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

संचिका सं./F. No.- GEN/CB/215/2025–CBS आदेश दिनांक/Date of Order:20.01.2026

CAO No.128/2025-26/CAC/CC(G)/SJS/Adj-CBS जारी दिनांक/Date of issue:29.01.2026

संख्या:

DIN:- 20260177000000000ED04

द्वारा जारी : श्रद्धा जोशी शर्मा
आयुक्त, सीमाशुल्क (सामान्य)
मुंबई -400 001

Issued By : Shraddha Joshi Sharma
Commissioner of Customs (Gen.)
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। This copy is granted free of Charge for the private use of the person to whom it is issued.

2. इस आदेश के विरुद्ध अपील माँगे गए राशी के **7.5%** के भुगतान पर सीमाशुल्क अधिनियम, 1962 129 की धाराA(1B)(i) के संबंधमें सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण में स्वीकार्य है, जहाँ शुल्क या शुल्क एवं जुर्माना विवादित हों, या जुर्माना, जहाँ सिर्फ जुर्माना ही विवादित हो।यह अपील इस आदेश के संप्रेषण की तारीख के तीन महीने के अंदर दायर की जाएगी। यह अपील सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण नियमावली (कार्यविधि), १९८२, के प्रावधानों के अंतर्गत, यथोतखंडपीठ 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 संदर्ब में जारी आदेश क्रमांक A/86617-86619/2018 दिनांक के अनुसार न्यायिक आदेश तदोउ 31.05.2018 प्रांत न्याय निर्णयन अधिकारी' *functus officio* 'बन जाता है
It is informed that the jurisdiction of the Adjudicating Authority stands alienated with the conclusion of the present adjudication order and the Adjudicating Authority attains the status of '*functus officio*' as held by Hon'ble CESTAT, Mumbai in its decision in the case of M/s Knowledge Infrastructure Systems Pvt. Ltd. &

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

4. यदि एक ही प्रकरण में उसी पक्षकार के विरुद्द 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 सत्य◌ापित 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 ब्याजवलगाएगए 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. Amity Shipping & Logistics (CB License No. 11/2392, PAN No. AUFA1721G), having address registered at B-12, Shree Sai Darshan Dham CHS Ltd., Dr. Nemade Lane, Old Dombivali Road, Dombivali West, Kalyan, Thane, Maharashtra – 421202 (hereinafter referred as the Customs Broker/ CB) is holder of Customs Broker License No. 11/2392 issued by the Principal Commissioner of Customs, Mumbai under Regulation 7(2) of the CBLR 2018 and as such they are bound by the regulations and conditions stipulated therein.

2. An offence report in the form of Order-In-Original No. 344/2024- 25/Commr./NS-III/CAC/JNCH dated 21.03.2025 was received from the Office of the Commissioner of Customs (NS-III), JNCH, regarding mis declaring the eligibility of goods under ASEAN-India Free Trade Agreement (AIFTA) by the importer M/s Tata International Ltd. (IEC – 0388024291) through their CB M/s Amity Shipping & Logistics (11/2392).

3. Intelligence developed by Directorate of Revenue Intelligence, Bhopal indicated that M/s Tata International Limited is importing "Electrolytic Manganese Metal Flakes" under CTH 81110010 from M/s Tata International Singapore Pvt. Ltd. The said goods were shipped from port of China (CNXMN) and the country of origin of the said imported goods was Indonesia, which was different from the port of shipment. During. the period from 10.05.2022 to 18.06.2022 in various Bills of Entry, the importer had wrongly availed benefit of NIL rate of Basic Customs Duty, as provided under Sr. No. 1021 of Notification No. 46/2011-Customs dated 01.06.211 (as amended from time to time) on the said imported goods. However, the benefit of the said Notification available only when goods are imported into the Republic of India from ASEAN countries (mentioned in Appendix-I and Appendix-II of the said Notification) as the Notification mandates that the port of shipment of the goods should be one of the countries listed in either of the two said Appendices. Since, China is not covered under the list of ASEAN countries as mentioned in Appendices of the said Notification, the benefit of the said Notification is not applicable to them on the said imported goods.

3.1 As per the Notification No. 46/2011-Customs dated 01.06.2011 (as amended from time to time), all goods imported under Chapter Head 8111 (except 81110090) which is mentioned in Sr. No. 1021 of the said Notification, are exempted from the Basic Customs Duty in two conditions:

i. Goods when imported into the Republic of India from ASEAN countries (mentioned in Appendix-I and Appendix-II of the said Notification) necessarily indicates that the port of shipment of the goods should be one of the countries listed in either of the two said Appendices.

ii. Origin of the goods is to be determined in accordance with provisions of Determination of Origin of Goods Rules, 2009 published vide Notification No. 189/2009-Customs (NT) dated 31.12.2009.

3.2 The importer had imported "Electrolytic Manganese Metal Flakes" under CTH 81110010 at Nhava Sheva port under 5 Bills of Entry during the period from 10.05.2022 to 18.06.2022, from the port of China (CNXMP), and the country of origin of the said imported goods was Indonesia which was different from the port of shipment, by availing the inadmissible benefit as provided under Sr. No. 1021 of Notification No. 46/2011-Customs dated 01.06.2011 (as amended from time to time) and the importer had only paid IGST @18% on the said imported goods and availed the benefit of NIL rate of BCD. The details of said imported goods for the aforesaid period along with duty paid by the said importer are tabulated below:

BE No & Date	Importer Name	COO	Port of Origin & Port of Shipment	Supplier Name	Item Imported	Assessable Value (Rs.)	Duty Paid as IGST @18% (Rs.)	BCD Rate
8622141 Dated 10.05.2022	M/s TATA International Limited	Indonesia	China	Tata International Singapore Pvt Ltd	Electrolytic Manganese Metal Flakes	4531834.4	8157302	0
9046593 dated 10.06.2022	M/s TATA International Limited	Indonesia	China	Tata International Singapore Pvt Ltd	Electrolytic Manganese Metal Flakes	46331252.64	8339625.5	0

9047871 dated 10.06.2022	M/s TATA International Limited	Indonesia	China	Tata International Singapore Pvt Ltd	Electrolytic Manganese Metal Flakes	99228122.82	17861062.1	0
9166340 dated 18.06.2022	M/s TATA International Limited	Indonesia	China	Tata International Singapore Pvt Ltd	Electrolytic Manganese Metal Flakes	38504313.7	6930776.5	0
9166897 dated 18.06.2022	M/s TATA International Limited	Indonesia	China	Tata International Singapore Pvt Ltd	Electrolytic Manganese Metal Flakes	66007394.91	11881331.1	0
					Total	295389428.47	53170097.2	0

3.3. During course of investigation, Statement of Shri Dibyendu Das, Authorized representative of the importer firm M/s Tata International Limited was recorded on 18.07.2023 under Section 108 of the Customs Act, 1962 wherein he, inter-alia stated that:

i. He looks after the trading viz. sale and purchase of Base Metals of M/s Tata International Limited.

ii. He was not aware of the duty benefit of Notification No. 046/2011 as amended along with the conditions of applicability.

iii. He was not aware of twin conditions of availing benefit of the Notification No. 046/2011 as amended.

iv. He admitted that the port of shipment of their said imports was China.

v. He admitted that the five Bill of Entries (BE No. 8622141 dated 10.05.2022, 9046593 dated 10.06.2022, 9047871 dated 10.06.2022, 9166897 dated 18.06.2022 and 9166340 dated 18.06.2022) are not direct consignments from Indonesia.

