



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/610/2024-CBS

आदेश दिनांक/Date of Order: 30.03.2026

CAO No. 162/2025-26/CAC/CC(G)/SJS/Adj-CBS जारी दिनांक/Date of issue: 08.04.2026

संख्या:

DIN:- 20260477NO0000333F46

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

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

3. यह सूचित किया जाता है की इस आदेश के अमल में आते ही, न्याय निर्णयन अधिकारी का अधिकार क्षेत्र समाप्त होता है और सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण, पश्चिम क्षेत्री यखंडपीठ, के M/s Knowledge Infrastructure Systems Pvt. Ltd. & Others vs ADG, DRI, Mumbai के संदर्भ में जारी आदेश क्रमांक A/86617-86619/2018 दिनांक के अनुसार न्यायिक आदेश तदोड 31.05.2018 प्राप्त 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 ब्याजवत्तगाएगए जुर्माने की राशि रु-/1000 .पाँच लाख या इस से कम होतो रु ., (ii)यदि यह राशि रुपाँच लाख से अधिक .) एवं -/5000 .हो किंतु पचास लाख से अधिक न होतो रुiii) यदि यह राशि रुपचास लाख से अधिक होतो . के शुल्क -/10000 .रु का भुगतान क्रॉस्ड बैंक ड्राफ्ट के माध्यम से अधिकरण की खंडपीठ के सहायक पंजीयक के पक्ष में जिस स्थान पर खंडपीठ स्थित है, के किसी भी राष्ट्रीय क्रत बैंक की शाखा में किया जाए एवं डिमांड ड्राफ्ट अपील के साथ संलग्न किया जाए।

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

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

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

Brief Facts of the Case:

M/s. Saidutta Clearing Agency Pvt. Ltd. (CB License No. 11/978, EDI License No. AAFCS5286ACH001), having their registered office at 201, Madhuban Building, 23, Cochin Street, Fort, Mumbai - 400001 (hereinafter referred to as the "Customs Broker" or "CB"), is the holder of a Customs Broker License originally issued by the Commissioner of Customs, Mumbai, under Regulation 8 of the Customs House Agents Licensing Regulations (CHALR), 1984 [now corresponding to Regulation 7(2) of the Customs Brokers Licensing Regulations (CBLR), 2018]. As a licensed entity, the CB was, and remains, strictly bound to comply with the statutory obligations, regulations, and conditions stipulated therein.

2. An Offence Report, in the form of Order-in-Original (O-in-O) No. 990(L)/2024-25/ADC/Gr.I&IA/NS-I/CAC/JNCH dated 06.11.2024 issued by the Additional Commissioner of Customs, was received on 07.11.2024 against the Customs Broker, M/s. Saidutta Clearing Agency Pvt. Ltd. The Relied Upon Documents (RUDs) pertaining to the said matter were subsequently received on 03.04.2025. Vide the said Offence Report, it was *inter alia* brought on record as follows:

2.1 M/s. Vegas International (IEC No. BPNPG2029C) (hereinafter referred to as the "Importer"), having their registered address at 21st Century Business, D-1/6, Shakarpur Extn., Delhi – 110092, had filed Warehouse Bill of Entry No. 8505793 dated 28.10.2023 (hereinafter referred to as the "subject Bill of Entry") through their Customs Broker, M/s. Saidutta Clearing Agency Pvt. Ltd. Based on a reasonable suspicion of mis-declaration, the goods covered under the subject Bill of Entry were subjected to a 100% physical examination by the officers of SIIB(I) under a Panchanama drawn on 28.11.2023.

The details of the Bill of Entry are given as under in Table-I.

TABLE-I

BE No. & Date	8505793 dated 28.10.2023
IGM No. & Date	2357407 dated 12.10.2023

Bill of Lading	AFFHANJEANSA31089 dated 09.10.2023
Container No.	EMCU3924915
Importer	M/s Vegas International (IEC No:- BPNPG2029C)
CHA	M/s Sai Dutta Clearing Agency Pvt. Ltd. (AAFCS5286ACH001)
Declared Items	Esse Lights Cigarettes (50*10*20)
Assessed Value	Rs 66,93,900/-
Total Duty Payable	Rs. 4,59,61,474/-
Invoice No.	73/23-24 dated 22.09.2023
Invoice Value	79500 USD
Supplier	One Point Trading Limited, Hong Kong
No of Cases	300Pkgs
Declared Weight	3099.47 KGS (Total 30,00,000 sticks)
Country of Origin	Republic of Korea

2.2 The record indicates that during the physical examination of the goods, the description and quantity were found to be in accordance with the declaration. While no physical concealment was observed, the cigarette packets were found to bear only the following printed markings: *“Esse Lights, For the Stylish Leader, Super Slim Cigarettes, 20 Class A Filter Cigarettes, American Blend, KTMG”*.

2.3 It was further observed that the seized cigarette packets did not bear any mandatory pictorial warnings. Additionally, critical statutory information such as the Maximum Retail Price (MRP), Name of the Manufacturer, and Year of Manufacture were completely absent. In this context, it is pertinent to note that all tobacco products, whether domestically manufactured or imported, are strictly required to comply with the provisions of the Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (hereinafter referred to as "COTPA, 2003") and the Cigarettes and Other Tobacco Products (Packaging and Labelling) Rules, 2008 (hereinafter referred to as "COTP Rules, 2008") framed thereunder. Section 7(3) of the COTPA, 2003, strictly prohibits the import of cigarettes or any other tobacco products for distribution, supply, or sale in India unless every imported package bears the specified warning. Furthermore, Section 8 of the said Act mandates that the

specified warning shall be legible, prominent, conspicuous in size and color, and printed in a style that ensures distinct contrast with the background and other graphic materials on the package. The Act also requires that packages be packed in a manner ensuring the warning is clearly visible to the consumer before the package is opened.

2.4 In terms of Rule 3 of the COTP Rules, 2008, which governs the specific manner of packing and labelling, every person engaged directly or indirectly in the production, supply, import, or distribution of cigarettes must ensure that every package displays the specified health warning.

Specifically, Rule 3(1)(b) mandates that the health warning shall cover at least eighty-five percent (85%) of the principal display area on both sides of the package (comprising sixty percent pictorial health warning and twenty-five percent textual health warning) and must be positioned on the top edge. Furthermore, Rule 3(1)(h) explicitly prescribes that every package must contain essential particulars, including the name of the product, name and address of the manufacturer/importer/packer, country of origin (for imports), quantity, and date of manufacture.

2.5 Furthermore, vide the Cigarettes and Other Tobacco Products (Packaging and Labelling) Amendment Rules, 2022, the Ministry of Health & Family Welfare notified a new set of specified health warnings effective from 01.12.2022.

The said notification stipulates that the textual health warnings (such as 'TOBACCO CAUSES PAINFUL DEATH' in Image-1 and 'TOBACCO USERS DIE YOUNGER' in Image-2) must appear in white font on a red background, accompanied by the quit-line number ('QUIT TODAY CALL 1800-11-2356') in white font on a black background. The notification sets strict printing parameters, including specific color intensities (CMYK values) and a minimum printing resolution of 300 DPI. It further mandates a rotational schedule wherein 'Image-1' remains valid for a period of twelve months, following which 'Image-2' comes into effect for the subsequent twelve-month period.

2.6 In view of the above observations, it appeared that the Importer, by importing cigarettes in packages bereft of the Specified Health Warnings (Textual and Pictorial) and other requisite statutory information, had failed to comply with the provisions of Section 46(4A) of the Customs Act, 1962, which reads as under:

(4A) The importer who presents a bill of entry shall ensure the following, namely:

(a) the accuracy and completeness of the information given therein;

(b) the authenticity and validity of any document supporting it; and

(c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

2.7 Furthermore, reliance was placed on Para 2 of the CBIC Circular No. 09/2017-Customs dated 29.03.2017, which directs that: -

All tobacco products (whether domestically manufactured and sold or imported) require to comply with the requirements contained in the Cigarettes and other Tobacco Products [(Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COTPA 2003)] and the Rules framed thereunder. Ministry of Health and Family Welfare Vide Notification GSR 727 (E) dated 15.10.2014 notified the Cigarettes and other Tobacco Products (Packaging and Labelling) Amendment (COTP) Rules, 2014, which came into effect from 01.04.2016 [G.S.R. 739 (E) dated 24.09.2015]. The COTP Rules are strict in nature and their compliance requires that the printing of pictorial and textual warning on cigarette packets is in specified format, colours, resolution, font and language.

2.8 The Legal Metrology Act, 2009, and the Legal Metrology (Packaged Commodities) Rules, 2011, apply to packaged commodities, which explicitly includes cigarettes. As the imported cigarettes were found to be packed in retail packaging, they fell under the ambit of the said Rules. Rule 6 of the Legal Metrology (Packaged Commodities) Rules, 2011, mandates a plain and conspicuous declaration on the packages containing, *inter alia*, the name and address of the manufacturer/importer/packer, quantity of the product, month and year of manufacturing/importation, and the retail sale price.

Given that the aforementioned mandatory details were entirely missing on the seized cigarette packaging, it appeared that there was a clear violation of the Legal Metrology (Packaged Commodities) Rules, 2011.

3. Vide a letter dated 18.12.2023, the Importer submitted that the impugned goods were not meant for home consumption but were intended for supply to embassies and for re-export. Citing these grounds, the Importer requested a No Objection Certificate (NOC) to move the goods to a Public Bonded Warehouse in Delhi under a Bond-to-Bond transfer.

