused to the appellant by such non-examination. If the basic principles of law have not been complied with or there has been a gross violation of the principles of natural justice, the High Court should have exercised its jurisdiction of judicial review."

30. *The aforesaid discussion makes it evident that, not only should the opportunity of cross-examination be made available, but it should be one of effective cross-examination, so as to meet the requirement of the 'principles of natural justice. In the absence of such an opportunity, it cannot be held that the matter has been decided in accordance with law, as cross examination is an integral part and parcel of the principles of natural justice."*

(Emphasis Supplied)

Further, the authorized representative of the CB states that the noticee has not contravened any of the regulations of CBLR, 2018.

DISCUSSIONS AND FINDINGS:

21. Upon thorough examination of the case records, including the written submissions from the Customs Broker and the arguments presented during the virtual hearing, the relevant facts and investigation findings have been outlined in the preceding paragraphs and will not be reiterated here for the sake of brevity.

21.1 The primary issue at hand is whether to uphold or revoke Suspension Order No. 52/2024-25 dated 25.03.2025.

21.2 Regarding the violation of Regulation 1(4) of CBLR, 2018, the offence report indicates that the Importer Exporter Codes (IECs) used by the syndicate associated with Sh. Sunil Kumar Aggarwal and Sh. Neerav Kumar were found to be fictitious. Moreover, it has been established that the Customs Broker license of M/s P. G. Goswamy was improperly utilized by Sh. Manoranjan Kumar of M/s SS Mommy International Pvt Ltd, as stated in his declaration dated 21.08.2024. In his submission dated 29.03.2025, the Customs Broker has not clearly presented his argument related to the license being used by someone without authorization. Since Regulation 1(4) prohibits the sale or transfer of licenses, it is evident that the CB has violated the said provision.

21.3 Concerning the violation of Regulation 10(a) of CBLR, 2018, the offence report reveals that no proper authorization was provided by the importer to the CB. Additionally, the CB has not made any statement, and it has been noted that the importers were unaware of the nature of the imported goods, managed solely by Sh. Neerav Kumar and Sh. Sunil Kumar Aggarwal, thus it confirms that the imports occurred under dummy IECs, and additionally vide his submission dated 29.03.2025, CB did not produce any documentation to confirm authorization from the importers. Thus, the violation of Regulation 10(a) cannot be denied in the instant case.

21.4 Statements from several individuals indicate that Sh. Sunil Kumar Aggarwal and Sh. Neerav Kumar used proxy or fictitious IECs for their imports. According to Sh. Manoranjan Kumar's statement dated 21.08.2024, the Customs Broker M/s P. G. Goswamy was compensated Rs. 300-500 per container for the use of their license for importing goods. The offence report suggests that the Customs Broker did not engage with the actual IEC holders or beneficial owners of the goods and failed to provide evidence of having advised the importer regarding proper declarations. Thus, the violation under Regulation 10(d) and 10(e) appears to be substantiated. Further, CB has submitted case laws in reference to violation of various regulations of the CBLR, 2018, however, the quoted case laws are not relevant to subject case as CB involvement in the said case cannot be denied as the

offence report indicates that CB had given his license to unauthorized persons in lieu of some monetary benefits, which no doubt to be a gross negligence at the end of Customs Broker.

21.5 In relation to the violation of Regulation 10(n) of CBLR, 2018, it is the responsibility of the CB to verify the accuracy of the IEC number, GST Identification Number (GSTIN), the identity of their clients, and the operational status of clients at the declared address using reliable documents. The offence report indicates that the CB failed to verify the Know Your Customer (KYC) information of the importers and did not meet with them, which signifies non-compliance with Regulation 10(n). The CB's assertion that KYC was conducted lacks supporting documentation to substantiate their claim. The cited case laws are also not relevant, as the case involves significant negligence regarding unauthorized license use and failure to verify the importing entity's credentials. Furthermore, the CB did not cooperate with the Customs department/Investigating Agency by not responding to summons.

21.6 Evidence from the offence report dated 12.02.2025 indicates a violation of Regulation 10(q) of the Customs Brokers Licensing Regulations (CBLR), 2018, as the Customs Broker (CB) failed to provide a statement to the investigating agency. The CB's submission asserts that documents were emailed to the Directorate of Revenue Intelligence (DRI), yet no proof of such submission has been received by this office. The offence report indicates a lack of cooperation from the CB, including failure to appear before the Customs department/Investigating Agency and the Learned Chief Judicial Magistrate in Patiala House Court, New Delhi. Therefore, the violation of Regulation 10(q) appears to be substantiated.