3.4 The authorized representative of the importer submitted copies of all the BE and their supporting documents through E-mail dated 23.07.2023. Further, in his e-mail he also provided clarification regarding availing the' benefit of the Notification No. 046/2011 as amended which is detailed as under:

The transportation of the goods involves transit through China (non-AIFFA country). However, according to them, the preferential duty benefit has been correctly availed, as the conditions have been fulfilled:

a) The transit entry is justified by consideration related exclusively to transport requirements. There is no container yard close to factory of the producer and they can use only bulk vessel for the transportation of the cargo. Their group company has a warehousing facility in the Free Trade Zone in Xiamen, China. Thus, they ship all export cargo via bulk vessel to Xiamen, China. Xiamen is a distribution hub from where these goods are exported in containers to other parts of the world.

b) The products have not entered into trade or consumption there. The goods remain in the Customs control and do not enter China.

c) The products have not undergone any operation there other than unloading and reloading or any operation required keeping them in good containers. The certificate of Re-export issued by the Chinese authority also certifies that the goods have not been subjected to any processing during transit in China.

3.5 Statement of Shri Suresh Balani, authorized representative of the importer firm M/s Tata International Limited was recorded on 25.07.2023 under Section 108 of the Customs Act, 1962 wherein he, inter-alia stated that:

i. He looked after the trading taxation and account matters of M/s Tata International Limited as Head-Group Accounts and Taxation.

ii. The goods are not coming directly from Indonesia.

iii. M/s Tata International Limited, India did not export the goods to Xiamen, China.

iv. The buyer of the goods imported is M/s Metz Corporation, Japan. Subsequently, it was sold to M/s Tata International Singapore PTE Ltd., Singapore.

v. He agreed that the said goods have been traded between the 2 entities out of which none belongs to India.

vi. He submitted that he is unable to answer as to why the goods were not directly exported from Indonesia despite significant cost requirements in transportation.

vii. He stated that he cannot answer as to whether the consignment is direct or indirect Consignment despite perusing all the relevant notifications and submissions of M/s Tata International Limited and being the Taxation Head himself.

viii. He further informed that Shri Dibyendu Das will be able to answer the queries that he is unable to answer.

3.6 During course of. investigation, Statement of Shri Dibyendu Das, Authorized representative of the importer firm M/s Tata International Limited was recorded on 07.08.2023 under Section 108 of the Customs Act, 1962 wherein he, inter-alia stated that:

i. The exporter, exporting goods from Indonesia as per the Form I and the supplier from which the goods actually came to India are not the same entity/ company.

ii. The Form I copy in respect of the said 5 Bes as submitted by M/s Tata International does not mention the details of the supplier who ships the goods from China to India.

iii. The said imports are coming through another supplier and not from Indonesian exporter.

iv. When asked as to why the said goods were not directly exported from Indonesia despite significant cost requirements in transportation, he replied that they have brought the material on Cost and Freight – India basis from their supplier M/s Metz Corporation. It is not in the importer's control and they do not know regarding how they have done their transport arrangements or any particular routes were taken or not taken. As far as they are concerned, they are concerned for CFR-India Price on which they have brought the material.

v. Their supplier is not from Indonesia and their contract for purchase for materials is not with the exporter from Indonesia.

3.7 During the course of investigation, Statement of Shri Atmaram Jayaram Wadyekar, Authorized representative of the CB firm M/s Amity Shipping & Logistics was recorded on 18.09.2023 under Section I08 of the Customs Act, 1962 wherein he, inter-alia stated that:

i. Their CB firm provides services to M/s Tata International Limited, Mumbai for Customs Clearance and transportation of its Imports. They have cleared approx. 10 import shipments from M/ s Tata International Limited, Mumbai since April 2022. They have cleared Electrolytic Manganese Metal Flakes and other metal imports of M/s Tata International Limited.

ii. They received payments from M/s Steinweg Sharaf which is a warehousing and FFWZ company for the import clearance services provided to M/s Tata International Limited. They have received payments for these clearances in this regard.

iii. M/s Tata International Limited Mumbai has provided documents for clearance of goods through email. All the documents were provided by M/s Tata International through E-mail to their official E-mail Id. Based on these Documents, they had filed the Bills of Entry for the Goods imported by M/ s Tata International Limited, Mumbai for clearance (BE no. 8622141 dated 10.05.2022, 9046593 dated 10.06.2022, 9047871 dated 10.06.2022, BE No. 9166897 dated 18.06.2022 & 9166340 dated 18.06.2022)

iv. The goods imported in the said Bill of Entries are not direct consignments as they have not fulfilled the conditions laid under the Notification No. 189/2009 dated 21.12.2009. Since, they have not fulfilled the conditions under the said notification, they are not eligible for any benefit. The goods imported are all done through trading

and not directly from the manufacturer from Indonesia. The importer had provided documents for clearance of goods through email. Based on these documents, they have filed the Bills of Entry for the Goods imported by M/s Tata International Limited, Mumbai for clearance.

v. Initially, when they were filing Bill of entry 8622141 dated 10.05.2022, they had submitted filed Bill of Entry for no exemption and on 5% BCD. When sent for confirmation, the importer asked to revise the bill of entry so that the said benefit under Notification may be availed and also provided the Country-of-Origin Certificate as well. Since, the Country-of- Origin Certificate was provided, the Bill of Entry was filed at 0% BCD in accordance with the Notification No. 046/2011 dated 01.06.2011.

vi. The shipment is not directly shipped from the Origin Country, Indonesia and is also not a direct consignment.

vii. He agreed that the importer is trying to evade the Customs Duty by availing benefit to the importer of the said notification which does not fulfil the conditions laid under the Notification No. 189/2009 dated 31.12.2009.

4. In view of the discussion above, it was evident that the Customs Broker was aware of the fact that the goods imported in the said BE are not direct consignments as they had not fulfilled the conditions laid under the Notification No. 189/2009 dated 21.12.2009. The Customs Broker initially tried to file the Bill of Entry for no exemption; however, he got influenced by the importer and further revised the Bill of Entry claiming the benefit of Notification with 0% Basic Customs Duty.

5. In the regime of trade facilitation, a lot of trust is being placed on the Customs Broker who directly deals with the importers/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. In this case, non-compliances, as detailed above, were found with respect to the imported goods. Therefore, it appeared that the Custom Broker failed to adhere to the responsibilities as was expected in terms of the Regulations made under CBLR 2018.

5.1 Regulation IO(d) of CBLR, 2018

"advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring

the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be"

It appeared that the Customs Broker, M/s Amity Shipping & Logistics, was aware that the goods in question were not directly shipped from Indonesia and that the conditions outlined under Notification No. 189/2009-Customs (NT) may not have been fully met. Although the CB was conscious that the consignments had transited through a non-AIFFA country (China), and that the benefit under Notification No. 46/2011-Customs might not be admissible, this concern was not brought to the attention of the proper officer. In their statement dated 18.09.2023, the CB mentioned that the Bill of Entry was originally filed without claiming the exemption, but was later revised at the importer's request and upon receipt of the Certificate of Origin (COO). Given the circumstances, it seemed that the CB did not adequately advise the importer on the possible ineligibility of the exemption and also did not alert the department to the potential misuse of the notification. This suggests that the CB may not have fully met the responsibilities expected under Regulation 10(d) of the CBLR, 2018.