3.1 In the course of the investigation, summons dated 01.02.2024 were issued to the Importer, which remained unattended. Subsequently, in response to summons dated 22.02.2024, Shri Azad Sharma, the Authorized Representative of the Importer, appeared and tendered his statement on 05.03.2024 under Section 108 of the Customs Act, 1962. In his statement, he *inter alia* deposed that;

- a) The importing firm, M/s. Vegas International, was started in 2023 with Shri Sanjip Gurung as its Director, and this was their first import consignment. The firm was opened specifically to cater to the cigarette demands of various embassies, as their other entity (M/s. K.C. Liquors) was not endorsed by the DGFT for the importation of cigarettes.
- b) The plan was to warehouse the subject goods in a Customs Bonded Warehouse and supply them to embassies located in Delhi upon receiving orders. The goods were landed at JNPT and kept in the Punjab Bonded Warehouse because the overseas supplier was only willing to ship the cargo up to Nhava Sheva.
- c) The supplier, M/s. One Point Trading Ltd., Hongkong, was identified via the internet. Regarding payment, he claimed the supplier had granted a 90-day credit period, despite the invoice indicating a 100% advance payment requirement. He also stated that M/s. Golden Star Tobacco Trading FZ LLC, UAE, appeared as the consignor on the Bill of Lading because they were the actual shippers from whom the Hongkong supplier procured the goods.

- d) When confronted with the absence of mandatory pictorial warnings and the consequent violation of Section 46(4A) of the Customs Act read with Section 7(3) of the COTPA, 2003, he contended that the sale of cigarettes to Duty-Free Shops (DFS) or embassies is not considered 'home consumption', and therefore, he believed the pictorial warning stipulations did not apply.
- e) Even upon being shown CBIC Instruction F. No. 450/160/2009-Cus.IV dated 29.12.2009 and CBIC Circular No. 09/2017 dated 29.03.2017 which mandate COTPA compliance even for DFS distribution he maintained his stance and sought time to produce relevant exemption notifications and rules.
- f) He admitted that, at the time of the statement, they did not possess any active purchase orders from a DFS or embassy, claiming previous orders from the Oct-Dec 2023 quarter had lapsed. He undertook to submit copies of email communications, supplier credit terms, relevant exemption notifications, and lapsed purchase orders within a week.

3.2 It is pertinent to note that the Importer and its Authorized Representative completely failed to submit any of the promised documents (notifications, rules, purchase orders, or email communications) to substantiate their claims. Furthermore, a scrutiny of the import documents uploaded on e-Sanchit at the time of filing the Bill of Entry revealed no declaration whatsoever indicating that the goods were meant for re-export. Consequently, appearing to be a clear case of improper importation in violation of Section 46(4A) of the Customs Act, 1962, read with Section 7(3) of the COTPA, 2003, the goods were placed under seizure vide Seizure Memo No. 198/2024 dated 26.03.2024.

3.3 During the investigation, the statement of Shri Kuldeep Singh Rangrass, a 'G' Card holder of the Customs Broker firm (M/s. Saidutta Clearing Agency Pvt. Ltd.), was recorded under Section 108 of the Customs Act, 1962, on 18.04.2024, with due authorization from the CB's proprietor. He *inter alia* deposed that;

- a) The customs clearance work for the subject Bill of Entry was brought to them by Shri Vikrant Chawla, Proprietor of M/s. Vegas International. His office physically

received the necessary supporting documents from the Importer and verified their KYC details (GSTIN and IEC) online, alongside a physical address verification.

- b) This was their first consignment for M/s. Vegas International, for which they received a clearance charge of Rs. 33,000/- per container. They filed the Bill of Entry classifying the goods under CTI 24022090 based on the Bill of Lading, Commercial Invoice, and the Customs Tariff.
- c) Crucially, when questioned regarding the absence of mandatory pictorial warnings on the imported cigarette packages, he admitted that they were aware of the omission and the relevant statutory notifications. He deposed that they had informed the Importer regarding the same. However, the Importer assured them that the goods were planned for re-export and embassy sales, claiming such sales did not constitute home consumption and were exempt from pictorial warning rules.
- d) He admitted that they blindly trusted the Importer's verbal assurances and did not independently verify the authenticity or legal validity of this claim. He contended that by merely informing the Importer to comply with the rules, they had fulfilled their duty, and since the Bill of Entry was filed based on the Importer's suggestions, they did not further verify the data or foresee the *modus operandi*.

3.4 Subsequently, a physical verification of the Importer's registered premises was initiated. A letter dated 30.04.2024 was forwarded to the Principal Commissioner of Customs (Preventive), New Delhi, requesting a search of the premises located at "21st Century Business Centre, D-1/6 Shakarpur Extension, Delhi- 110092". In response, the Deputy Commissioner of Customs (Gr-V), Customs Preventive, New Delhi, vide letter dated 10.05.2024, reported that the said declared address of the Importer was not traceable.

3.5 Vide letters dated 12.02.2024 and 01.03.2024, the Importer requested permission to re-export the impugned shipment back to the overseas supplier. Subsequently, vide a letter dated 24.04.2024, the Importer submitted that the cigarettes were warehoused pending the receipt of purchase orders from prospective clients, including diplomatic missions and Duty-Free Shops (DFS). The Importer contended that upon receipt of such orders, the goods would be cleared to the domestic market or diplomatic missions after filing

appropriate ex-bond Bills of Entry and complying with all statutory regulations governing the sale of cigarettes. Relying upon Public Notice No. 60/2019 dated 21.06.2019 issued by JNCH, the Importer argued that statutory labelling and packing requirements including the printing of the Maximum Retail Price (MRP) under the Legal Metrology Act, pictorial warnings under FSSAI/COTPA, and DGFT/State Excise compliance could be fulfilled within the bonded warehouse prior to clearance. Accordingly, the Importer reiterated their request to permit the re-export of the impugned goods.

3.5.1 In furtherance of the investigation, summonses dated 15.05.2024, 03.06.2024, and 11.06.2024 were issued to the Proprietor of M/s. Vegas International; however, these proceedings remained unattended. Vide a letter dated 18.06.2024, the Importer expressed their inability to attend the hearing scheduled for 19.06.2024. Subsequent summonses dated 08.08.2024 and 05.09.2024, directing appearance on 13.08.2024 and 12.09.2024 respectively, alongside a directive to produce relevant documents (such as purchase orders from embassies and notifications permitting the import of cigarettes without pictorial warnings), also went unheeded by the Importer.

3.5.2 During the physical examination, the goods were ascertained to be cigarettes measuring 100 mm in length (inclusive of a 35 mm filter length). Based on this physical description, it appeared that the classification of the goods as declared was proper.

3.5.3 Regarding the applicable policy conditions, Import Policy Note No. 13 of the General Notes to the Import Policy of ITC (HS), 2022, Schedule 1, issued by the Directorate General of Foreign Trade (DGFT), stipulates that the import of cigarettes or any other tobacco product is subject to the provisions of the Cigarettes and Other Tobacco Products (Packaging and Labelling) Amendment Rules, 2018 (as amended), notified by the Ministry of Health & Family Welfare. Rule 3(1) of the COTPA Rules, 2008, unequivocally mandates the display of specified health warnings on both sides of the package, covering at least 85% of the principal display area, and prescribes the inclusion of crucial information such as the Name of the Manufacturer, Country of Origin, and Date of Manufacture. Furthermore, the Ministry of Health & Family Welfare, vide the 2022 Amendment Rules, notified a new set of specified health warnings effective from

01.12.2022. Since the seized goods were found to be entirely devoid of the mandatory health warnings, the importation appeared to directly violate the DGFT ITC (HS), 2022, Schedule 1 Import Policy, read with Section 7(3) of the COTPA, 2003, and Rule 3 of the COTP Rules, 2008 (as amended).

3.5.4 The impugned goods were placed under seizure on 26.03.2024. In accordance with the provisions of Section 110(2) of the Customs Act, 1962, the Commissioner of Customs, NS-IV, vide order dated 24.09.2024, granted a six-month extension for the issuance of the Show Cause Notice. The Importer was duly informed of this extension vide a letter dated 25.09.2024.

3.5.5 Subsequently, the Importer filed Writ Petition No. 14021 of 2024 before the Hon'ble High Court of Bombay. In the said Writ Petition, drawing reference to their earlier letters dated 12.02.2024 and 24.04.2024, the Importer/Petitioner sought judicial directions compelling the Customs Authorities to permit the re-export of the impugned shipment back to the supplier. The Hon'ble High Court, vide its Order dated 11.10.2024, directed the Customs Authorities to dispose of the Petitioner's representations dated 12.02.2024 and 24.04.2024 on their merits, in accordance with the law, as expeditiously as possible, and in any event within 30 days. The Court further directed that a personal hearing be granted to the Petitioner and that the decision be communicated within the stipulated 30-day period.

3.5.6 In strict compliance with the directions of the Hon'ble High Court, SIIB(I) issued a letter dated 15.10.2024, affording the Importer an opportunity to either appear in person or submit written clarifications in the matter on or before 22.10.2024. In response, the Importer, vide an email dated 21.10.2024, submitted their clarifications, wherein they merely reiterated the submissions previously made in their Writ Petition before the Hon'ble High Court.

4. It appeared that the deliberate omissions and failures of the Customs Broker, M/s. Saidutta Clearing Agency Pvt. Ltd., concerning the clearance of goods under Warehouse Bill of Entry No. 8505793 dated 28.10.2023, directly facilitated the improper importation of the goods. These actions were in clear violation of the provisions of the Customs Act, 1962, the COTPA, 2003, and the COTP Rules, 2008. Consequently, the Customs Broker

rendered themselves liable to penalty under Sections 112(a), 112(b), and/or 114A of the Customs Act, 1962. Furthermore, the CB also appeared liable for penal action under Section 114AA of the Customs Act, 1962, for presenting false and non-compliant documents for customs purposes, warranting appropriate disciplinary proceedings under the Customs Brokers Licensing Regulations (CBLR), 2018.

5. The Adjudicating Authority (AA), upon concluding the adjudication proceedings, observed that the matter was a clear case of improper importation in violation of Section 46(4A) of the Customs Act, 1962, read with Section 7(3) of the COTPA, 2003. The Adjudicating Authority noted multiple statutory violations, including breaches of Rule 3 of the COTP Rules, 2008 (as amended), the COTP (Packaging and Labelling) Amendment Rules, 2022, CBIC Instruction F. No. 450/160/2009-Cus.IV dated 29.12.2009, CBIC Circular No. 09/2017-Customs dated 29.03.2017, the Legal Metrology Act, 2009, the Legal Metrology (Packaged Commodities) Rules, 2011, the FT(D&R) Act, 1992, and the Import Policy ITC (HS) 2022 read with the Foreign Trade Policy, 2023.

