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OFFICE OF THE COMMISSIONER OF CUSTOMS (GENERAL)
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F. No. GEN/CB/433/2024-CBS

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ORDER No. 31/2025-26

UNDER REGULATION 16(1) OF THE CUSTOMS BROKER LICENSING
REGULATION, 2018

An investigation was initiated by the Special Intelligence and Investigation Branch (Export) ACC, Mumbai -III (hereinafter referred to as "SIIB") against the Exporter M/s. Heeba Enterprises Pvt. Ltd., holder of IEC 0316963721 [hereinafter referred to as the "Exporter"] regarding realisation of BRCs against exports. Pursuant to the completion of the said investigation, it appeared that export proceeds in respect of 108 shipping bills filed by the Exporter had not been realised by them during the year 2016-2018, involving FOB value of Rs. 15,47,16,142/-, claiming Drawback of Rs. 63,49,427/- and ROSCTL amount of Rs.22,48,812/-. Subsequently, Show Cause Notice No. 142/ADC/ADJ(X)/ 2022-23 dated 30.03.2024 [hereinafter referred to as "the said SCN"] was issued to the Exporter, with the seven Customs Brokers included as co-noticees, proposing penal action under the provisions of the Customs Act, 1962. Furthermore, a Corrigendum dated 11.07.2024 was issued amending para 17 of the said SCN, incorporating additional details.

2. Subsequently, the SIIB have found that even though the names of the Customs Broker M/s. Eagle Shipping Agency (CB No. 11/994) was mentioned in the said SCN; their roles had neither been adequately addressed in the said SCN nor had specific penalties been proposed against them for their specific involvement in the clearance of the export consignments and their non-compliance with the Customs Brokers Licensing Regulations (CBLR), 2018.

3. Accordingly, an investigation was initiated by SIIB against the said CB by issuing a summons for the purpose of recording their statements.

3.1 On scrutiny of the 1.5 ICES system, it was observed that the Customs Broker, i.e. M/s. Eagle Shipping Agency (CB No. 11/994) had filed 10 shipping bills on behalf of the Exporter, involving total FOB value of ₹71,16,054/-, Drawback of ₹5,55,055/- and RoSCTL of ₹2,34,959/-.

Accordingly, a Summons dated 27.02.2025 was issued to the M/s. Eagle Shipping Agency. However, the same was returned undelivered with the remarks "No Such Person." Subsequent summons issued on 19.09.2025 and 26.09.2025 were also returned with identical remarks.

In view of the above, the statement of the representative of the said Customs Broker could not be recorded under Section 108 of the Customs Act, 1962, and therefore reliance is placed solely on the available records.

3.2 It is pertinent to mention that penal action for a Customs Broker's non-cooperation with Customs authorities falls under the Customs Brokers Licensing Regulations (CBLR), 2018, specifically Regulation 10(q), which mandates that the broker must co-operate with Customs authorities and join investigations promptly.

4. LEGAL PROVISIONS APPLICABLE IN THE CASE:

(a) Customs and Central Excise Duties Drawback Rules, 2017:

Rule 3: Drawback – (1) Subject to provisions of

Provided further that no drawback shall be allowed:

.....

(ii) if the said goods are produced or manufactured, using imported materials or excisable materials in respect of which duties have not been paid.

Rule 17: Repayment of erroneous or excess payment of drawback and interest.

Where an amount of drawback and interest, if any, has been paid erroneously or the amount so paid is in excess of what the claimant is entitled to, the claimant shall, on demand by a proper officer of Customs repay the amount so paid erroneously or in excess, as the case may be, and where the claimant fails to repay the amount, it shall be recovered in the manner laid down in sub-section (1) of the Section 142 of the Customs Act, 1962.

Rule 18: Recovery of amount of Drawback where export proceeds not realized-

(1) Where an amount of drawback has been paid to an exporter or a person authorised by him (hereinafter referred to as the claimant) but the sale proceeds in respect of such export goods have not been realised by or on behalf of the exporter in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), including any extension of such period, such drawback shall,

except under circumstances or conditions specified in sub-rule (5), be recovered in the manner specified below.