22. Considering the observations made above, it is to mention that the CB has a very important role in Customs clearance and lot of trust has been placed by the department on the CB. In the context of trade facilitation, where an increasing number of goods are processed through RMS without Customs examination, the role of the Customs Broker (CB) has become even more critical in ensuring that the country's economic borders are effectively protected. But in the instant case, by their acts of omission and commission, it appears that CB was actively involved and rented his license on some monetary benefits which is against the regulations of CBLR, 2018. In the instant case, CB appears to have violated the various provisions i.e. Regulation 1(4), 10(a), 10(d), 10(e), 10(n) and 10(q) of the CBLR, 2018 and rendered themselves for penal action under CBLR, 2018. In this regard, I rely on the judgement of the Hon'ble Supreme Court in case of the Commissioner of Customs vs M/s K.M. Ganatra & Co. has held that:-

"the Customs House Agent (CHA) occupies a very important position in the customs house. The customs procedures are complicated. The importers have to deal with a multiplicity of agencies namely carriers, custodians like BPT as well as Customs. The importer would find it impossible to clear his goods through its agencies of both the importers and the customs. A lot of trust is kept in CHA by the importers/exporters as well as by the government agencies..."

Further, I rely on the judgement of the Hon'ble High Court of Madras in case of Cappithan Agencies vs. Commissioner of Customs, Chennai-VIII, 2015 (326) E.L.T. 150 (Mad.), has held that:

"...Therefore, the grant of license to act as a Custom House Agent has got a definite purpose and intent. On a reading of the Regulations relating to the grant of license to act as a CHA, it is seen that while CHA should be in a position to act as agent for the transaction of any business relating to the entry or departure of conveyance or the import or export of goods any customs station, he should also ensure that he does not act as an Agent for carrying on certain illegal activities of any of the persons who avail his services as CHA. In such circumstances, the person playing the role of CHA has got greater responsibility. The very description that one should be conversant with the various procedures including the offences under the Customs Act to act as a Custom House Agent would show that while acting as CHA, he should not be a cause for violation of those provisions. A CHA cannot be permitted to misuse his position as CHA by taking advantage of his access to the Department. The grant of licence to a person to act as CHA is to some extent to assist the Department with the various procedures such as scrutinizing the various documents to be presented in the course of transaction of business for entry and exit of conveyances or the import or export of the goods. In such circumstances, great confidence is reposed in a CHA. Any misuse of such a position by the CHA will have far reaching

consequences in the transaction of business by the customs house officials. Therefore, when, by such malpractices, there is loss of revenue to the custom house, there is every justification for the Respondent in treating the action of the Petitioner Applicant as detrimental to the interest of the nation and accordingly, final order of revoking his licence has been passed."

In view of the discussion held above, I have no doubt that the suspension of the CB licence vide Order No. 52/2024-25 dated 25.03.2025 under regulation 16 of the CBLR, 2018 was just and proper. The said regulation reads as: -

"16. Suspension of license. - (1) Notwithstanding anything contained in regulation 14, the Principal Commissioner or Commissioner of Customs may, in appropriate cases where immediate action is necessary, suspend the license of a Customs Broker where an enquiry against such Customs Broker is pending or contemplated."

23. From the above facts, prima-facie, the Customs Broker M/s P. G. Goswamy (11/1690) appeared to have failed to fulfil their obligations under Regulation 1(4), 10(a), 10(d), 10(e), 10(n) and 10(q) of CBLR, 2018 and contravened the same. Therefore, for their acts of omission and commission as above, CB M/s P. G. Goswamy (11/1690) appears to be liable and guilty.

24. Accordingly, I pass the following order:-

ORDER

24.1 I, Principal Commissioner of Customs (General), in exercise of powers conferred upon me under the provisions of Regulation 16(2) of CBLR, 2018 order that the suspension of the Customs Broker Licence of M/s P. G. Goswamy (11/1690) (AEYPG1162K) ordered vide Order no. 52/2024-25 dated 25.03.2025 shall continue, pending inquiry proceedings under Regulation 17 of CBLR, 2018.

24.2 This order is being issued without prejudice to any other action that may be taken or purported to be taken against the CB or any other person(s)/firms) etc. under the provisions of the customs Act, 1962 and Rules/Regulations framed there under or any under law for the time being in force.


(RAJAN CHAUDHARY)

Pr. Commissioner of Customs (General),
NCH, Mumbai-I

To,

M/s P. G. Goswamy, Custom Broker (CB License No. 11/1690, PAN- AEYPG1162K)
Address - 2nd Floor, 11 Shree Krishna Bhavan CHS Ltd.,
Sutar Pakhadi Road, Sahar Village, Andheri East Mumbai,
Sub Urban Maharashtra- 400 009

Copy to:

1. The Pr./Chief Commissioner of Customs, Mumbai Zone I, II, III.
2. DRI, HQ, New Delhi
3. The Commissioner of Customs, Mumbai Zone I, II, III.
4. EDI of NCH, ACC & JNCH.
5. BCBA.
6. Office copy.
7. Notice Board.