In view of the established violations, the Adjudicating Authority imposed a penalty of Rs. 5,00,000/- (Rupees Five Lakh only) under Section 112(a)(i) and 112(b)(i) of the Customs Act, 1962, and a separate penalty of Rs. 5,00,000/- (Rupees Five Lakh only) under Section 114AA of the Customs Act, 1962, on the Customs Broker firm, M/s. Saidutta Clearing Agency Pvt. Ltd.

6. **ROLE OF CUSTOMS BROKER: -**

6.1 A Customs Broker acts as an authorized agent operating under the legal framework of the Customs Brokers Licensing Regulations (CBLR), 2018. The regulations mandate that a Customs Broker must exercise due diligence, ascertain the correctness of information imparted to a client, advise the client to strictly comply with the provisions of the Customs Act, 1962, and allied Acts, and promptly bring any non-compliance to the notice of the proper officer of Customs. Furthermore, it is a mandatory obligation for the Customs Broker to verify the correctness of the Importer Exporter Code (IEC), Goods and Services Tax Identification Number (GSTIN), the identity of the client, and their functioning at the declared address using reliable, independent, and authentic documents or data.

Based on the findings of the Offence Report and the ensuing investigation, it appeared that the Customs Broker, M/s. Saidutta Clearing Agency Pvt. Ltd., failed to adhere to the statutory obligations prescribed under Regulations 10(d), 10(e), 10(f), and 10(n) of the CBLR, 2018, as detailed below.

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

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

On perusal of the Offence Report and the evidence on record, it is established that the Importer flagrantly violated Section 46(4A) of the Customs Act, 1962. Furthermore, the Importer violated Section 7(3) of the COTPA, 2003, Rule 3 of the COTP Rules, 2008 (as amended), the COTP (Packaging and Labelling) Amendment Rules, 2022, CBIC Instruction F. No. 450/160/2009-Cus.IV dated 29.12.2009, CBIC Circular No. 09/2017-Customs dated 29.03.2017, the Legal Metrology Act, 2009, the Legal Metrology (Packaged Commodities) Rules, 2011, the FT(D&R) Act, 1992, and the relevant provisions of the Import Policy ITC (HS) 2022 and Foreign Trade Policy, 2023.

In his statement dated 18.04.2024, the representative of the CB firm admitted that they had noticed the absence of pictorial warnings and had informed the importer regarding the same. However, the CB accepted the importer's verbal assertion that the goods were intended for re-export and embassy sales which purportedly exempted them from the pictorial warning requirements without seeking any documentary proof. The CB subsequently proceeded to file the Bill of Entry relying solely on the Bill of Lading and Commercial Invoice provided by the importer. Crucially, a scrutiny of the import documents uploaded on e-Sanchit at the time of filing the Bill of Entry revealed no declaration whatsoever indicating that the goods were meant for re-export. The CB failed in their statutory duty to advise the importer to make explicit declarations regarding the

intended re-export in the import documents and to accurately reflect the same in the Bill of Entry. Furthermore, despite being aware of the missing health warnings, the CB failed to bring the non-compliance, or the importer's purported re-export claims, to the notice of the Customs Authorities. It is also a matter of record that the importer ultimately failed to produce any valid purchase orders from embassies or Duty-Free Shops

Therefore, by failing to properly advise the client regarding mandatory compliance with Section 46(4A) of the Customs Act, 1962, and the stringent provisions of allied Acts, and by further failing to bring the evident non-compliance to the notice of the Customs Authorities, it appeared that the CB violated the provisions of Regulation 10(d) of the CBLR, 2018.

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

“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:”

In his statement recorded on 18.04.2024, the representative of the CB firm was questioned regarding the absence of mandatory pictorial warnings on the imported "Esse Lights" cigarette packages. He deposed that they were aware of the omission and the relevant notifications, and had informed the importer regarding the same. However, the importer claimed that the goods were intended for re-export and for sale in embassies, asserting that such sales did not constitute home consumption and therefore did not require pictorial warnings. The CB admitted that they completely trusted the importer's verbal assurances and filed the Bill of Entry based solely on the provided Bill of Lading and Commercial Invoice. The CB failed to exercise due diligence by not verifying the legal validity of the importer's claims, nor did they ask for substantiating documentary evidence, such as valid purchase orders from embassies or Duty-Free Shops (DFS).

Furthermore, a scrutiny of the import documents uploaded on e-Sanchit at the time of filing the Bill of Entry revealed no declaration whatsoever indicating that the subject

goods were meant for re-export. It was also noted that the CB failed to properly verify the import documents, ignoring a clear discrepancy wherein the consignor mentioned in the Bill of Lading was "M/s. Golden Star Tobacco Trading FZ LLC, UAE," while the consignor named in the Commercial Invoice was "M/s. One Point Trading Ltd."

By failing to verify the importer's claims, ignoring evident discrepancies in the commercial documents, and blindly processing the clearance without demanding supporting purchase orders, the CB failed to act with the requisite professional diligence. This negligence directly facilitated the Importer's violation of the provisions of the Customs Act, 1962, and other allied Acts and Rules.

Consequently, this gross negligence and failure to fulfill basic professional responsibilities appeared to constitute a clear violation of Regulation 10(e) of the CBLR, 2018.

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

"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;"

The investigation revealed that the CB failed to inform the importer regarding the provisions of CBIC Instruction F. No. 450/160/2009-Cus.IV dated 29.12.2009 and CBIC Circular No. 09/2017-Customs dated 29.03.2017. These instructions explicitly mandate that the distribution and sale of cigarettes to Duty-Free Shops (DFS) are subject to strict compliance with the Cigarettes and Other Tobacco Products (Packaging and Labelling) Rules, 2008, which requires mandatory pictorial warnings on the packaging. By failing to impart this critical regulatory information to the importer, it appeared that the CB violated the provisions of Regulation 10(f) of the CBLR, 2018.

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

"Verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and

functioning of his client at the declared address by using reliable, independent, authentic documents, data or information”

It was observed that the CB, in their statement recorded on 18.04.2024, claimed to have verified the importer's KYC documents via the DGFT website and physically verified the functioning of the importer at the declared address. However, as per the offence report, a physical verification request was forwarded to the Principal Commissioner of Customs (Preventive), New Delhi, to search the premises of the importer, M/s. Vegas International, located at "21st Century Business Centre, D-1/6 Shakarpur Extension, Delhi-110092." In response, the Deputy Commissioner of Customs (Gr-V), Customs Preventive, New Delhi, vide a letter dated 10.05.2024, reported that the said address was untraceable. This finding clearly established that the CB had failed to genuinely verify the physical functioning of their client at the declared address. Therefore, it appeared that the CB violated the provisions of Regulation 10(n) of the CBLR, 2018.

6.2 The investigative findings indicated a serious breach of regulatory obligations by the Customs Broker, M/s. Saidutta Clearing Agency Pvt Ltd (CB License No. 11/978). The case pertained to Bill of Entry No. 8505793 dated 28.10.2023, filed for the import of cigarettes. Upon examination, the cigarette packets were found to be devoid of mandatory pictorial warnings, Maximum Retail Price (MRP), manufacturer details, and the year of manufacture. Consequently, the import was in contravention of Section 46(4A) of the Customs Act, 1962, Section 7(3) of the COTPA, 2003, Rule 3 of the COTP Rules, 2008 (as amended), the Legal Metrology Act, 2009, the Legal Metrology (Packaged Commodities) Rules, 2011, the FT(D&R) Act, 1992, and the prevailing Foreign Trade Policy.

It appeared that the CB failed to advise their client regarding the mandatory provisions of these allied acts. Furthermore, the CB did not exercise due diligence to verify the importer's claim that the goods were intended for sale to Embassies and Duty-Free Shops. Scrutiny of the import documents uploaded on e-Sanchit revealed no such declaration of intended re-export. Additionally, the CB failed to verify the physical

functioning of the client, as the declared address was found to be untraceable. Had the prescribed verification duties been properly discharged, the improper importation of the goods could have been averted. Consequently, it appeared that the CB committed multiple regulatory breaches, violating Regulations 10(d), 10(e), 10(f), and 10(n) of the CBLR, 2018.

7. Based on the *prima facie* findings of the investigation, it appeared that the Customs Broker, M/s. Saidutta Clearing Agency Pvt Ltd, had violated Regulations 10(d), 10(e), 10(f), and 10(n) of the CBLR, 2018. Furthermore, an apprehension existed that the CB might adopt a similar *modus operandi* to facilitate fraudulent clearances in future consignments, necessitating immediate preventive action to safeguard regulatory compliance.

8. **Suspension Proceedings:** In view of the above, the Customs Broker License of M/s. Saidutta Clearing Agency Pvt Ltd was suspended with immediate effect vide Order No. 05/2025-26 dated 03.06.2025. In adherence to the principles of natural justice, a post-suspension personal hearing was granted to the CB on 12.06.2025 at 12:15 PM. The said hearing was attended by the authorized representatives of the Customs Broker, Shri K.S. Mishra and Shri Aditya Tripathi (Advocate). During the proceedings, they reiterated the submissions made in their written reply dated 12.06.2025.

9. Following the personal hearing and upon consideration of the facts and submissions, the suspension of the CB license was ordered to be continued vide Order No. 07/2025-26 dated 19.06.2025, in terms of Regulation 16(2) of the CBLR, 2018, pending further inquiry into the contraventions of the aforementioned regulations.