(2) If the exporter fails to produce evidence in respect of realisation of export proceeds within the period allowed under the Foreign Exchange Management Act, 1999, or any extension of the said period by the Reserve Bank of India, the Assistant Commissioner of Customs or the Deputy Commissioner of Customs, as the case may be, shall cause notice to be issued to the exporter for production of evidence of realisation of export proceeds within a period of thirty days from the date of receipt of such notice and where the exporter does not produce such evidence within the said period of thirty days, the Assistant Commissioner of Customs or Deputy Commissioner of Customs, as the case may be, shall pass an order to recover the amount of drawback paid to the claimant and the exporter shall repay the amount so demanded within thirty days of the receipt of the said Order:

Provided that where a part of the sale proceeds has been realised, the amount of drawback to be recovered shall be the amount equal to that portion of the amount of drawback paid which bears the same proportion as the portion of the sale proceeds not realised bears to the total amount of sale proceeds.

(b) Relevant paras of Notification No. 77/21-Customs (N.T.) dated 24th September, 21 as amended:

2. Such duty credit shall be subject to the following conditions, namely:

(4) that the duty credit allowed under the Scheme, against export of goods notified vide notification No. 14/26/2016-IT (Vol.II), dated the 8th March, 19 for the Scheme, shall be subject to realisation of sale proceeds in respect of such goods in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), failing which such duty credit shall be deemed to be ineligible;

(6) that the exporter has realised the sale proceeds against export of goods made earlier by the said exporter where the period allowed for realisation, including any extension of the said period by the Reserve Bank of India, has expired: Provided that duty credit shall be issued by Customs in excess of the ineligible amount of duty credit pertaining to the unrealised portion of sale proceeds against export of goods made earlier. Provided further that if the Principal Commissioner of Customs or Commissioner of Customs has reason to believe, on the basis of risk evaluation or on the basis of enquiry, that the claim of duty credit made by an exporter on export goods may not be bona fide, he may direct, for reasons to be recorded in writing, to allow duty credit after realisation of sale proceeds of such exports;

3. Cancellation of duty credit.

(1) Where a person contravenes any of the provisions of the said Act or any other law for the time being in force or the rules or regulations made thereunder in relation to exports to which the duty credit relates, or in relation to the e-scrip, the Principal Commissioner of Customs or Commissioner of Customs having jurisdiction over the customs station of registration of the e-scrip may, after enquiry, pass an order to cancel the said duty credit or e-scrip.

(2) Where the e-scrip is so cancelled, the duty credit amount in the said e scrip shall be deemed never to have been allowed and the proper officer of Customs shall proceed to recover the duty credit amount used in such e scrip or transferred from such e-scrip.

(3) The proper officer of Customs may, without prejudice to any other action that may be taken under the said Act or any other law for the time being in force, suspend the operation of the said e-scrip or the electronic duty credit ledger of such exporter or any duty credit transferred from such e-scrip, during pendency of the enquiry under sub-clause (1).

4. Recovery of amount of duty credit.

(1) Where an amount of duty credit has, for any reason, been allowed in excess of what the exporter is entitled to, the exporter shall repay the amount so allowed in excess, himself or on demand by the proper officer, along with interest, at the rate as fixed under section 28AA of the said Act for the purposes of that section, on that portion of duty credit allowed in excess, which has been used or transferred, and where the exporter fails to repay the amount along with interest, as applicable, it shall be recovered in the manner provided in section 142 of the said Act.

5. Recovery of amount of duty credit where export proceeds are not realised.

(1) Where an amount of duty credit has been allowed to an exporter but the sale proceeds in respect of such export goods have not been realised by the exporter in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), the exporter shall, himself or on demand by the proper officer, repay the amount of duty credit, along with interest, at the rate as fixed under section 28AA of the said Act for the purposes of that section, within fifteen days of expiry of the said period.

(2) In case any extension of the said period for realisation of sale proceeds has been given by the Reserve Bank of India and the exporter produces evidence of such extension to the proper officer, and if the said sale proceeds are not realised in such extended period, the exporter shall repay the said amount of duty credit along with the said interest, within fifteen days of expiry of the said period.

(3) If a part of the sale proceeds has been realised, the amount of duty credit to be recovered shall be the amount equal to that portion of the amount of duty credit allowed which bears the same proportion as the portion of the sale proceeds not realised bears to the total amount of sale proceeds.