5.2 Regulation 10(e) of CBLR, 2018

"*exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage,"*

It appeared that the Customs Broker accepted the documents shared by the importer over email without independently verifying whether the conditions of the relevant notification were fully met. As stated by the CB, they were aware that the consignments were not directly shipped from Indonesia and had been routed through China. The CB did not sufficiently assess whether the indirect routing affected the eligibility for exemption under Notification No. 46/2011- Customs, read with Notification No. 189/2009-Customs (NT). This indicated a lapse in the level of care and diligence expected while handling such matters. In view of the above, it appeared that the CB had not fully complied with the requirements of Regulation 10(e) of the CBLR, 2018

5.3 Regulation 10(m) of CBLR, 2018

"discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay,"

It appeared that the Customs Broker, despite having certain information suggesting that the consignment may not have been eligible for the AIFTA exemption, did not raise the matter with the department or seek further clarification. This inefficient handling of the situation–where the declaration was revised solely at the importer's request, resulting in an undue claim of benefits–reflects a lack of the professionalism and efficiency expected in such cases. In light of the above, it appeared that the CB had not fully complied with the expectations laid down under Regulation 10(m) of the CBLR, 2018.

6. From the investigation, it appeared that the CB M/s Amity Shipping & Logistics (CB License No. 11/2392) failed to exercise due diligence in administering sound advice to the importer M/s Tata International Limited in the transaction of business of import of the impugned goods viz. Manganese metal flakes. The CB also failed to bring the matter to the knowledge of the Department and due to the resultant omission and commission it appeared that CB M/s Amity Shipping & Logistics (CB License No. 11/2392) had violated the provisions of Regulations 10(d), 10(e), & 10(m) of the CBLR, 2018.

SUSPENSION OF CB LICENSE AND SHOW CAUSE NOTICE: -

7. In view of the offence report received in the form of Order-In-Original No. 344/2024-25/Commr./NS-III/CAC/JNCH dated 21.03.2025 issued by the Commissioner of Customs (NS-III), JNCH, action under the CBLR, 2018 was taken against the CB M/s. Amity Shipping & Logistics (CB No. 11/2392). In view of the Board's Instruction No. 24/2023 dated 18.07.2023, the case was not considered fit for immediate suspension of the CB License under Regulation 16 of CBLR, 2018. However, action under Regulation 17 of CBLR, 2018 was initiated against the CB and accordingly, based on the Offence Report, the following articles of Charges were framed against the CB:

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

(ii) Article of Charge-II: Violation of Regulation 10(e) of CBLR, 2018

(iii) Article of Charge-III: Violation of Regulation 10(m) of CBLR, 2018

7.1 In light of the above, a Show Cause Notice No. 16/2025-26 dated 01.07.2025 was issued to the CB under the provisions of Regulation 17(1) of CBLR, 2018, wherein the CB was called upon to show cause, as to why:

a. The Customs Broker License bearing no. 11/2392 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.

7.2 Further, Shri Abhishek Jain, Deputy Commissioner of Customs, was appointed as Inquiry Officer (IO) to conduct the inquiry proceedings in the matter. The IO concluded the inquiry proceedings and submitted the Inquiry Report dated 02.09.2025, which is discussed below.

INQUIRY REPORT: -

8. The Inquiry Officer (here in after referred to as the 'IO') concluded the inquiry proceedings and submitted the Inquiry Report dated 02.09.2025, wherein all the Charges levelled against the CB of violation of Regulations 10(d), 10(e) and 10(m) of the CBLR, 2018 were held as "Proved" beyond doubt.

FINDINGS OF THE INQUIRY OFFICER: -

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

9.1 The IO submitted that as part of the inquiry proceedings, he had provided the Customs Broker an opportunity to appear before him and submit their defence against the charges levelled in the Show Cause Notice and allowing them to present their case. The IO submitted that personal hearings were conducted on 11.08.2025 and 20.08.2025, in this matter. The charged Custom Broker attended both hearings and presented their submissions, which have been duly recorded. The IO stated that during the hearing

conducted on 20.08.2025, the Customs Broker clearly stated that they had nothing further to add.

9.2 The IO submitted that the CB in their written submission dated 18.08.2025 (submitted during the PH dated 20.08.2025) had requested to cross examine the persons whose statements are relied upon in the SCN and the Customs officers who investigated the matter in this regard. The allegations in the Show Cause Notice as well as the findings in the Order-in-Original are based primarily on documentary evidence such as the Bills of Entry, dual Bills of Lading, Invoices, Certificates of Origin, Certificates of Re-export and other import documents, which clearly establish that the consignments were shipped from China, a non-ASEAN country, though declared as of Indonesian origin. The liability flows directly from the conditions of Notification No.46/2011-Cus read with the CAROTAR Rules, which require satisfaction of direct consignment conditions. The IO submitted that the violation of these statutory provisions is evident from the records themselves and does not rest solely on oral testimony. The IO submitted that the statements of the importer's representatives recorded under Section 108 of the Customs Act merely corroborate what is already apparent from the documents, namely that the goods were not directly consigned from Indonesia but had transited and entered into trade through China. The IO submitted that these statements are in the nature of admissions and are not the sole or exclusive basis of the proceedings. Likewise, the IO stated that the Customs officers who conducted the investigation only performed their statutory functions of collection and verification of records and their personal examination will not alter the factual position borne out by documentary evidence. Jurisprudence is also clear that cross-examination is not an absolute right in quasi-judicial proceedings and is warranted only where statements are the sole basis of demand or penalty. In the present case, the IO stated that even without reference to the statements, the documentary evidence independently establishes misuse of the ASEAN FTA benefit. Furthermore, the IO submitted that in the context of CBLR proceedings, the issue is limited to the Customs Broker's obligations under Regulation 10, which are examined with reference to whether due diligence was exercised on the documents submitted. This is a matter of record scrutiny and not dependent on credibility of witnesses. Accordingly, the IO submitted that the prayer for cross-examination is unwarranted, amounts to a dilatory tactic, and deserved to be rejected.

9.3 The IO submitted that the CB had been provided multiple opportunities to present their case before him and they had also satisfied that they had effectively presented their case with all relevant evidences. The IO stated that with no further submissions pending, the inquiry proceedings could be considered ripe for disposal considering the CB submissions and evidences available on record.

9.4 The IO submitted that the CB had agitated the issue of limitation in their submission dated 18.08.2025 (Para 2 of the submission). However, the IO submitted that the CB had failed to elaborate on how the SCN was barred by limitation. The contention of the CB regarding the limitation issue was found to be without any basis and the IO refrained from holding that the SCN is barred by limitation.

9.5 The IO then proceeded to examine each charge levelled against the CB under the Customs Brokers Licensing Regulations (CBLR), 2018, and review the basis for these charges, as outlined in the Show Cause Notice, to determine their validity and assess the evidence presented.

9.6 In this case, the IO submitted that the goods were shipped/ imported from the Port of China by mis-declaring the country of origin of the said imported goods as Indonesia and availed the benefit of Nil rate of Basic Customs Duty, as prescribed under Serial No. 1021 of Notification No.46/2011-Customs dated 01.06.2011.

9.7 The IO submitted that based on the said Order-in-Original CAO No. 344/2024-25/Commr./NS-III/CAC/JNCH dated 21.03.2025, a show cause notice No. 16/2025-26 dated 01.07.2025 vide F. No. GEN/CB/215/2025-CBS had been issued in terms of Regulation 17(1) of the CBLR, 2018.