10. In view of the offence report received in the form of O-I-O No. 990(L)/2024-25/ADC/Gr.I &IA/NS-I/CAC/JNCH dated 06.11.2024 issued by the Addl. Commissioner of Customs, action under the CBLR, 2018 was initiated against the CB M/s. Saidutta Clearing Agency Pvt Ltd (CB License No. 11/978). Further, considering the gravity of the offences, the license of the CB was suspended vide Order No. 05/2025-26 dated 03.06.2025 which was subsequently continued vide Order No. 07/2025-26 dated 19.06.2025 under

Regulation 16(2) of the CBLR, 2018. Consequently, action under Regulation 17 of the CBLR, 2018 was initiated against the CB M/s. Saidutta Clearing Agency Pvt Ltd and accordingly, based on the Offence Report, the following articles of charge were framed against the CB:

- (i) Article of Charge-I: Violation of Regulation 10(d) of the CBLR, 2018.
- (ii) Article of Charge-II: Violation of Regulation 10(e) of the CBLR, 2018.
- (iii) Article of Charge-III: Violation of Regulation 10(f) of the CBLR, 2018
- (iv) Article of Charge-IV: Violation of Regulation 10(n) of the CBLR, 2018

10.1 In light of the above, a Show Cause Notice under the provisions of Regulation 17(1) of the CBLR, 2018 was issued to the CB M/s. Saidutta Clearing Agency Pvt Ltd (CB License No. 11/978) wherein the CB was called upon to show cause, within 30 days from the date of issue of the notice, as to why:

- a. The Customs Broker License bearing no. 11/978 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.

10.2 Shri Thandilal Ratanlal Meena, Assistant Commissioner, Export, was appointed as Inquiry Officer (IO) to conduct the inquiry proceedings against the CB M/s. Saidutta Clearing Agency Pvt Ltd under Regulation 17 of the CBLR, 2018.

INQUIRY REPORT: -

11. The Inquiry Officer (hereinafter referred to as the 'IO') concluded the inquiry proceedings and submitted the Inquiry Report dated 10.11.2025, wherein all the charges levelled against the CB of violation of Regulations 10(d), 10(e), 10(f), and 10(n) of the CBLR, 2018 were held as "Not Proved". Further, the IO stated that the prescribed timeline under Regulation 17 for completion of inquiry proceedings could not be adhered to as the CB requested for cross-examination during the hearing held on 25.09.2025, but never

provided the list of persons whose cross-examination was sought, and subsequently submitted their reply on 16.10.2025.

FINDINGS OF THE INQUIRY OFFICER: -

12. The IO submitted that he had gone through the Show Cause Notice No. 14/2025-26 dated 27.06.2025, the records of the Personal Hearings and Defence submissions made during the personal hearings. The IO submitted that he had also gone through the statements of all the persons recorded during the investigation, the alleged Articles of Charges or contraventions mentioned in the Show Cause Notice as well as legal provisions reflected in the CBLR, 2018.

12.1 The IO submitted that he had taken on record the submissions made by the CB and discussed all the submissions & examined their merits.

12.2 Article of Charge -I- Violation of Regulation 10(d) of CBLR, 2018

The IO found that the imputation against the CB was that they failed to advise the importer regarding the mandatory pictorial warnings as per Section 46 (4A) of the Customs Act, 1962, and COTPA, 2003, and that the importer had not made any declaration for re-export in the Bill of Entry or any import documents.

The IO found that the charged CB M/s. Saidutta Clearing Agency Pvt Ltd had filed Warehouse Bill of Entry No. 8505793 dated 28.10.2023 on behalf of the importer M/s. Vegas International (IEC- BPNPG2029C) for the clearance of items declared as "Esse Lights Cigarettes". The IO found that as per the offence report, the imported cigarette packets did not bear any pictorial warnings, Maximum Retail Price (MRP), Name of Manufacturer, or Year of Manufacture.

The IO found from the offence report that the impugned goods, viz. cigarettes, are required to comply with Section 7(3) of the COTPA, 2003 and Rule 3 of the COTP Rules, 2008, read with the Ministry of Health & Family Welfare Amendment Rules, 2022. The import of these items requires specified health warnings printed in a specified format, color, and resolution. The IO found from the offence report that the CBIC, vide Circular No.

09/2017-Customs dated 29.03.2017 and Instruction F. No 450/160/2009-Cus.IV dated 29.12.2009, directed that the distribution and sale to Duty-Free Shops shall also be subject to compliance with these packaging and labelling rules. The IO submitted that the said Bill of Entry was filed without such warnings, and accordingly, the CB was alleged to have failed to advise his client regarding these allied acts.

The defence submission stated that the impugned goods were not meant for home consumption and were intended for supplies to embassies and re-export. In support of the said contention, they relied upon the statement of the authorized representative of the importer and a Writ Petition No. 14021 of 2024 filed before the Hon'ble High Court of Bombay for re-exportation of the goods. The CB further submitted that the CB had no reasons to requisition a purchase order for post-importation sale. The IO found that the CB had filed the Warehouse Bill of Entry No. 8505793 on 28.10.2023, whereas the importer requested an NOC to move the goods to a Delhi Public Warehouse under a Bond-to-Bond transfer vide a letter dated 18.12.2023. The IO found that the said Bill of Entry was filed for subsequent clearance under Section 68 of the Customs Act, 1962, and it was not a Bill of Entry for Home Consumption filed under Section 46 of the Customs Act, 1962. Thus, it is apparent that the taxable event in the case of warehoused goods occurs only at the point of time when the goods are sought to be cleared for home consumption.

The IO submitted that the CB relied on the decision of the Hon'ble Tribunal in the case of *Essar Power Gujarat Ltd. Vs. Commissioner of Customs, Jamnagar* reported in 2023 (384) E.L.T. 436 (Tri. Ahmd.). The IO found that Shri Kuldeep Singh Rangrass, G-Card holder of M/s. Saidutta Clearing Agency Pvt Ltd, in his statement recorded on 18.04.2024, stated that they had checked the requirements and had explicitly informed the importer regarding the pictorial warnings, but the importer informed them that they were planning to re-export the goods and that sales taking place in embassies are not considered home consumption. The IO found that the charged CB M/s. Saidutta Clearing Agency Pvt Ltd was fully aware of the mandatory compliance for the import of cigarettes. The IO found that the CB did advise the importer M/s. Vegas International about the afore-mentioned

compliance, as they had proactively informed the importer regarding the same. The IO also found from their statement that the importer was properly sensitized by the CB regarding the pictorial warnings. The IO found that the importer never made an attempt for the clearance of the impugned goods by way of filing an ex-bond Bill of Entry. Hence, the IO submitted that the ratio of the judgement relied upon by the charged CB was perfectly applicable in the instant case.

The IO found that there is nothing on record which suggests that the charged Customs Broker had failed in advising their client to comply with the provisions of the Act, allied acts, and the rules and regulations thereof. Thus, the IO found that the CB had properly advised the importers about the aforesaid compliance, and since no ex-bond Bill of Entry was ever filed, the question of bringing any non-compliance to the notice of the Customs Authorities did not arise. Accordingly, the IO held the Article of Charge alleging violation of Regulation 10(d) of the CBLR, 2018 as "Not Proved".

12.3 Article of Charge –II- Violation of Regulation 10(e) of CBLR, 2018

The IO stated that the imputation alleged that the CB failed to exercise due diligence to verify the claim of the importer that the goods were for sale to Embassies and Duty Free Shops, and did not properly verify the consignor's name in the documents. The defence submission stated that they had checked the requirements and explicitly informed the importer regarding the pictorial warnings; that the importer informed them they were planning to re-export the goods; and that they had filed the Bill of Entry based on the documents provided. The IO found that the Article of Charge II, i.e., violation of Regulation 10(e) of the CBLR, 2018, was identical to Article of Charge-I, i.e., violation of Regulation 10(d) of the CBLR, 2018. Hence, the IO submitted that his findings on this article of charge were similar, and stated his findings as under:

The IO found from the statement of Shri Kuldeep Singh Rangrass, G-Card holder of M/s. Saidutta Clearing Agency Pvt Ltd, recorded on 18.04.2024, that proper advice regarding provisions of the Act, allied Acts, and the rules and regulations thereof, including aspects such as pictorial warnings, were explicitly given to the importer M/s. Vegas

International. The IO found that the importer never made an attempt for the clearance of the impugned goods for home consumption by way of filing an ex-bond Bill of Entry, and instead requested re-export. Regarding the discrepancy in the consignor's name in the Bill of Lading and the Invoice, the IO found that the importer had adequately clarified the issue in their statement.

The IO found that it was the responsibility of the CB to sensitize their client regarding compliance with the allied Acts and pictorial warnings. Thus, the IO found that the CB had adequately advised the importer about the aforesaid compliance, and they had acted solely as a pass-through entity based on the information provided. Accordingly, the IO submitted that the CB did not fail to exercise due diligence while filing the documents for the subject import consignment, and accordingly, the Article of Charge alleging violation of Regulation 10(e) of the CBLR, 2018 was held as "Not Proved".

12.4 Article of Charge –III- Violation of Regulation 10(f) of CBLR, 2018

The IO stated that the imputation alleged that the CB failed to inform the importer about the CBIC Instruction F. No. 450/160/2009-Cus.IV dated 29.12.2009 and CBIC Circular No. 09/2017-Customs dated 29.03.2017, which mandate that the distribution and sale of cigarettes to Duty-Free Shops shall be subject to compliance with the packaging and labelling rules.

The IO found that this allegation was largely a repetition of the allegations pertaining to the violation of Regulations 10(d) and 10(e) of the CBLR, 2018. The IO submitted that the said CBIC instruction and Circular explicitly relate to the requirement of pictorial warnings on cigarettes intended for distribution.

The IO found that the importer M/s. Vegas International never filed an Ex-Bond Bill of Entry for the clearance of the goods covered under the 'Warehouse Bill of Entry' No. 8505793 dated 28.10.2023. Hence, the IO submitted that it cannot be construed that there was any active attempt to clear the impugned goods. Consequently, the IO found that the necessity of sensitizing the importer regarding the compliance of the aforementioned CBIC instruction and Circular pertaining to the distribution and sale to Duty-Free Shops

did not arise. The IO noted that all the above compliance would be required only if the importer intended to clear the goods for home consumption or filed the ex-bond Bill of Entry with an attempt to clear the goods. Since no such bill was filed, there was no attempt for clearance. Accordingly, the IO held the Article of Charge alleging violation of Regulation 10(f) of the CBLR, 2018 as "Not Proved".

12.5 Article of Charge –IV- Violation of Regulation 10(n) of CBLR, 2018

The IO stated that the imputation alleged that while the CB claimed to have verified the KYC documents and the physical address of the importer, a verification report from the Customs Preventive, New Delhi, vide letter dated 10.05.2024, indicated that the declared address of the importer was not traceable. Hence, it was alleged that the CB failed to verify the functioning of their client at the declared address.