(4) Where the exporter fails to repay the duty credit amount within the said period of fifteen days, the said duty credit shall be deemed never to have been allowed and it shall be recovered, along with the said interest, in the manner as provided in section 142 of the said Act.

(c) Section 50. Entry of goods for exportation.

(1).....

(2) The exporter of any goods, while presenting a shipping bill or bill of export, shall make and subscribe to a declaration as to the truth of its contents.

(3) The exporter who presents a shipping bill or bill of export under this section 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.

(b) **SECTION 75. Drawback on imported materials used in the manufacture of goods which are exported.** – (1) Where it appears to the Central Government that in respect of goods of any class or description [manufactured, processed or on which any operation has been carried out in India] [, being goods which have been entered for export and in respect of which an order permitting the clearance and loading thereof for exportation has been made under section 51 by the proper officer], [or being goods entered for export by post under section 82 and in respect of which an order permitting clearance for exportation has been made by the proper officer], a drawback should be allowed of duties of customs chargeable under this Act on any imported materials of a class or description used in the [manufacture or processing of such goods or carrying out any operation on such goods], the Central Government may, by notification in the Official Gazette, direct that drawback shall be allowed in respect of such goods in accordance with, and subject to, the rules made under sub-section (2):

.....

.....

Provided further that where any drawback has been allowed on any goods under this sub-section and the sale proceeds in respect of such goods are not received by or on behalf of the exporter in India within the time allowed under

the Foreign Exchange Management Act, 1999 (42 of 1999)), such drawback shall except under such circumstances or such conditions as the Central Government may, by rule, specify, be deemed never to have been allowed and the Central Government may, by rules made under sub-section (2), specify the procedure for the recovery or adjustment of the amount of such drawback.

(e) As per Section 75A - Interest on Drawback (

2) “Where any drawback has been paid to the claimant erroneously or it becomes otherwise recoverable under this Act or the rules made thereunder, the claimant shall, within a period of two months from the date of demand, pay in addition to the said amount of drawback, interest at the rate fixed under [27](section 28AA) and the amount of interest shall be calculated for the period beginning from the date of payment of such drawback to the claimant till the date of recovery of such drawback.”

(f) Section 117 of the Customs Act, 1962: Any person who contravenes any provision of this Act or abets any such contravention or who fails to comply with any provision of this Act with which it was his duty to comply, where no express penalty is elsewhere provided for such contravention or failure, shall be liable to a penalty not exceeding [four lakh rupees].

(g) The Foreign Trade (Development and Regulation) Act, 1992;

Section 11 - Contravention of provision of this Act, Rules, Orders and Foreign trade Policy:

1. No export or import shall be made by any person except in accordance with the provision of this Act, the rule and orders made there under and the foreign trade policy for the time being in force.

(h) The Foreign Exchange Management Act, 1999

Section 7. Export of goods and services.— (1) Every exporter of goods shall—

(a) furnish to the Reserve Bank or to such other authority a declaration in such form and in such manner as may be specified, containing true and correct material particulars, including the amount representing the full export value or, if the full export value of the goods is not ascertainable at the time of export, the value which the exporter, having regard to the prevailing market conditions, expects to receive on the sale of the goods in a market outside India;

(b) furnish to the Reserve Bank such other information as may be required by the Reserve Bank for the purpose of ensuring the realisation of the export proceeds by such exporter.

Section 8. Realisation and repatriation of foreign exchange. — Save as otherwise provided in this Act, where any amount of foreign exchange is due or has accrued to any person resident in India, such person shall take all reasonable steps to realise and repatriate to India such foreign exchange within such period and in such manner as may be specified by the Reserve Bank.

(i) Foreign Exchange Management (Export of Goods & Services) Regulations, 2015 :

Regulation 9. Period within which export value of goods/software/ services to be realised:

(1) The amount representing the full export value of goods / software/ services exported shall be realised and repatriated to India within 3 nine months or within such period as may be specified by the Reserve Bank, in consultation with the Government, from time to time, from the date of export, provided

(a) that where the goods are exported to a warehouse established outside India with the permission of the Reserve Bank, the amount representing the full export value of goods exported shall be paid to the authorised dealer as soon as it is realised and in any case within 3 fifteen months or within such period as may be specified by the Reserve Bank, in consultation with the Government, from time to time from the date of shipment of goods; (b) further that the Reserve Bank, or subject to the directions issued by that Bank in this behalf, the authorised dealer may, for a sufficient and reasonable cause shown, extend the 3 said period.