9.8 The IO submitted the charge-wise analysis after considering the submissions of charged CB and evidences on record. The IO's are presented below:

I) <u>Violation of Regulation 10(d) of CBLR, 2018</u>

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

Allegation in the Show Cause Notice:

It appeared that the Customs Broker, M/s Amity Shipping & Logistics, was aware that the goods in question were not directly shipped from Indonesia and that the conditions outlined under Notification No. 189/2009-Customs (NT) may not have been fully met. Although the CB was conscious that the consignments had transited through a non-AIFTA country (China), and that the benefit under Notification No. 46/2011-Customs might not be admissible, this concern was not brought to the attention of the proper officer: In their statement dated 18.09.2023, the CB mentioned that the Bill of Entry was originally filed without claiming the exemption, but was later revised at the importer's request and upon receipt of the Certificate of Origin (COO). Given the circumstances, it seemed the CB did not adequately advise the importer on the possible ineligibility of the exemption and also did not alert the department to the potential misuse of the notification. This suggested that the CB may not have fully met the responsibilities expected under Regulation 10(d) of the CBLR, 2018.

Defence Reply of the CB to the allegation levelled in the SCN:

The CB submitted a check list Bill of Entry dated 07.05.2022 which was revised and retuned by the importer vide email dated 10.05.2022. Thereafter, the revised Bill of Entry was filed. Therefore, the CB has not violated the CBLR, 2018. They stated that the CB's statement was recorded on 18.09.2023 under Section 108 of the Customs Act, 1962 wherein they inter- alia stated that they submitted Bill of Entry for no exemption to the importer. The importer M/s. Tata International Ltd revised the Bills of Entry so as to claim the benefit of Notification for which they cannot be held responsible. The CB further stated that the statement of the importer's representative was recorded wherein he inter-alia stated that they have correctly declared the goods and claimed the benefit of Notification. Therefore, there is no mis-deceleration and/or any wilful suppression. They further submitted that they preferred an appeal against the Order-in-Original dated 21.03.2025 issued by Commissioner of Customs, (NS-III) JNCH, Nhava Sheva.

The CB further stated that the Bills of Entry were filed for import of 'Electrolytic Manganese Metal Flakes' under CTH 81110010 and declared country of origin as Indonesia which was different from the port of Shipment. The said fact is known only to

the importer. Further, the country of origin was Indonesia or not was found only after a detailed investigation by DRI, Bhopal which goes to show that neither the CB nor the assessing officers were aware of any mis-declaration / wilful suppression. Therefore, there was no question of advising the importer to comply with the provision of Customs Act, 1962 nor did the importer seek any advice from them. The CB submitted that they had no reasons to advise the importer unless solicited, as they are a huge conglomerate having an export import department. Further; the CB had sent the checklist Bill of Entry to the importer and only after receiving the approval Bills of Entry was filed. Therefore, the charge under regulation 10(d) of CBLR, 2018 does not sustainable and merits to be withdrawn. In this regard, they relied on the case of

Jaiswal Import Cargo Services Lid versus Commissioner of Customs., New Delhi reported in 2019 (370) E.L.T.1366 (Tri. - Del).

Findings of the Inquiry Officer on the Charge of violation of Regulation 10(d) of CBLR, 2018:

a. In summary, the investigation findings, as per the Order-in-Original (OIO), reveal that the goods were not directly imported from Indonesia, but were instead sourced from China through intermediate trading transactions, violating the direct import requirement. The primary issue in this charge is that the CB was aware that the goods in question were not directly shipped from Indonesia and that the conditions outlined under Notification No. 189/2009-Customs (NT) were not fully met and although the CB was conscious about this fact, he has not brought to the notice of the proper officer. After careful consideration of the findings in the Order-in-Original CAO No. 344/2024-25/Commr./NS-III/CAC/JNCH dated 21.03.2025, and the defence reply submitted by the Custom Broker, the IO agreed that the Custom Broker was aware that the goods in question were not directly shipped from Indonesia, potentially not fulfilling the conditions specified under Notification No. 189/2009-Customs (NT). Despite being cognizant that the consignments had transited through China, a non-AIFTA country, which might render the benefit under the relevant Notification inadmissible, the Customs Broker failed to bring this critical information to the notice of the proper officer. The IO submitted that the Custom Broker's knowledge of the potential non-compliance and their failure to inform the proper officer about the possible implications of the goods' transit through a non-AIFTA country prove a lapse in

their duties as mandated under the Customs Broker Regulation 10(d). The IO submitted that the documentary evidence and the confessions made by the CB during the investigation compelled him to come to the above conclusion.

b. The CB contended that they sent check list Bill of Entry dated 07.05.2022, however, the Bill of Entry was revised and returned by the importer through mail dated 10.05.2022 and accordingly, they had filed revised Biil of Entry, therefore they had not violated any CBLR Regulations. This contention lacked substance. Initially, the Customs Broker correctly prepared the checklist Bill of Entry, presuming that the Notification benefit was not applicable to the imported goods due to their indirect shipment from Indonesia. This was done after proper scrutiny of documents provided by the importer. However, the IO stated that the importer with ill intention revised the check list bill of entry and made it as per their convenience. In such situation, the IO stated that the CB ought to have advised the importer about the compliance of Customs Laws or the CB should have exercised due diligence by informing Customs about the revision, given their awareness of the importer's modus operandi. Instead, the Custom Broker chose to file the revised Bill of Entry as per the importer's instructions, which constitutes a serious breach of Regulation 10(d) of CBLR, 2018. This regulation mandates that a Customs Broker adheres to the provisions of the Customs Act and the regulations made thereunder. The IO submitted that by filing the revised Bill of Entry without bringing the pertinent facts to the notice of the Customs, the Custom Broker failed to comply with their obligations under the said Regulation 10(d).

c. The CB's contention that they had filed appeal against the Order-in-Original dated 21.03.2025 issued by Commissioner of Customs, (NS-III) JNCH, Nhava Sheva, had no merit. The IO submitted that the Custom Broker's appeal against the Order-in-Original dated 21.03.2025, had no bearing on the current proceedings under the CBLR, 2018. The IO submitted that since the Order-in-Original was issued under the Customs Act, while the current proceedings were under a separate regulatory framework (CBLR, 2018), the Inquiry Officer could proceed independently to evaluate the evidence and determine the outcome. The IO stated that the two proceedings are distinct and governed by different sets of rules.

d. The Customs Broker claimed that they were unaware of the mis-declaration regarding the country of origin of 'Electrolytic Manganese Metal Flakes' and therefore

couldn't advise the importer to comply with the Customs Act, 1962, as the fact of mis-declaration was only discovered after a detailed investigation by DRI, Bhopal. This contention also did not hold any water. In this contention, the CB tried to show their innocence that they were not aware of the fraud committed by the importer and they came to know the fraud only after detection by the DRI. However, the IO submitted that a thorough examination of the evidences on record revealed that the CB was, in fact, well aware of the modus operandi employed by the importer. The statement of Shri Atmaram Jayaram Wadyekar, recorded on 18.09.2023, served as a crucial piece of evidence in this regard. Shri Atmaram Jayaram Wadyekar in his statement unequivocally admitted that the shipment was not directly shipped from the Origin Country, Indonesia and was also not a direct consignment, and the importer had not fulfilled the conditions laid under the Notification No.189/2009 dated 21.12.2009. He further confessed that since, the importer had not fulfilled the conditions under the said notification, they were not eligible for any benefit and the goods were all done through trading and not directly from the manufacturer from Indonesia. He finally confessed in the same statement that M/s. Tata International Limited, Mumbai was trying to evade the Customs Duty by availing benefit to the importer of the Notification No. 046/2011 dated 01.06.2011 as amended which does not fulfil the conditions laid under the Notification No. 189/2009 dated 31.12.2009. The IO submitted that the Custom Broker's confession, coupled with the sequence of events, irrefutably established that they were aware of the misdeeds committed by the importer; that the Customs Broker's attempt to claim innocence by claiming that they were unaware of the fraud is untenable and lacks credibility. The evidence on record clearly indicated that the Customs Broker was complicit in the importer's actions and was well aware of the modus operandi adopted to evade customs duty.