The IO found that the CB had obtained all necessary KYC documents, including the IEC, GSTIN Registration Certificate, PAN Card, and Aadhar Card, and had verified the existence and functioning of the importer online through the DGFT and GST portals. The IO observed that the verification report dated 10.05.2024, relied upon by the investigating agency, was never provided to the charged Customs Broker as a Relied Upon Document (RUD) in the Show Cause Notice.

The IO noted that the CB relied upon various judicial pronouncements, including the decision of the Hon'ble CESTAT in S. Praksh Kushwaha & Co. Vs. Commissioner of Customs, which held that the responsibility of a Customs Broker under Regulation 10(n) does not include maintaining continuous surveillance to ensure the client continues to operate from the same address once the initial verification is complete.

Further, the IO found that the importer M/s. Vegas International had actively filed a Writ Petition No. 14021 of 2024 before the Hon'ble High Court of Bombay, which established their ongoing existence. The IO also observed that the investigating agency (SIIB) had successfully communicated with the importer vide a letter dated 15.10.2024 to which the importer responded via email on 21.10.2024. Additionally, the authorized representative of the importer had appeared and joined the summons proceedings on

05.03.2024. The IO submitted that if the address was genuinely untraceable, the importer could not have received the official communications nor responded to them. The IO concluded that these subsequent interactions and appearances clearly indicate that the address and the entity were in existence at the material time. Accordingly, the IO held the Article of Charge alleging violation of Regulation 10(n) of the CBLR, 2018 as "Not Proved".

12.6 The IO submitted that the CB requested to cross-examine the persons during the hearing held on 25.09.2025, but the charged CB never provided a list of persons whose cross-examination was sought, and thereafter submitted their reply on 16.10.2025.

13. SUMMARY OF THE FINDINGS:

The IO concluded the findings of the inquiry as under:

1.	Violation of Regulation 10(d) of CBLR, 2018	Not Proved
2.	Violation of Regulation 10(e) of CBLR, 2018	Not Proved
3.	Violation of Regulation 10(f) of CBLR, 2018	Not Proved
4.	Violation of Regulation 10(n) of CBLR, 2018	Not Proved

DISAGREEMENT MEMO: -

13.1 The Inquiry Officer in his report dated 10.11.2025 held the charges of violation of Regulations 10(d), 10(e), 10(f) and 10(n) as "Not Proved". The Commissioner of Customs (Gen.), Mumbai-I disagreed with the Inquiry Officer's report in respect of the same in the light of available evidences on record. Therefore, a Disagreement Memo dated 23.01.2026 was issued by the Commissioner of Customs (Gen.), Mumbai-I. Under the provisions of Regulation 17(6) of the CBLR, 2018, a copy of the Inquiry Report dated 10.11.2025 and Disagreement Memo dated 23.01.2026 was shared with the CB and further, to uphold the Principle of Natural Justice, an opportunity of personal hearing was initially granted to the CB on 06.02.2026. Subsequently, a hearing was scheduled for 23.02.2026, but the CB requested an adjournment due to a domestic and family matter of their appointed advocate.

Acceding to their request, a final opportunity for a personal hearing was granted and the hearing was held on 11.03.2026.

RECORDS OF PERSONAL HEARING: -

14. An opportunity of Personal Hearing was initially granted to the CB on 16.02.2026. Subsequently, a second opportunity for Personal Hearing was scheduled on 23.02.2026 at 12:30 p.m. However, the CB vide a letter dated 23.02.2026 sought an adjournment on the grounds that their appointed counsel, Advocate K.S. Mishra, was unable to attend due to an urgent domestic and family matter at Prayagraj. The CB requested the hearing to be rescheduled to a date after 10.03.2026. The Adjudicating Authority acceded to the CB's request and granted the final opportunity for Personal Hearing to the CB on 11.03.2026 at 12:00 p.m. Advocate K.S. Mishra, Advocate Aditya Tripathi, and Shri Ashwanii Dham, Director of the CB firm M/s. Saidutta Clearing Agency Pvt Ltd, appeared for the Personal Hearing on 11.03.2026 at 12:00 p.m. During the hearing, they submitted a written reply, cited some judgments, and reiterated the facts of their submissions. They stated they had nothing more to add, and their submissions were taken on record. Consequently, the matter was taken up for final adjudication based on the facts of the case, the parties' written submissions, and the evidence on record.

WRITTEN SUBMISSION OF THE CB: -

15. The CB made a written submission during the Personal Hearing held on 11.03.2026, the main contentions and defence of which are summarized below:

15.1 Firstly, the CB submitted that the Disagreement Memo dated 23.01.2026 does not specify any reason for the disagreement with the findings of the Inquiry Officer in the Inquiry Report dated 10.11.2025. The CB contended that the Inquiry Officer had held that the ratio of the judgements relied upon by the CB is applicable in the present case; however, the Disagreement Memo failed to provide any reasons for disagreeing with the application of the said case laws.

15.2 Further, the CB submitted that the Adjudicating Authority incorrectly construed the Order-in-Original dated 06.11.2024 passed by the Additional Commissioner of Customs, JNCH, as an "offence report". The CB stated that the phrase 'offence report' is defined under Regulation 17 of the CBLR, 2018 as a summary of investigation and prima facie framing of charges. Since the said O-I-O merely observed that the CB's role is to be examined without actually framing any charges, it does not fall within the ambit of an "offence report," and hence, the proceedings are liable to be dropped.

15.3 The CB submitted that the inquiry proceedings were not completed within the stipulated period of 90 days under Regulation 17(5) of the CBLR, 2018. The CB stated that the Show Cause Notice was issued on 27.06.2025, and the Inquiry Officer was bound to issue the report by 25.09.2025. However, the report was submitted on 10.11.2025, resulting in a delay of 1 month and 16 days. In support of this contention, the CB relied on various judgments, including *LEO Cargo Services vs. Commissioner of Customs, New Delhi*, arguing that the SCN is barred by limitation.

15.4 The CB further stated that the underlying Show Cause Notice invoking penal provisions under the Customs Act, 1962 was adjudicated vide the aforementioned O-I-O dated 06.11.2024, wherein penalties were imposed on the CB. However, the CB submitted that the said O-I-O, which forms the foundation of the present CBLR proceedings, has been completely set aside by the Commissioner of Customs (Appeals) vide Order-in-Appeal No. 329 dated 10.03.2025. The CB argued that since the foundational order does not survive, the present proceedings cannot be sustained, placing reliance on the decision of the Hon'ble CESTAT in the case of *Rahul Bhardwaj Vs. Commissioner of Customs*.

15.5 The CB mentioned that it is a settled law that any punishment meted out to a Customs Broker should be commensurate with the omission, applying the law of proportionality. The CB submitted that the prolonged suspension has gravely endangered their livelihood and that of their employees. Relying on case laws such as *HIM Logistics Pvt. Ltd. v. CC, New Delhi* and *Ashiana Cargo Services v. CC*, the CB prayed to the

Adjudicating Authority to take a lenient view, drop the charges, and restore the license forthwith in the interest of justice and equity.

15.6 With respect to charge of violation of Regulation 10(d):

The CB submitted that one Warehouse Bill of Entry No. 8505793 dated 28.10.2023 was filed for the import of cigarettes meant to be kept in a Customs Bonded Warehouse. Upon examination, it was alleged that the imported goods lacked mandatory pictorial warnings. The authorized representative of the importer had explicitly stated in his statement recorded under Section 108 of the Customs Act, 1962, that the imported goods were not intended for domestic consumption but for deemed exports to foreign embassies and duty-free shops. Therefore, the CB submitted that there was no question of an attempted clearance of the impugned goods for home consumption, and the allegations levelled against the importer M/s. Vegas International cannot be brought against them. The CB submitted that they had already informed the importer regarding the pictorial warnings and compliance with the Legal Metrology Act.

The CB further submitted that proper advice regarding the provisions of the allied Acts and rules was given to the client, and therefore, the charge under regulation 10(d) of the CBLR, 2018 does not sustain and merits to be withdrawn.

15.7 With respect to charge of violation of Regulation 10(e):

The CB submitted that the SCN has alleged that they had not verified the claim of the importer regarding the sale of goods to embassies; that the importer in his statement recorded under Section 108 has inter-alia stated that the goods were meant for re-export and embassies. Further, the CB stated that in their statement recorded under Section 108 of the Customs Act, 1962, they stated that the importer had provided this clarification on the basis of which they had filed the Warehouse Bill of Entry after due diligence. That being so there is no violation of Regulation 10(e) of CBLR, 2018. The CB submitted that all the relevant documents were given by the importer and after due verification/compliance of KYC the Bill of Entry was filed. Therefore, the CB stated that the charge under Regulation 10(e) does not survive and merits to be withdrawn.

15.8 The CB submitted that the SCN is unsustainable in law and the CB is liable to be discharged and the SCN dropped and Your Honour is requested to do so.

15.9 With respect to charge of violation of Regulation 10(f):

The CB submitted that the charges of violation of Regulation 10(f) of the CBLR, 2018 are nothing but a repetition of the charges levelled against them under Regulations 10(d) and 10(e) of the CBLR, 2018. The CB stated that the SCN alleged they failed to inform the importer about the CBIC Instruction F. No. 450/160/2009-Cus.IV dated 29.12.2009 and CBIC Circular No. 09/2017-Customs dated 29.03.2017, which mandate that distribution and sale to Duty-Free Shops shall be subject to compliance with the Cigarettes and other Tobacco Products (Packaging and Labelling) Rules, 2008. The CB submitted that these CBIC Circulars and instructions are in the public domain and are publicly available on the website of the CBIC. Therefore, the CB contended that it is incorrect to hold that they withheld information contained in the Board's instructions and did not inform the client. Thus, the CB stated that there is no violation of the said Regulation and they had not failed to comply with the requirements of Regulation 10(f) of the CBLR, 2018.