(2).....

(j) Provisions of Customs Brokers Licensing Regulations, 2018:

Regulation 10. Obligations of Customs Broker.

A Customs Broker shall --

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

(e) “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”;

.....

(n) "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".

.....

(q) co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees.

(k) MoT's Notification No. 120/03/2016-IT dated 12.08.2016 and notification no.12015/47/2016-IT dated 03.01.2017:---

6. REPAYMENT BY CLAIMANT/ RECOVERY AND DISPUTE RESOLUTION:

6.1 The rebate allowed is subject to the receipt of sale proceeds within time allowed under the Foreign Exchange Management Act, 1999 failing which such rebate shall be deemed never to have been allowed on the same lines as Duty Drawback. Further, any other cause that also affects the Duty Drawback shall be deemed to have the similar effect on the rebate. In these cases, the officers of CBEC shall in any case be adopting the processes as applicable to Duty Drawback Scheme for repayment of erroneous or excess paid Duty Drawback and its recovery. The decisions with respect to Duty Drawback, including in cases of disputes, shall be deemed to apply mutatis mutandis to the rebate under this scheme and repayment or recovery made accordingly by the officer of CBEC. Further, the exporter shall return any over-payment of rebate arising from miscalculation. Where there is repayment, recovery or return, interest shall also be paid by exporter at the rate of fifteen per cent per annum calculated from the date of payment of rebate till the date of repayment, recovery or return.

(I) MoT's Notification No. 14/26/2016-IT (Vol.II)(Part II) dated 02.05.19:

1. In continuation of the aforesaid notification, nature of rebate, mechanism of issue of scrips, over-claim/ claim based on mis declaration and procedure for recovery under ROSCTL are hereby notified as follows:

(C) Over-claim/ claim based on mis-declaration and procedure for recovery: (i) The rebate allowed is subject to the receipt of sale proceeds within time allowed under the Foreign Exchange Management Act, 1999 failing which such rebate shall be deemed never to have been allowed. Action under the FT (D&R) Act may be taken by the Regional Authorities for recovery of erroneous or excess paid ROSCTL. Further, the exporter is required to return any over-payment of rebate issued through the scrips arising from miscalculation. Where there is repayment, recovery or return, interest shall also be paid by the exporter at the rate of fifteen per cent per annum calculated from the date of debit of the scrip till the date of repayment, recovery or return along with penalty, if imposed under an Adjudication order. Unutilized scrip under ROSCTL would be 4 THE GAZETTE OF INDIA: EXTRAORDINARY [PART I—

SEC. 1] surrendered with no interest, however, a penalty may be imposed in case of mis-declaration and fraudulent practice under the provisions of FT (D&R) Act.

(ii) In case a recovery is due, DGFT or any officer designated by the DGFT shall issue a letter to the exporter and request the exporter to deposit the full sum (principal plus interest) within 30 days in the relevant account head of Customs. In case of non-compliance, action under the FT (D&R) Act would be initiated and a penalty might be imposed along with suitable action to recover duty plus interest.

SUMMARY OF THE INVESTIGATION

5. From the above stated facts and extant legal provisions, it appears that:

5.1 The Customs Broker M/s. Eagle Shipping Agency who had effected the clearance of export shipments were included in the said SCN, issued to the Exporter, along with the seven Customs Brokers as co noticees, for non-realisation of export proceeds in respect of 108 shipping bills filed during 2016–2018, involving total FOB value of Rs. 15,47,16,142/-, with Drawback of Rs. 63,49,427/- and ROSCTL amount of Rs. 22,48,812/-.

5.2 With respect to the Customs Broker, M/s. Eagle Shipping Agency, who had also filed 10 Shipping Bills, although their name was mentioned in the said SCN, the Notice did not elaborate upon their role in the alleged non-realisation of export proceeds. The Customs Broker, M/s. Eagle Shipping Agency failed to appear for their summons or co-operate with the investigations.

5.3. Therefore, it can be seen that although a total of ten Customs Brokers were involved in clearing the export consignments, the said SCN was issued only to the Exporter and the seven Customs Brokers as co-notices, thereby excluding the aforementioned three CBs from further action.