e. The IO submitted that the Custom Broker heavily relied on the case of M/s. Jaiswal Import Cargo Services Ltd Vs Commissioner of Customs, New Delhi, reported in 2019 (370) E.L.T.1366 (Tri. -Del). However, upon examination, the IO stated that the cited case was distinguishable from the present case. The cited case involved the import of 'assorted birthday candles', whereas the present case pertains to the import of Electrolytic Manganese Metal Flakes'. Furthermore, the cited case involved mis-classification of imported goods, whereas the present case involves diversion of goods, a distinct and separate issue. Additionally, the IO stated that the cited case dealt with the cancellation of the Customs

Broker's license, whereas the present case involves action to be taken by the Adjudicating Authority. Given these significant differences, the IO stated that the reference drawn by the Customs Broker was not relevant to the present facts of the case. Therefore, the IO stated that the reliance on this case was misplaced, and the Custom Broker's argument lacked merit. The distinct facts and circumstances of the present case rendered the cited judgment inapplicable.

f. In light of the above, it was evident that the Customs Broker's contention was nothing more than a clear attempt to avoid accountability. The facts and evidence presented in this case unequivocally demonstrated that the Customs Broker was aware of the mis-declaration and wilful suppression of facts by the importer. Therefore, their claim of innocence was rejected, and the IO concluded that the Custom Broker was indeed aware of the fraud perpetrated by the importer. Even though they were aware of the fact that the goods were not shipped directly from Indonesia and the conditions of relevant Notifications were not fulfilled, the CB neither advised the importer for compliance of Customs Laws nor brought the same to the notice of Customs, which was clear violation of Regulation 10(d) of the CBLR, 2018. Therefore, the IO submitted that the charge on the CB for violation of Regulation 10(d) is held 'Proved' beyond doubt.

II) Regulation 10(e) of CBLR, 2018:

exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage,

Allegation in the Show Cause Notice:

It appeared that the Customs Broker accepted the documents shared by the importer over email without independently verifying whether the conditions of the relevant notification were fully met. As stated by the CB, they were aware that the consignments were not directly shipped from Indonesia and had been routed through China. The CB did not sufficiently assess whether the indirect routing affected the eligibility for exemption under Notification No. 46/2011-Customs, read with Notification No.189/2009-Customs (NT). This indicated a lapse in the level of care and diligence expected while handling such

matters. In view of the above, it appeared that the CB had not fully complied with the requirements of Regulation 10(e) of the CBLR, 2018.

Defence Reply of the CB to the allegation levelled in the SCN:

In this context the CB said and submitted that documents were given by the importer and after due verification and compliance of KYC, the Bills of Entry were filed. The said Bills of Entry were duly assessed by the assessing officer and thereafter out of charge was granted. Further, the CB had fully complied with the requirement CBLR, 2018. Therefore, the charge under Regulation 10(e) did not survive and merits to be withdrawn. The CB submitted that they had also relied upon the judgment in the case of Naman Gupta reported in W.P (C)15808/2022 dated 30.01.2024 and Baraskar Brothers versus Commissioner of Customs (General), Mumbai reported in 2013 (294) E.L.T. 415 (Tri. Mumbai) in support of the said contention.

Findings of the Inquiry Officer on the Charge of violation of Regulation 10(e) of CBLR, 2018:

a. The IO submitted that as established, the goods in question were not directly imported from Indonesia but were instead sourced from China through intermediate trading transactions, thereby violating the direct import requirements. Consequently, the Order-in-Original dated 21.03.2025 had been issued, imposing penalties on the importing firm and the concerned CB.

b. The CB had prepared a checklist Bill of Entry and forwarded it to the importing firm. However, the importing firm did not accept the same and instead revised the details in the Bill of Entry. At this juncture, the CB, acting as a bridge between the importing firm and Customs, had a duty-bound responsibility to verify the accuracy of the information given to the importing firm before filing the Bill of Entry. This responsibility is particularly crucial when the importing firm proposes revisions, as was the case with Ms. Tata International. The IO added that if the CB had re-verified the revised Bill of Entry properly, as suggested by the importer, it would not have filed the same. Instead of proceeding with the filing, the CB would have informed the importing firm about the non-compliance of the relevant notification conditions. This would have prevented the irregularities that occurred during the import process.

c. The IO submitted that however, the CB failed to fulfil this responsibility, which is a clear violation of Regulation 10(e) of the Customs Brokers Licensing Regulations (CBLR), 2018. The regulation mandates that a Custom Broker shall "exercise due diligence to verify the accuracy of any information that he imparts to a client with reference to any work related to clearance of cargo or baggage". The IO submitted that the CB's failure to re-verify the revised Bill of Entry and its subsequent filing without ensuring compliance with the relevant notification conditions demonstrated a lack of due diligence. This negligence on the part of the CB facilitated the import of goods that did not meet the requisite criteria, thereby contravening the regulations.

d. The IO submitted that the charged CB relied on judgment in the case Baraskar Brothers versus Commissioner of Customs (General), Mumbai reported in 2013 (294) E.L.T. 415 (Tri. Mumbai) to support their contention that they had verified the KYC, therefore there is not any violation of Regulation 10(e). The IO stated that this argument lacked merit. The IO submitted that the referred case was on the issue of illegal drawback availment by companies holding IEC obtained on fictitious addresses and in names of non-existent persons - Admission by partner of CHA firm that he had never met the owner/proprietor of the firms concerned and necessary precaution not taken to meet exporter and verify genuineness at time of filing shipping bills. However, the IO stated that the present case is not related to the issue verification of KYC norms, in fact the issue pertained to the verification of non-compliance of relevant notification conditions. Thus, the facts and circumstances of the referred case were materially different from those of the present case. Therefore, the reliance on the Baraskar Brothers case was misplaced, and the CB's contention was not supported by the cited judgment. The CB's argument that verification of KYC absolves them of liability in this case was not tenable, given the distinct nature of the issues involved.

e. The IO submitted that in light of the above findings, the CB's actions are deemed to be in violation of the statutory obligations cast upon them. The IO submitted that the CB's role is not merely that of a facilitator but also that of a responsible agent and ensure compliance with the law. By failing to verify the accuracy of the information and proceeding with the filing of the Bill of Entry without ensuring compliance the CB had compromised its statutory duties, which is a clear violation of Regulation 10(e) of the

CBLR, 2018. Therefore, the IO submitted that the charge on the CB for violation of Regulation 10(e) CB is held 'Proved' beyond doubt.