15.10 With respect to charge of violation of Regulation 10(n):

The CB submitted that they had verified the IEC, GSTIN, PAN card, and Aadhar Card of the importer M/s. Vegas International and also checked the same online on the DGFT and GST websites. The CB stated that the existence and functioning of the importer were verified online with the above documents, and it has not been alleged in the impugned SCN that the IEC was forged. The CB also pointed out that the letter dated 10.05.2024 from the Deputy Commissioner of Customs (GR.-V), Customs Preventive, New Delhi, was not provided to them as a Relied Upon Document (RUD) to the impugned SCN. The CB argued that physical verification of the premises of the client is not required under Regulation 10(n) of the CBLR, 2018, placing reliance on various case laws, including *Praksh Kushwaha & Co. Vs. Commissioner of Customs* and M/s. Sai Chhaya Impex Pvt. Ltd.

Furthermore, the CB submitted that SIIB (I) had issued a letter dated 15.10.2024 to the importer M/s. Vegas International, to which the importer responded with submissions and clarifications via an email dated 21.10.2024. The CB questioned that if the address of the importer was not traceable as per the department's letter dated 10.05.2024, how was the subsequent letter dated 15.10.2024 successfully received and responded to by the importer. Additionally, the authorized representative of the importer, Shri Azad Sharma, appeared in response to the summons and his statement was recorded under Section 108 of the Customs Act, 1962, on 05.03.2024. The CB submitted that the appearance of the authorized representative on receipt of the summons clearly indicates that the address of the importer was existing at the time of import. Thus, the CB submitted that the question of violation of Regulation 10(n) does not arise, and on this ground itself, the article of charge is liable to be dropped.

DISCUSSIONS AND FINDINGS: -

16. I have gone through the facts and records of the case; the offence report received in the form of Order-in-Original No. 990(L)/2024-25/ADC/Gr.I &IA/NS-I/CAC/JNCH dated 06.11.2024 issued by the Additional Commissioner of Customs, JNCH; Show Cause Notice No. 14/2025-26 dated 27.06.2025 issued under Regulation 17(1) of the CBLR, 2018; the Inquiry Report dated 10.11.2025; the Disagreement Memo dated 23.01.2026; and the CB's written submissions presented during the personal hearing on 11.03.2026.
17. Briefly stating, the case involved an investigation into the improper importation of cigarettes by M/s Vegas International through their Customs Broker, M/s Saidutta Clearing Agency Pvt Ltd (CB License No. - 11/978). The importer filed a Warehouse Bill of Entry No. 8505793 dated 28.10.2023 for the import of 30,00,000 sticks of "Esse Lights Cigarettes" with an assessed value of Rs. 66,93,900/-. Upon 100% examination by SIIB(I), it was found that the cigarette packets did not bear the mandatory pictorial health warnings, Maximum Retail Price (MRP), Name of Manufacturer, or Year of Manufacture. Under the relevant statutory provisions, including the COTPA, 2003, COTP Rules, 2008, and Legal Metrology Act, 2009, such imports mandate strict compliance with packaging and labelling

requirements. The importer failed to ensure these compliances, leading to the seizure of the goods. During statement recording, the G-Card holder of the CB firm admitted that while they were aware of the rules regarding pictorial warnings, they relied entirely on the importer's verbal claim that the goods were meant for re-export or sale to embassies. However, the SCN alleges that the CB failed to advise their client to comply with the mandatory provisions, failed to exercise due diligence to ascertain the correctness of the information, withheld relevant CBIC instructions from the client, and failed to verify the functioning of the client at the declared address. Consequently, the CB is charged with violating Regulations 10(d), 10(e), 10(f), and 10(n) of the CBLR, 2018.

17.1 I observe that an Order-in-Original No. 990(L)/2024-25/ADC/Gr.I &IA/NS-I/CAC/JNCH dated 06.11.2024 was passed, which formed the basis of the Offence Report. In the said order, the Adjudicating Authority observed that it was a case of improper importation violating Section 46(4A) of the Customs Act, 1962, read with Section 7(3) of the COTPA, 2003, and other allied acts. The Adjudicating Authority noted that the Custom Broker failed to fulfill its basic verification duties and that the improper importation might not have occurred had the CB acted diligently. For the various acts of omission and commission, the CB rendered themselves liable for penal action. Consequently, a penalty of Rs. 5,00,000/- (Rupees Five Lakh only) under Section 112(a)(i) and 112(b)(i) of the Customs Act, 1962, and a penalty of Rs. 5,00,000/- (Rupees Five Lakh only) under Section 114AA of the Customs Act, 1962, was imposed on the CB M/s. Saidutta Clearing Agency Pvt Ltd.

18. I find that 04 articles of charges have been framed against the CB, i.e., violation of Regulations 10(d), 10(e), 10(f), and 10(n) of the CBLR, 2018. Now, I proceed to discuss the articles of charges sequentially.

18.1 Violation of Regulation 10(d) of the CBLR, 2018:

(a) 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, from the offence report, it appeared that the importer M/s. Vegas International imported cigarettes without mandatory pictorial

warnings, thereby violating Section 46(4A) of the Customs Act, 1962, read with Section 7(3) of the COTPA, 2003, and Rule 3 of the COTP Rules, 2008. In the instant case, the CB appeared to have failed to proactively advise his client to comply with the above-mentioned strict public health rules and regulations framed under the provisions of the allied Acts. Moreover, the CB also failed to bring the matter of non-compliance to the notice of the Deputy/Assistant Commissioner of Customs, and hence, it appeared that the CB failed to perform their statutory obligation under Regulation 10(d) of the CBLR, 2018.

(b) I find that the Inquiry Officer, in this regard, has observed that the said Bill of Entry No. 8505793 dated 28.10.2023 was a 'Warehouse Bill of Entry' filed under Section 68 of the Customs Act, 1962, and was not filed for immediate home consumption. The IO relied upon the Standing Order No. 40/2011 dated 03.05.2011 issued by JNCH, noting that certain labelling compliance could be ensured in the bonded warehouse prior to ex-bond clearance. The IO observed that since the importer M/s. Vegas International never filed an Ex-Bond Bill of Entry and claimed an intention to re-export or supply to embassies, the question of immediate compliance with pictorial warnings did not arise. The IO found from the statement of the CB's G-Card holder that they had informed the importer regarding the rules, but accepted the importer's verbal claim regarding re-export. Thus, the IO concluded that the CB had not failed in advising the client and held the Article of Charge alleging violation of Regulation 10(d) of the CBLR, 2018 as "Not Proved".

(c) The CB in this regard submitted that the authorized representative of the importer had stated in his statement recorded under Section 108 of the Customs Act, 1962, that the imported goods were not intended for domestic consumption but for deemed exports to foreign embassies and duty-free shops. Therefore, the CB submitted that there was no question of an attempted clearance for home consumption, and the allegations regarding statutory non-compliance cannot be brought against them. The CB further submitted that they had informed the importer regarding the pictorial warnings once the examination revealed the discrepancy, and therefore, the charge under Regulation 10(d) of the CBLR, 2018 does not sustain and merits to be withdrawn. The CB submitted that they placed

reliance upon the case of *Essar Power Gujarat Ltd. Vs. Commissioner of Customs, Jamnagar* reported in 2023 (384) E.L.T. 436 (Tri. - Ahmd.).

(d) Regulation 10(d) mandates that a Customs Broker shall advise his client to comply with the provisions of the Act and allied Acts, and in case of non-compliance, shall bring the matter to the notice of the Deputy/Assistant Commissioner of Customs. Having gone through the facts and records of the case, I find myself in disagreement with the findings of the Inquiry Officer. The investigation revealed that the CB filed a Warehouse Bill of Entry for cigarettes completely lacking the mandatory pictorial warnings. As per Section 2(23) of the Customs Act, 1962, the act of "import" is established upon bringing goods into India from a place outside India, necessitating immediate compliance with statutory prohibitions. The COTPA, 2003 is a strict public health legislation that clearly prohibits the import of tobacco products without specified warnings. I find the IO's reliance on Standing Order No. 40/2011 to be entirely misplaced, as that order caters to general labelling requirements (like MRP and packing date) under the Legal Metrology Act to mitigate space constraints, and does not override or apply to the mandatory health warnings prescribed under the COTPA. Furthermore, the CB's reliance on the importer's mere verbal claim that the goods were meant for embassies or re-export was unsubstantiated, as no purchase orders were produced, nor was any declaration made to that effect in the import documents. The obligation to advise compliance is a proactive, active duty. The CB failed to actively advise the importer of the strict COTPA rules prior to filing the documents and failed to report the glaring discrepancy to Customs. Further, I find the CB's reliance upon the case of *Essar Power Gujarat Ltd.* as misplaced, as that case dealt with procedural delays under Project Import Regulations, whereas the present case involves absolute non-compliance with public health laws. Accordingly, I find that the CB's actions were negligent, and I uphold the charge of violation of Regulation 10(d) of the CBLR, 2018 as proved.

18.2 Violation of Regulation 10(e) of the CBLR, 2018:

(a) I find that the charge of violation of Regulation 10(e) of the CBLR, 2018 has been levelled against the CB on the grounds that, from the findings of the investigation, it appeared that the Customs Broker M/s Saidutta Clearing Agency Pvt Ltd did not verify the claim of the importer that the goods were meant for sale to Embassies and Duty-Free Shops, and failed to act diligently. The Custom Broker did not ask for purchase orders to substantiate this claim. Further, the CB did not verify the documents properly as there was a discrepancy in the name of the consignor between the Bill of Lading and the Commercial Invoice. It also appeared that the CB failed to ensure that a declaration regarding re-export was made in the import documents uploaded in e-Sanchit. Hence, it appeared that the CB failed to perform their obligation under Regulation 10(e) of the CBLR, 2018.

(b) I find that the Inquiry Officer, in this regard, has observed that, as per the statement of the G-Card holder, the CB had relied upon the importer's assertion that the goods were meant for re-export to embassies, and therefore pictorial warnings were not required. The IO found that the importer had clarified the discrepancy regarding the consignor's name during statement recording. The IO further observed that the CB acted solely as a pass-through entity based upon the information given by the importer, and since it was a Warehouse Bill of Entry, there was no attempt at clearance for home consumption. Accordingly, the IO submitted that the CB did not fail to exercise due diligence while filing the documents for the subject import consignment and accordingly, held the Article of Charge alleging violation of Regulation 10(e) of the CBLR, 2018 as "Not Proved".