5.4. Accordingly the involvement and lapses of the aforementioned CB appears to be as under:-

M/s. Eagle Shipping Agency (CB No. 11/994):

- They did not respond or cooperate with the Department, despite being issued multiple summons. Thus, they failed to explain their role in the export transactions involving substantial incentive claims. In light of this non-cooperation and prima facie involvement, it appears that the Customs Broker have rendered themselves accountable based on available documentary evidence.

6. ROLE OF THE CUSTOMS BROKER:

6.1. The Customs Broker (CB) is an agent, authorised by the Exporter to work on their behalf. As per regulation 10(d) & 10(e) of the CBLR, 2018, it is the obligation of the Customs Broker to exercise due diligence to ascertain the correctness of any information he imparts to a client and to advise the client accordingly to comply with

the provisions of the Customs Act, 1962, other allied Acts, and rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be. Also, as per regulation 10(n), it is mandatory for a Customs Broker to verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information. As per regulation 10(q), which mandates that a Customs Broker must fully cooperate with the Customs authorities and promptly participate in investigations when required. These CBLR Regulations cast a mandatory duty upon the Custom Broker, who serves as an important link between the Customs Authorities and the Exporter, and any dereliction of this duty or lack of due diligence results in loss to the Exchequer in terms of evasion of Customs Duty. A Customs Broker occupies a very important position in the customs House and was supposed to safeguard the interests of both, the Exporter and the Customs Department. Further, in a regime of trade facilitation, trust is being placed on the Customs Broker who deals directly with the Exporters. Failure to comply with regulation by the CB mandated in the CBLR gives room for unscrupulous persons to get away with import-export violations and revenue frauds.

6.2. In the instant case, the Customs Broker, M/s. Eagle Shipping Agency had cleared shipments of the Exporter. Since Customs Brokers are expected to act as authorised representatives of the Department while simultaneously serving as advisors to their clients, it is their responsibility to ensure that all provisions of the Customs Act, 1962, and other rules and regulations are duly complied with by themselves and their clients. However, from the investigation, it appears that the Customs Brokers, M/s. Atlantic Customs Broker, M/s. Eagle Shipping Agency did not verify the correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity and functioning of their client, the Exporter at their declared address by using reliable, independent, authentic documents, data or information as mandated by regulation 10(n) of CBLR, 2018. Also, the Customs Brokers, being aware of the Customs Act, 1962, and the Rules and Regulations, thereof, failed to advise their client to comply with the provisions of the Customs Act, 1962, and the rules and regulations made thereunder, even though it was mandated by Regulation 10(d) of the Customs Brokers Licensing Regulations, 2018.

6.3. In the instant case, neither the Exporter nor the CB had suo moto informed the department about the Exporter's failure to realise the export proceeds or their inability to furnish the Bank Realisation Certificates (BRCs). They did not bring this discrepancy to the notice of Customs authorities, though mandated to do so by Regulation 10(d) of CBLR, 2018. It was the department that had detected the case on the basis of the intelligence. This clearly demonstrated the casual attitude of these CBs towards their obligations mandated under CBLR 2018. They failed to exercise due diligence in ascertaining the correctness of the information imparted to

their client with respect to compliance with the provisions of the Customs Act, 1962, other allied Acts, and rules, & regulations related to the clearance of cargo, as mandated under Regulation 10(e) of the CBLR, 2018.

6.4. The above act of omissions and commissions by the these CBs has resulted in contravention of the provisions of Regulation 10(d), 10(e), 10(n) & 10(q) of the CBLR, 2018, Section 50(2), 50(3) & 75(1) of the Customs Act, 1962 read with Section 7(1) & 8 of the Foreign Exchange Management Act, 1999, Rule 17 & 18 of the Customs and Central Excise CUS/DBK/ADJN/2/2024-DBK(EDI)-O/o Commr-Cus-Exp-Zone-III-Mumbai I/3567654/2025 Duties Drawback Rules, 2017, Rule 11 of the Foreign Trade (Regulations) Rules, 1993 and Regulation 9 of the Foreign Exchange Management (Export of Goods & Services) Regulations, 2015. 6.5. Thus, the above Custom Brokers by non-fulfilling their statutory obligations under Regulation 10(d), 10(e), 10(n) and 10(q) of CBLR, 2018, appear to have rendered themselves liable for penal action under Section 117 of the Customs Act, 1962. Their failure amounts to a violation of Customs Laws and Regulations, warranting penal action for complicity and negligence.