(III) Regulation 10(m) of CBLR, 2018:

"discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay;"

Allegation in the Show Cause Notice:

It appeared that the Customs Broker, despite having certain information suggesting that the consignment may not be eligible for the AIF'TA exemption, did not raise the matter with the department or seek further clarification. This inefficient handling of the situation- where the declaration was revised solely at the importer's request, resulting in an undue claim of benefits reflected a lack of the professionalism and efficiency expected in such cases. In light of the above, it appeared that the CB had not fully complied with the expectations laid down under Regulation 10(m) of the CBLR, 2018.

Defence Reply of the CB to the allegation levelled in the SCN:

In this context, the CB submitted that the documents were given by the importer and on the basis of which the Bills of Entry were filed. The Bills of Entry were assessed and thereafter out of charge was given and the importer had not alleged of any delay in clearance of the goods. Therefore, the CB argued that the department cannot allege violation of regulation 10(m) of CBLR, 2018 which is without any basis or evidence. Further, the CB submitted that the SCN had not given any finding against the CB for violation and regulation 10(m) of CBLR, 2018. Therefore, the CB claimed that the said charge is not proved.

Findings of the Inquiry Officer on the Charge of violation of Regulation 10(m) of CBLR, 2018:

a. The IO submitted that the charged CB was aware that the goods were not directly shipped from Indonesia and potentially did not meet the conditions specified under notification No. 189/2009 – Customs (NT). Despite knowing that the consignments transited through China, a non-AIFTA country which could render the benefit under the

notification inadmissible, the IO stated that the CB failed to advise the importer on compliance with Customs laws or bring the matter to the notice of Customs.

b. The IO submitted that this inaction on the part of the CB is a clear violation of their statutory obligations. The IO submitted that as a responsible agent, the CB is duty-bound to ensure compliance with the law, not merely facilitate transactions. The IO submitted that by filing the Bill of Entry without verifying the accuracy of the information and ensuring compliance, the CB compromised its statutory duties. The CB's failure to act in accordance with the law demonstrates a clear breach of Regulations. Their role demands diligence and adherence to statutory requirements, which they failed to uphold in this instance. The IO submitted that the Customs Broker had information suggesting the consignment might not be eligible for AIFTA exemption, but failed to raise the matter with the department or seek clarification. This handling of the situation, where the declaration was revised at the importer's request, resulting in an undue claim of benefits, reflected a lack of professionalism and efficiency.

c. The CB's argument that the absence of delay in clearance and the importer's lack of allegations regarding delay absolved them of liability under Regulation 10(m) of the CBLR, 2018 is not tenable. The IO submitted that regulation 10(m) stipulates that a CB must "discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay." This regulation encompasses three critical components: speed, efficiency, and timeliness. A plain reading of the Regulation specifies that the obligations of a CB are not limited to merely ensuring timely clearance, but also extend to performing their duties with utmost efficiency. In the present case, the CB's failures, as discussed earlier, demonstrated a lack of efficiency in discharging their duties. The IO stated that the CB's failure to scrutinize the declaration properly, despite having information that suggested potential ineligibility for the AIFTA exemption, and their subsequent actions, clearly indicated that they did not work efficiently. Given the CB's lapses and the resultant undue claim of benefits, it is evident that the CB did not meet the efficiency standards expected under Regulation 10(m). Therefore, the charge on the CB for violation of Regulation 10(m) CB is held 'Proved' beyond doubt.

9.9 SUMMARY OF THE FINDINGS: -

From the aforesaid discussions as mentioned above, the IO findings are summarized as under: -

Sr. No	Charges against the CB	Findings
1	Violations of Regulation 10(d) of CBLR, 2018	Proved
2	Violations of Regulation 10(e) of CBLR, 2018	Proved
3	Violations of Regulation 10(m) of CBLR, 2018	Proved

10. Under the provisions of Regulation 17(6) of the CBLR, 2018 a copy of the Inquiry Report dated 02.09.2025 was shared with the CB and further, to uphold the Principle of Natural Justice an opportunity of personal hearing was granted to the CB on 13.11.2025.

RECORDS OF PERSONAL HEARING: -

11. The Personal Hearing (PH) in the matter was scheduled to be held on 13.11.2025. However, the CB vide letter dated 12.11.2025 sought adjournment on medical grounds. In view of the same, the PH was then scheduled to be held on 19.11.2025. However, due to administrative exigencies, the same was rescheduled to 20.11.2025 with advance intimation to the CB, but the CB failed to appear before the adjudicating authority. In view of the same, the next PH was scheduled on 09.12.2025 with due intimation to the CB and its counsel but the CB's counsel expressed inability to attend and sought a next date from amongst 16.12.2025 or 23.12.2025 or 30.12.2025. Acceding to the request, the PH was rescheduled to 16.12.2025 to be held over video conference as requested by the CB's counsel.

The personal hearing in the matter was held on 16.12.2025 before me over video conference. The CB's counsel, Shri N.D. George, Advocate, appeared for the hearing wherein he reiterated the written submission dated 18.11.2025 and the same was taken on record. He did not have anything more to add.

WRITTEN SUBMISSION OF THE CB: -

12. The CB submitted that the Bills of Entry pertain to the period 10.05.2022 to 18.06.2022, wherein the importer had claimed the benefit of Notification No. 46/2011-Cus dated 01.06.2011. The said goods were duly assessed and thereafter out of charge was given. Therefore, the CB submitted that there was no mis-declaration and/or wilful suppression by them. Further, the CB submitted that the SCN was issued on 27.03.2024 under Section 124 read with Section 28 of the Customs Act, 1962. Therefore, the department was aware of the investigation pertaining to the imports made by M/s. Tata International Ltd.

The CB submitted that as per Regulation 17: Procedure for revoking license or imposing penalty reads as follows:

Regulation 17. Procedure for revoking license or imposing penalty. -

i. The Principal Commissioner or Commissioner of Customs shall issue a notice in writing to the Customs Broker within a period of ninety days from the date of receipt of an offence report, stating the grounds on which it is proposed to revoke the license or impose penalty requiring the said Customs Broker to submit within thirty days to the Deputy Commissioner of Customs or Assistant Commissioner of Customs nominated by him, a written statement of defense and also to specify in the said statement whether the Customs Broker desires to be heard in person by the said Deputy Commissioner of Customs or Assistant Commissioner of Customs.

ii. The Commissioner of Customs may, on receipt of the written statement from the Customs Broker, or where no such statement has been received within the time-limit specified in the notice referred to in sub-regulation (1), direct the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, to inquire into the grounds which are not admitted by the Customs Broker.

iii. The Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, shall, in the course of inquiry, consider such documentary evidence and take such oral evidence as may be relevant or material to the inquiry in regard to the grounds forming the basis of the proceedings, and he may also put any question to any person tendering evidence for or against the Customs Broker, for the purpose of ascertaining the correct position.

iv. The Customs Broker shall be entitled to cross-examine the persons examined in support of the grounds forming the basis of the proceedings, and where the Deputy Commissioner of Customs or Assistant Commissioner of Customs declines permission to examine any person on the grounds that his evidence is not relevant or material, he shall record his reasons in writing for so doing.

v. At the conclusion of the inquiry, the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, shall prepare a report of the inquiry and after recording his findings thereon submit the report within a period of ninety days from the date of issue of a notice under sub-regulation (1).

Therefore, the CB submitted that the said SCN is barred by limitation. In this Context they had relied upon the judgment of the Hon'ble High Court in the case of the Principal Commissioner of Customs (General) versus Mehul & Co reported in 2022 (5) TMI 30- Bombay High.