(c) The CB in this regard submitted that the importer in his statement recorded under Section 108 had inter-alia stated that the goods were meant for re-export and embassies. Further, the CB stated that in their statement recorded under Section 108 of the Customs Act, 1962, they had stated that the importer had provided this clarification on the basis of which they filed the Warehouse Bill of Entry after due diligence. That being so there was no violation of Regulation 10(e) of the CBLR, 2018. The CB submitted that all the relevant documents were given by the importer and after due verification of KYC the Bill of Entry

was filed. Therefore, the CB stated that the charge under Regulation 10(e) does not survive and merits to be withdrawn.

(d) I have meticulously perused the Offence report, the IO's findings, the Disagreement Memo, the CB's submission and the available facts and evidences on record. On perusal of the same, I observe that the IO has held this charge as "Not Proved". I find myself in disagreement with the findings of the Inquiry Officer. I find that the CB argued during the Inquiry that they exercised due diligence by relying on the importer's verbal claim that the goods were meant for re-export or sale to embassies. I find this argument untenable. A Customs Broker is expected to be diligent in their filing process, peruse the documents submitted by the client, and apply their mind to spot deficiencies and anomalies at the initial stage itself. They cannot blindly rely on a client's unverified claim, especially for high-value perishable goods like cigarettes, without asking for corroborating documentary evidence such as purchase orders from the said embassies or duty-free shops. The CB's failure to verify this claim, coupled with their failure to flag the glaring discrepancy in the consignor's name between the Bill of Lading and the Commercial Invoice, demonstrates a severe lack of the due diligence mandated under Regulation 10(e). By passively accepting the importer's narrative and failing to exercise the requisite professional scrutiny, the CB failed to exercise the degree of diligence required during the clearance process. Consequently, I find that the IO's analysis is unacceptable. In light of the facts on records and the associated findings, I disagree with the IO's findings and hold the CB guilty of violation of Regulation 10(e) of the CBLR, 2018.

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

(a) I find that the charge of violation of Regulation 10(f) of the CBLR, 2018 has been levelled against the CB on the grounds that it appeared the CB failed to inform the importer about the CBIC Instruction F. No. 450/160/2009-Cus.IV dated 29.12.2009 and CBIC Circular No. 09/2017-Customs dated 29.03.2017. These instructions explicitly mandate that the distribution and sale of cigarettes to Duty-Free Shops shall be subject to compliance with the Cigarettes and other Tobacco Products (Packaging and Labelling)

Rules, 2008. The imported goods intended for such sales are required to have the mandatory pictorial warnings, but the CB appeared to have withheld this critical regulatory information from the importer. Hence, it appeared that the CB failed to perform their obligation under Regulation 10(f) of the CBLR, 2018.

(b) I find that the Inquiry Officer, in this regard, has observed that this allegation was largely a repetition of the allegations pertaining to Regulations 10(d) and 10(e). The IO found that since the importer M/s. Vegas International never filed an Ex-Bond Bill of Entry for the clearance of the warehoused goods, it cannot be construed that there was an attempt to clear the impugned goods for home consumption. Consequently, the IO submitted that the necessity of sensitizing the importer regarding the compliance of the aforementioned CBIC instruction and Circular pertaining to Duty-Free Shops did not arise. Accordingly, the IO held the Article of Charge alleging violation of Regulation 10(f) of the CBLR, 2018 as "Not Proved".

(c) The CB in this regard submitted that the charges under Regulation 10(f) are a mere repetition of the charges under Regulations 10(d) and 10(e). The CB contended that the CBIC Circulars and instructions in question are in the public domain and are publicly available on the website of the CBIC. Therefore, the CB argued that it is incorrect to hold that they withheld information contained in the Board's instructions from the client, and thus, there is no violation of Regulation 10(f) of the CBLR, 2018.

(d) I have meticulously perused the Offence report, the IO's findings, the Disagreement Memo, the CB's submission, and the available facts on record. I find myself in disagreement with the findings of the Inquiry Officer. The CB has stated that the importer's version regarding re-export and sales to embassies was accepted and no independent verification was carried out. From this, it is evident that the CB failed to inform the importer about the relevant CBIC instructions which categorically mandate that distribution and sale of cigarettes through Duty-Free Shops are subject to strict compliance with packaging rules and require pictorial warnings. The CB's defense that these circulars are in the public domain is unacceptable; a Customs Broker is a domain expert hired precisely to guide the

importer through complex customs procedures and public notices. The CB failed to actively apprise the importer of these mandatory requirements. By failing to impart this crucial information, the CB failed to discharge their statutory duty. Consequently, I disagree with the IO's findings and hold the CB guilty of violation of Regulation 10(f) of the CBLR, 2018.

18.4 Violation of Regulation 10(n) of the CBLR, 2018:

(a) I find that the charge of violation of Regulation 10(n) of the CBLR, 2018 has been levelled against the CB on the grounds that the CB failed to verify the functioning of their client at the declared address. While the CB claimed in their statement dated 18.04.2024 to have verified the KYC documents on the DGFT website and physically verified the address of the importer, a field verification painted a different picture. As per the offence report, a physical verification request was forwarded to Customs Preventive, New Delhi, to search the premises of M/s Vegas International. In response, the Deputy Commissioner of Customs, Preventive, New Delhi, vide a letter dated 10.05.2024, categorically informed that the said declared address was not traceable. Hence, it appeared that the CB violated the provisions of Regulation 10(n) of the CBLR, 2018.

(b) I find that the Inquiry Officer, in this regard, has observed that the CB had obtained all necessary KYC documents and verified the existence of the importer online via the DGFT and GST portals. The IO noted that the verification report dated 10.05.2024 was not provided to the CB as a Relied Upon Document (RUD). Further, the IO observed that the investigating agency (SIIB) successfully communicated with the importer vide a letter dated 15.10.2024, to which the importer responded via email on 21.10.2024. The IO also noted that the authorized representative of the importer appeared for summons proceedings on 05.03.2024. The IO deduced that if the address was untraceable, the importer could not have received and responded to these communications, indicating the entity's existence. Accordingly, the IO held the Article of Charge alleging violation of Regulation 10(n) as "Not Proved".

(c) The CB in this regard submitted that they had verified the IEC, GSTIN, PAN card, and Aadhar Card online. The CB argued that physical verification of the premises is not strictly required under Regulation 10(n), placing reliance on various judicial pronouncements. Furthermore, the CB reiterated that the importer successfully received and replied to SIIB's letter dated 15.10.2024 via email, and their authorized representative appeared for the summons, which proves that the address and the importer were existing at the time of import. Thus, the CB submitted that the charge is liable to be dropped.

(d) I have meticulously perused the records and the Disagreement Memo, and I find the analysis of the Inquiry Officer to be unacceptable. It is an admitted fact on record that the CB, in his statement recorded under Section 108 of the Customs Act, explicitly claimed that the address of the importer was *physically verified* by them. However, an independent and official physical verification conducted by the Customs Preventive, New Delhi, found the declared premises of the importer to be entirely non-traceable. Since an official physical verification established that the entity was not functioning at the declared address, the IO's reliance on the importer's subsequent emails or WhatsApp communications is flawed. In the modern digital era, an individual can receive and reply to emails or electronic summons from any location; this in no way validates the physical functioning of a commercial entity at a specific declared registered address. These facts clearly establish that the Customs Broker failed to verify the actual functioning of his client at the declared address, directly contradicting their own claim of having conducted a physical verification. Such failure amounts to a severe non-compliance with the due diligence obligations mandated under the regulations. Consequently, I disagree with the IO's findings and hold the CB guilty of violation of Regulation 10(n) of the CBLR, 2018.

19. The CB during the personal hearing held on 25.09.2025 requested to cross-examine the persons whose statements are relied upon in the SCN and thereafter be allowed to file a further reply. However, it is noted that the charged CB never provided a list of specific persons whose cross-examination was sought, and subsequently submitted their written reply on 16.10.2025 without pursuing the said request.

I have gone through the facts and records of the case in detail and observe that the CB failed to substantiate their request by providing the necessary details. Furthermore, cross-examination is not a mandatory right in quasi-judicial proceedings when material facts are not in dispute. Since the CB has not produced any retraction of the recorded statements, and the violations are evidenced by the documentary records and the Bill of Entry filing itself, no prejudice is caused by this denial.

20. 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 the CB by the Government Agencies; however, by their acts of omission and commission, the Customs Broker M/s. Saidutta Clearing Agency Pvt Ltd (CB License No. 11/978) has violated Regulations 10(d), 10(e), 10(f), and 10(n) of the CBLR, 2018. I find that for the violation of obligations provided under the CBLR, 2018 and for their acts of omission and commission, the Customs Broker M/s. Saidutta Clearing Agency Pvt Ltd has rendered itself liable for penal action under the CBLR, 2018. Hence, while deciding the matter, I rely on the following caselaws:

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

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

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

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

21. As discussed above, I conclude that the CB M/s. Saidutta Clearing Agency Pvt Ltd (CB License No. 11/978) is guilty of violating Regulations 10(d), 10(e), 10(f), and 10(n) of the CBLR, 2018. In view of the detailed discussion and analysis above, it is established that the CB, M/s. Saidutta Clearing Agency Pvt Ltd, has failed to discharge the professional and statutory obligations mandated under the Customs Brokers Licensing Regulations, 2018. The evidence on record confirms that the Customs Broker did not advise the importer regarding the mandatory pictorial warnings required under the COTPA, 2003, prior to filing the Warehouse Bill of Entry. Furthermore, by blindly relying on the client's unsubstantiated claim of re-export without demanding purchase orders, and failing to genuinely verify the physical functioning of the client at the declared address, the Customs Broker failed to exercise the requisite due diligence.