7. In view of the above, it appears that CB M/s Eagle Shipping Agency, (CB No.

11/994), has failed to comply with following regulations of the Customs Brokers

Licensing Regulations 2018: -

7.1 Regulation 10 (d) of the CLR, 2018, which reads as under:

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

In this case, the Customs Broker had failed to exercise due diligence to ascertain the correctness of any information he imparts to a client and to advise the client accordingly to comply with the provisions of the Customs Act, 1962, other allied Acts, and rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs. M/s. Eagle Shipping Agency who had effected the clearance of export shipments were included in the said SCN, issued to the Exporter, along with the seven Customs Brokers as co noticees, for non-realisation of export proceeds in respect of 108 shipping bills filed during 2016–2018, involving total FOB value of Rs. 15,47,16,142/-, with Drawback of Rs. 63,49,427/- and ROSCTL amount of Rs. 22,48,812/-. In the instant case, neither the Exporter nor the CBs had suo moto informed the department about the Exporter's failure to realise the export proceeds or their inability to furnish the Bank Realisation Certificates (BRCs). They

did not bring this discrepancy to the notice of Customs authorities though mandated to do so by the Regulation 10(d) of CBLR, 2018.

7.2 Regulation 10 (e) of the CBLR, 2018, which reads as under

“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;”

It was the department that had detected the case on the basis of the intelligence. This clearly demonstrated the casual attitude of these CBs towards their obligations mandated under CBLR 2018. They failed to exercise due diligence in ascertaining the correctness of the information imparted to their client with respect to compliance with the provisions of the Customs Act, 1962, other allied Acts, and rules, & regulations related to the clearance of cargo. The CB failed to act diligently in the matter and got purposely involved in clearance of export consignments in which no foreign remittance has been received and thus appears to have violated Regulation 10 (e) of the CBLR, 2018.

7.3 Regulation 10 (n) of the CBLR, 2018, which reads as under

"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".

In the instant case, the Customs Broker, M/s. Eagle Shipping Agency had cleared shipments of the Exporter. Since, Customs Broker is expected to act as an authorised representative of the Department while simultaneously serving as an advisor to their clients, it is their responsibility to ensure that all provisions of the Customs Act, 1962, and other rules and regulations are duly complied with by themselves and their clients. However, from the investigation, it appears that the Customs Broker, M/s. Eagle Shipping Agency did not verify the correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity and functioning of their client, the Exporter at their declared address by using reliable, independent, authentic documents, data or information as mandated by regulation 10(n) of CBLR, 2018.

7.4 Regulation 10 (q) of the CBLR, 2018, which reads as under

“co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees.”

As per regulation 10(q), which mandates that a Customs Broker must fully cooperate with the Customs authorities and promptly participate in investigations when required. These CBLR Regulations cast a mandatory duty upon the Custom Broker, who serves as an important link between the Customs Authorities and the Exporter, and any dereliction of this duty or lack of due diligence results in loss to the Exchequer in terms of evasion of Customs Duty. A Customs Broker occupies a very important position in the customs House and was supposed to safeguard the interests of both, the Exporter and the Customs Department. Further, in a regime of trade facilitation, trust is being placed on the Customs Broker who deals directly with the Exporters. Failure to comply with regulation by the CB mandated in the CBLR gives room for unscrupulous persons to get away with import-export violations and revenue frauds. M/s. Eagle Shipping Agency did not participate in the investigation which resulted in loss to the Exchequer in terms of evasion of Customs Duty involving total FOB value of Rs. 15,47,16,142/-, with Drawback of Rs. 63,49,427/- and ROSCTL amount of Rs. 22,48,812/-.

8. Further, I observe that the CB licence has been suspended in earlier case. The said case was decided by the competent authority and the licence has been revoked. It appears that the charges levied on Customs Broker was proved. In view of this, it appears that the Custom Broker is habitual offender and may participate in fraudulent activity in future also.