12.1 The CB further submitted that they had submitted a check list Bill of Entry dt. 07.05.2022 to the importer. The said Bill of Entry was revised and retuned by the importer vide email dt. 10.05.2022. Accordingly, the revised Bill of Entry was filed by the CB which had been accepted by Shri. Dibyendu Das in his statement dt. 18.07.2023 recorded under section 108 of the Customs Act, 1962 wherein inter-alia the authorized person of the importer M/s. Tata International Ltd. Therefore, the CB submitted that they had not violated any provisions of the CBLR, 2018. (hereto annexed and marked as Exhibit 'A' is a copy of the Checklist Bill of Entry, along with the email dt. 10.05.2022 and revised Bill of Entry.)

12.2 Further, the CB submitted that in the statement of the CB dt. 18.09.2023 recorded under Section 108 of the Customs Act, 1962 wherein they inter-alia stated that they had cleared Electrolytic Manganese Metal Flakes and other metal for on behalf of M/s. Tata International Ltd. The CB submitted that they sought cross examination of the persons whose statements are relied upon in the SCN. [We crave leave to refer to and rely upon the said Notification and statements of the importers representative when produced].

12.3 Further, the CB submitted that they vide or letter dt. 18.08.2025 had sought cross examination of the persons whose statement where relied upon including the officers who

had recorded the statements. However, the inquiry authority denied the same. However, the inquiry officer questions the CB partner during the personal hearing wherein he examined the CB. In reply to question No.4 he stated that he wants to make a written submission and will do so on 20.08.2025. Further, the CB in reply to question No.5 stated that he did not wish to inspect any original documents or cross examine any witness. However, in the said reply dt. 18.08.2025 has categorically sought cross examination.

12.4 In support of this contention the CB submitted that they had relied on the judgment in the case of Shasta Freight Services Pvt Ltd versus Pr. Commissioner of Customs, Hyderabad reported in 2019 (368) E.L.T. 41 (Telangana).

12.5 The CB submitted that assuming without admitting that the importer was not eligible to benefit of Notification then it was for the assessing officer to deny the same. However, as per the assessment the assessing officer had DEFACED the CO Certificate and assessed the Bills of Entry (hereto annexed and marked Exhibit 'B' is a copy of the DEFACED the CO Certificate and assessed the Bills of Entry.)

12.6 The CB submitted that the SCN was on 27.03.2024 under Section 124 read with under Section 28 of the Customs Act, 1962. The CB submitted that the present SCN had been issued on 01.07.2025 which is after more than one year. Therefore, the SCN is barred by limitation.

12.7 The CB submitted that as per the inquiry officers report (at para v). It was observed that the goods imported in the said Bills of Entry had not fulfilled the conditions under Notification No. 189/2009 dt. 21.12.2009. The CB submitted that the Bills of Entry were assessed by the assessing officers and thereafter out of charge given. The CB argued that to claim a benefit of a notification which is admissible or not is for the assessing officer to decide and not by the importer or Customs Broker. In this Context the CB had relied on the judgment in the case of Northern Plastics Ltd. Versus Collector of Customs & Central Excise reported in 1998 (101) E.L.T. 549 (S.C.).

12.8 In so far as the charge of violation of regulations 10(d), (e) and (m) of CBLR, 2018 is concerned the CB made the following submissions.

Regulation 10(d)

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

The CB submitted that Bills of Entry were filed for import of 'Electrolytic Manganese Metal Flakes' under CTH 81110010 and declared country of origin as Indonesia which was different from the port of Shipment. The CB submitted that the said fact was known only to the importer. Further, the CB submitted that the country of origin was Indonesia or not was found only after a detailed investigation by DRI, Bhopal which goes to show that neither the CB nor the assessing officers were aware of any mis-declaration/ wilful suppression. Therefore, the CB stated that there was no question of advising the importer to comply with the provision of Customs Act, 1962 nor did the importer seek any advice from them.

The CB further submitted that they had no reasons to advise the importer unless solicited, as they were a huge conglomerate having an export import department. Further, the CB submitted that they had sent the check list Bill of Entry to the importer and only after receiving the approval Bills of Entry was filed. Therefore, the charge under regulation 10(d) of CBLR, 2018 does not sustain and merits to be withdrawn.

The CB submitted that they also relied in the case of Jaiswal Import Cargo Services Ltd versus Commissioner of Customs., New Delhi reported in 2019 (370) E.L.T. 1366 (Tri. - Del.)

Regulation 10(e)

"A Customs Broker shall 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 this context the CB submitted that documents were given by the importer and after due verification and compliance of KYC the Bills of Entry were filed. The CB submitted that the said Bills of Entry were duly assessed by the assessing officer and

thereafter out of charge was granted. Further, the CB stated that they had full complied with the requirement CBLR, 2018. Therefore, the CB submitted that the charge under Regulation 10(e) does not survive and merits to be withdrawn.

The CB submitted that they also relied on judgment in the case of Naman Gupta reported in W.P (C)15808/2022 dt. 30.01.2024 and Baraskar Brothers versus Commissioner of Customs (General), Mumbai reported in 2013 (294) E.L.T. 415 (Tri. - Mumbai) in support of the said contention.

Regulation 10(m).

"A customs broker shall discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay;"

In this context the CB submitted that the documents were given by the importer and on the basis of which the Bills of Entry were filed. The Bills of Entry were assessed and thereafter out of charge was given, the importer had not alleged of any delay in clearance of the goods. Therefore, the department cannot allege violation of regulation 10(m) of CBLR, 2018 which is without any basis or evidence. Further, the CB submitted that the SCN had not given any finding against the CB for violation and regulation 10(m) of CBLR, 2018. Therefore, the said charge is not proved.

12.9 The CB further submitted that they crave leave to be heard in person before the case is finally adjudicated and would like to cross examine the persons whose statements are relied upon in the SCN and the Customs officers who investigated the matter in this regard. The CB submitted that they crave leave to file further reply after the cross examination and receipt of the relied upon documents.

12.10 In the circumstances, the CB submitted to the adjudicating authority 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.

DISCUSSIONS AND FINDINGS: -

13. I have carefully examined the facts and records of the case; the Offence Report received in the form of Order-in-Original No. 344/2024-25/Commr./NS-III/CAC/JNCH dated 21.03.2025 issued by the Commissioner of Customs, NS-III, JNCH; Show Cause Notice No. 16/2025-26 dated 01.07.2025 issued under Regulation 17(1) of CBLR, 2018; Inquiry Report dated 02.09.2025, PH records dated 16.12.2025 and the CB's written submission dated 18.11.2025.

14. Briefly stating that the current proceedings emanate from an investigation by the Directorate of Revenue Intelligence (DRI), Bhopal, which revealed a systematic mis-declaration of the eligibility of "Electrolytic Manganese Metal Flakes" for duty exemptions under the ASEAN-India Free Trade Agreement (AIFTA). The investigation revealed that the importer M/s. Tata International Limited had mis-declared the eligibility of "Electrolytic Manganese Metal Flakes" for duty exemptions under the ASEAN-India Free Trade Agreement (AIFTA). Although the goods originated in Indonesia, they were shipped from Xiamen, China -a non-ASEAN country which disqualified them from the NIL rate of Basic Customs Duty mandated by Notification No. 46/2011-Customs. During the investigation, authorized representatives of the importer admitted the port of shipment was China and that the consignments were not direct imports from Indonesia. Further scrutiny of five Bills of Entry filed between May and June 2022 confirmed that the importer had wrongfully claimed benefits on goods with an assessable value exceeding Rs. 29 Crore.