Further, the investigation reveals that this was the first import consignment handled by the CB for M/s. Vegas International, and the CB had filed the documents based on the information provided to them. Thus, the attempted clearance in the instant case does not seem to be a systemic fraud or active collusion, but a severe error committed due to gross negligence. Accordingly, I find no active connivance angle but an act of severely diminished diligence on the part of the CB during the clearance process. Further, I find that the Commissioner of Customs (Appeals), Mumbai-II, vide Order-in-Appeal No. 329(Gr.

I&IA)/2025 (JNCH)/Appeals dated 10.03.2025, has set aside the customs penalties previously imposed on the CB. Considering these mitigating factors and the absence of proven *mens rea*, I find the extreme action of revocation of the Customs Broker's License unwarranted.

Hence, under the factual matrix of the case and applying the principle of proportionate punishment, I am not inclined to revoke the License of the CB, as the absolute punishment of revocation is much harsher and disproportionate to the offence committed. Accordingly, the suspension of the license is liable to be removed. However, given the serious nature of the non-compliance involving public health laws, I am of the considered view that the ends of justice will be met by ordering the forfeiture of the entire security deposit of the CB under Regulation 14 of the CBLR, 2018, and by imposing a penalty on the CB under Regulation 18 of the CBLR, 2018, which suffices both as a punishment for the infractions and as a strong 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(l)(g) of the Constitution has to be noted. It has also to be borne in mind that the proportionality question is of great significance as action is under a fiscal statute and may ultimately lead to a civil death."

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

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

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

"6. We are unable to appreciate such a peremptory conclusion. The CBLR, 2013 lays down that stepwise procedures are to be followed before ordering any punishment to the Customs broker. True, the said regulations do contain provisions for revocation of the license and for forfeiture of full amount of security deposit, however these are maximum punishments which should be awarded only when the

culpability of the Customs broker is established beyond doubt and such culpability is of very grave and extensive nature. In case of such fraudulent imports, for awarding such punishment, it has to be established without doubt that the Customs broker had colluded with the importer to enable the fraud to take place. No such culpability is forthcoming in respect of the appellant herein.....”

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

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

22. I find that the Inquiry Report against the SCN dated 27.06.2025 in the present case was submitted on 10.11.2025. The IO attributed the delay in submitting the Inquiry Report to the fact that the CB requested for cross-examination during the hearing held on 25.09.2025, but never provided the list of persons whose cross-examination was sought, and subsequently submitted their reply on 16.10.2025. Further, on receipt of the Inquiry Report and the Disagreement Memo, the CB was granted Personal Hearing opportunities on two previous occasions but the CB sought adjournments, and the sequence of events has been elaborated above. Consequently, the matter was taken up for adjudication on the basis of facts and evidences available on record. However, the CB vide a letter dated 23.02.2026 explained the reasons for their inability to attend the Personal Hearing scheduled on that date due to an urgent domestic matter of their appointed counsel and requested for a final personal hearing opportunity after 10.03.2026. The CB’s request was acceded to and a final Personal Hearing opportunity was granted to the CB on 11.03.2026 at 12.00 p.m. Advocate K.S. Mishra, Advocate Aditya Tripathi, and Shri Ashwanii Dham, Director of the CB firm M/s. Saidutta Clearing Agency Pvt Ltd, appeared for the Personal Hearing on 11.03.2026 at 12.00 p.m. The CB’s repeated requests for adjournments at the previous Personal Hearing opportunities delayed the adjudication proceedings significantly. Further, with respect to the timelines prescribed under Regulation 17 of the CBLR, 2018, relying on the following caselaws, I observe that the timelines under CHALR/CBLR are directory in nature and not mandatory:

a) **Hon'ble High Court of Judicature at Bombay in the case of Principal Commissioner of Customs (General), Mumbai Versus Unison Clearing P. Ltd.** reported in 2018 (361) E.L.T. 321 (Born.), observed that:

"15. In view of the aforesaid discussion, the time limit contained in Regulation 20 cannot be construed to be mandatory and is held to be directory. As it is already observed above that though the time line framed in the Regulation need to be rigidly applied, fairness would demand that when such time limit is crossed, the period subsequently consumed for completing the inquiry should be justified by giving reasons and the causes on account of which the time limit was not adhered to. This would ensure that the inquiry proceedings which are initiated are completed expeditiously, are not prolonged and some checks and balances must be ensured. One step by which the unnecessary delays can be curbed is recording of reasons for the delay or non-adherence to this time limit by the Officer conducting the inquiry and making him accountable for not adhering to the time schedule. These reasons can then be tested to derive a conclusion whether the deviation from the time line prescribed in the Regulation, is "reasonable". This is the only way by which the provisions contained in Regulation 20 can be effectively implemented in the interest of both parties, namely, the Revenue and the Customs House Agent."

b) **The Hon'ble High Court of Telangana, in the matter of M/s. Shasta Freight Services Pvt Ltd vs Principal Commissioner of Customs, [Writ Petition No. 29237 of 2018] held that: -**

"42. Therefore, if the tests laid down in Dattatreya Moreshwar, which have so far held the field, are applied, it would be clear (i) that the time limit prescribed in Regulation 20 (7) is for the performance of a public duty and not for the exercise of a private right; (ii) that the consequences of failure to comply with the requirement are not spelt out in Regulation 20(7) (iii) that no prejudicial consequences flow to the aggrieved parties due to the non-adherence to the time limit; and

(iii) that the object of the Regulations, the nature of the power and the language employed do not give scope to conclude that the time limit prescribed is mandatory. Hence, we hold that the time limit prescribed in Regulation 20 (7) is not mandatory but only directory."

(c) **The Hon'ble High Court of Karnataka, in the matter of The Commissioner of Customs vs M/s. Sri Manjunatha Cargo Pvt Ltd on 12 January [C.S.T.A. No. 10/2020] held that: -**

“13. A reading of Regulation 17 of the C.B.L.R., 2018 makes it very clear that though there is a time limit stipulated in the Regulations to complete a particular act, non-compliance of the same would not lead to any specific consequence.

14. A reading of the Regulation 17 would also go to show that the Inquiry Officer during the course of his inquiry is not only required to record the statement of the parties but also to give them an opportunity to cross-examine and produce oral and documentary evidence. In the event of the respondents not co-operating, it would be difficult for the Inquiry Officer to complete the inquiry within the prescribed period of 90 days, as provided under Regulation 17(5). Therefore, we find force in the argument of the learned counsel for the appellant that the Regulation No.17 is required to be considered as directory and not mandatory. Though the word "shall" has been used in Regulation 17, an overall reading of the said provision of law makes it very clear that the said provision is procedural in nature and non-compliance of the same does not have any effect. If there is no consequence stated in the Regulation for non-adherence of time period for conducting the inquiry or passing an order there afterwards, the time line provided under the 22 statute cannot be considered as fatal to the outcome of inquiry.

15. Under the circumstances, we are of the considered view that the provisions of Regulation 17 of the C.B.L.R., 2018 is required to be considered as directory and not mandatory and accordingly, we answer the substantial questions of law Nos.1 to 3 in favour of the appellant and against the respondent.”

(d) The Hon’ble CESTAT Mumbai in the matter of M/s. Muni Cargo Movers Pvt. Ltd. Vs. Commissioner of Customs (General), Mumbai [Order No. A/996/13CSTB/C-I dated 23.04.2013] held that: -

“Para 4.2:- As regards the third issue regarding non-adherence to the time-limit prescribed in CBLR, there is some merit in the argument. But nevertheless, it has to be borne in mind that time-limit prescribed in the law though required to be followed by the enforcement officers, at times could not be adhered to for administrative reasons. That by itself does not make the impugned order bad in law”.

23. Having gone through the facts of the case and evidences on record, it is noted that the role of the CB, though marked by severe negligence and lack of professional caution, appears to be one of omission and failure to adhere to prescribed standards rather than a well-thought-out modus operandi to effect improper imports. This distinction is of material importance while determining the proportionality of punishment under the licensing

regulations. The objective of action under the CBLR is not punitive alone but also corrective and deterrent, aimed at ensuring that Customs Brokers adhere to the high standards of diligence and responsibility expected of them as licensed intermediaries. In the present case, the serious regulatory lapses established on record justify the forfeiture of the security deposit and the imposition of a monetary penalty under the CBLR, 2018, so as to underscore the seriousness of the obligations violated and to deter the recurrence of such lapses in the future. However, having regard to the absence of proven active abetment, the nature of the violations, and the fact that revocation of the licence would have severe and disproportionate consequences on the livelihood of the CB and its employees, the extreme penalty of revocation of the license is not warranted, and the ongoing suspension is liable to be removed.

24. 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. Saidutta Clearing Agency Pvt Ltd (CB License No. 11/978) is held liable and guilty for violating the provisions of the CBLR, 2018, as mentioned above. I hold that the CB has failed to discharge their duties cast upon them with respect to Regulations 10(d), 10(e), 10(f) & 10(n) of the CBLR, 2018 and the interest of justice would be adequately met by the forfeiture of their entire security deposit under Regulation 14 and the imposition of penalty under Regulation 18 of the CBLR, 2018. Consequently, the suspension of their license merits revocation. Accordingly, I pass the following order:

ORDER


25. 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 the forfeiture of the entire security deposit of the Customs Broker M/s. Saidutta Clearing Agency Pvt Ltd (CB License No. 11/978) under Regulation 14 of the CBLR, 2018.

(ii) I, hereby impose a penalty of Rs. 50,000/- (Rupees Fifty Thousand only) on the Customs Broker M/s. Saidutta Clearing Agency Pvt Ltd (CB License No. 11/978) under Regulation 18(1) of the CBLR, 2018.

(iii) I, hereby direct that the suspension of the Customs Broker License No. 11/978 of M/s. Saidutta Clearing Agency Pvt Ltd, continued vide Order No. 07/2025-26 CBS dated 19.06.2025, be revoked with immediate effect.

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.


30/3/26
(Shraddha Joshi Sharma)
Commissioner of Customs (Gen.)
NCH, Mumbai-I

To,
M/s. Saidutta Clearing Agency Pvt Ltd (CB License No. 11/978)
201, Madhuban Building, 23,
Cochin Street, Fort,
Mumbai - 400001.

Copy to:

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