9. Considering the observations made above, it is evident that the CB has a very important role in customs clearances and a lot of trust has been placed by the Department in the CB. In the context of trade facilitation, where an increasing number of goods are processed through Risk Management Systems without customs examination, the role of the Customs Broker (CB) has become even more critical in ensuring that the country's economic borders are effectively protected. But in the instant case, by their acts of omission and commission, it appears that the CB was actively involved in the fraudulent activity by mis-declaring the goods without BIS licence.

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

"...Therefore, the grant of licence to act as a Custom House Agent has got a definite purpose and intent. On a reading of the Regulations relating to the grant of licence to act as CHA, it is seen that while CHA should be in a position to act as agent for the transaction of any business relating to the entry or departure of conveyance or the import or export of goods at any customs station, he should also ensure that he does not act as an Agent for carrying on certain illegal activities of any of the persons who

avail his services as CHA. In such circumstances, the person playing the role of CHA has got greater responsibility. The very description that one should be conversant with the various procedures including the offences under the Customs Act to act as a Custom House Agent would show that while acting as CHA, he should not be a cause for violation of those provisions. A CHA cannot be permitted to misuse his position as CHA by taking advantage of his access to the Department. The grant of licence to a person to act as CHA is to some extent to assist the Department with the various procedures such as scrutinizing the various documents to be presented in the course of transaction of business for entry and exit of conveyances or the import or export of the goods. In such circumstances, great confidence is reposed in a CHA. Any misuse of such a position by the CHA will have far reaching consequences in the transaction of business by the customs house officials. Therefore, when, by such malpractices, there is loss of revenue to the custom house, there is every justification for the Respondent in treating the action of the Petitioner Applicant as detrimental to the interest of the nation and accordingly, final order of revoking his licence has been passed."

11. From the above facts, it appears that, prima facie, Customs Broker M/s Eagle Shipping Agency, (CB No. 11/994), had violated Regulation 10(d), 10(e), 10(n), & 10(q) of CBLR, 2018. It is apprehended that the Custom Broker may adopt similar modus operandi in future consignments and the department cannot remain oblivious to the danger posed by such an eventuality.

12. From the above facts, prima facie, the Customs Broker M/s Eagle Shipping Agency, (CB No. 11/994) appeared to have failed to fulfil their obligations under Regulation 10 of CBLR, 2018 and contravened the same. Therefore, for their acts of omission and commission as above, CB M/s Eagle Shipping Agency, (CB No. 11/994) appears to be liable and guilty.

13. Accordingly, I pass the following order: -

ORDER

14.1 I, Commissioner of Customs (General), in exercise of powers conferred upon me under the provisions of Regulation 16(1) of CBLR, 2018, hereby suspend the CB Licence of Customs Broker M/s Eagle Shipping Agency, (CB No. 11/994) with immediate effect, being fully satisfied that the Customs Broker has prima facie not fulfilled their obligations as laid down under Regulation 10(d), 10(e), 10(n), & 10(q) of CBLR, 2018.

14.2 However, I offer the Customs Broker M/s Eagle Shipping Agency (CB No. 11/994), an opportunity for a personal hearing on the

26th March at 12 pm. Any written representation against this order should reach the undersigned before the date of the hearing.

14.3 M/s Eagle Shipping Agency, (CB No. 11/994) is directed to surrender all the original Custom Passes issued to their employee/partner/director/proprietor immediately.

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

Digitally signed by
Shraddha Joshi Sharma
Date: 12-03-2026
12:49:33

(SHRADDHA JOSHI SHARMA)
Commissioner of Customs, CBS (General)
New Customs House, Mumbai, Zone-I

To,

M/s Eagle Shipping Agency, (CB No. 11/994).
E-104, OM GOKUL NAGARI CHS LTD, 90 FT RD,
THAKUR COMPLEX, KANDIVALI-E, MUMBAI - 400101

Copy to:

1. The Pr./Chief Commissioner of Customs, Mumbai Zone I, II, III.
2. The Joint Director, DRI, MZU, Mumbai
3. CIU's of NCH, ACC & JNCH, Mumbai
4. The Commissioner of Customs, Mumbai Zone I, II, III.
5. EDI of NCH, ACC & JNCH, Mumbai
6. BCBA
7. Office copy.
8. Notice Board.