14.1 The investigation into the Customs Broker (CB), M/s Amity Shipping & Logistics, revealed that the firm was fully aware the shipments transited through China and initially prepared a Bill of Entry without claiming exemptions. However, the CB's authorized representative, Shri Atmaram Jayaram Wadyekar, confessed that the firm revised these filings to 0% duty at the importer's request despite knowing the conditions of Notification No. 189/2009 were not met. The CB failed to advise the client against this non-compliance or alert Customs officials to the potential revenue fraud. Consequently, the CB is charged with violating Regulations 10(d), 10(e), and 10(m) of the CBLR, 2018, for failing to

exercise due diligence, lack of professional efficiency, and neglecting their statutory duty to ensure legal compliance.

14.2 It is crucial to note that the adjudicating authority in the Offence Report i.e. Order-in-Original No. 344/2024-25/Commr./NS-III/CAC/JNCH dated 21.03.2025 observed that,

"I find that Shri Atmaram Jayaram Wadyekar, the Customs Broker M/s Amity Shipping & Logistics, Mumbai was aware of the fact that the goods imported in the said BE were not direct consignments as they had not fulfilled the conditions laid under the Notification No. 189/2009 dated 21.12.2009. He was also aware that the goods imported are all done through trading and not directly from the manufacturer from Indonesia. I further find that initially when the Custom Broker were filing Bill of Entry No. 8622141 dated 10.05.2022, they had submitted filed Bill of Entry for No exemption and on 5% BCD. However, when the Customs Broker sent the same for confirmation, the importer M/s Tata International Limited asked to revise the Bill of Entry, so that the said benefit under Notification may be availed and also provided the Country-of-Origin Certificate as well. Accordingly, the BE was filed at 0% BCD in accordance with the Notification No. 46/2011 dated 01.06.2011 by the Custom Broker. The IO further found that the CB was aware of the fact that shipment was not directly shipped from the Origin Country, Indonesia and was also not a direct consignment. He was also aware that M/s Tata International Limited, Mumbai was trying to evade the Customs Duty by availing benefit of the Notification No. 46/2011 dated 01.06.2011 as amended which does not fulfil the conditions laid under the Notification No. 189/2009 dated 31.12.2009.

All the above facts were admitted by Shri Atmaram Jayaram Wadyekar; the Customs Broker M/s Amity Shipping & Logistics, Mumbai in his statement recorded on 12.09.2023, during investigations. It is the fact that the Custom Broker initially tried to file the Bill of Entry for NO exemption, however; he got influenced by the importer and further revised the Bill of Entry claiming the benefit of Notification with 0% Basic Custom Duty.

I find that in this case, the Customs Broker failed to fulfil his obligations by not advising his client to adhere to the relevant notification provisions,

Furthermore, he neglected to report the non-compliance to the Deputy Commissioner as required under Regulation 10(d) of CBLR, 2018. Instead, the Customs Broker succumbed to the importer's influence and filed the Bill of Entry according to importer's wishes, compromising his professional duties. The IO further found that the Customs Broker breached his obligations under Regulation 10(m) of the Customs Brokers Licensing Regulations (CBLR) 2018, as they failed to discharge his duties with utmost efficiency".

Consequently, the adjudicating authority imposed a penalty of Rs. 4,00,000/- on the Customs Broker M/s. Amity Shipping & Logistics under Section 117 of the Customs Act, 1962.

15. 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 M/s Amity Shipping & Logistics, was aware that the goods in question were not directly shipped from Indonesia and that the conditions outlined under Notification No. 189/2009-Customs (NT) may not have been fully met. Although the CB was conscious that the consignments had transited through a non-AIFFA country (China), and that the benefit under Notification No. 46/2011-Customs might not be admissible, this concern was not brought to the attention of the proper officer. In their statement dated 18.09.2023, the CB mentioned that the Bill of Entry was originally filed without claiming the exemption, but was later revised at the importer's request and upon receipt of the Certificate of Origin (COO). Given the circumstances, it seemed the CB did not adequately advise the importer on the possible ineligibility of the exemption and also did not alert the department to the potential misuse of the notification. This suggested that the CB may not have fully met the responsibilities expected under Regulation 10(d) of the CBLR, 2018.

15.1 I find that the inquiry officer, in this regard, has observed that the Customs Broker (CB) wilfully violated Regulation 10(d) of CBLR, 2018 by failing to report a known mis-declaration regarding the country of origin for 'Electrolytic Manganese Metal Flakes.' Despite initial documentation correctly identifying the goods as indirect imports from Indonesia via China - which disqualifies them from AIFTA benefits, the CB followed the

importer's "revised" instructions to claim illicit duty exemptions. The IO rejected the CB's claim of ignorance, citing internal confessions and the statement of Shri Atmaram Jayaram Wadyekar, which proved the CB was fully aware of the *modus operandi* to evade customs duty. The findings further clarify that the CB's statutory obligation to advise the importer on law compliance and inform the Proper Officer of discrepancies overrides any client instructions. The IO dismissed the CB's reliance on irrelevant case law and maintained that these regulatory proceedings remain independent of any pending appeals under the Customs Act. Ultimately, the IO ruled that the CB's complicity in the fraud established the charge as "Proved" beyond doubt, characterizing the defence as a mere attempt to avoid accountability for a serious breach of professional duty.

15.2 I have perused the defence submission of the CB wherein the CB argues that the charge under Regulation 10(d) is unsustainable because the critical fact that the goods were not a direct shipment from Indonesia was known exclusively to the importer and was only unearthed through a specialized investigation by DRI, Bhopal. They contend that since even the Department's assessing officers were initially unaware of the mis-declaration, the CB cannot be penalized for failing to advise against a non-compliance they had no means of detecting. Furthermore, the CB asserts that as the importer is a major conglomerate with its own sophisticated export-import department, they had no reason to offer unsolicited legal advice. They maintain that their duty was discharged by submitting a checklist to the importer and only filing the Bill of Entry once the importer provided formal approval.

15.3 Having gone through the facts of the case, relevant documents and the CB's submission I find that the CB's defence that they were unaware of the mis-declaration until the DRI investigation is categorically refuted by their own actions and admissions. The record indicates that the CB initially prepared a checklist for the Bill of Entry without claiming the exemption, demonstrating an original understanding that the goods did not qualify for AIFTA benefits. However, upon receiving instructions from the importer to revise the filing to 0% BCD, the CB succumbed to the client's influence. I find that the CB, despite being cognizant that the consignments transited through China (a non-AIFTA

country), failed to advise the importer against this non-compliance or report the matter to the Assistant/Deputy Commissioner. The CB's representative, Shri Atmaram Jayaram Wadyekar, unequivocally admitted that the shipments were not direct consignments and that the importer was attempting to evade duty. Consequently, I concur with the Inquiry Officer's findings and uphold the charge of violation of Regulation 10(d) of the CBLR, 2018 by M/s. Amity Shipping & Logistics.

16. 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 the Customs Broker accepted the documents shared by the importer over email without independently verifying whether the conditions of the relevant notification were fully met. As stated by the CB, they were aware that the consignments were not directly shipped from Indonesia and had been routed through China. The CB did not sufficiently assess whether the indirect routing affected the eligibility for exemption under Notification No. 46/2011- Customs, read with Notification No. 189/2009-Customs (NT). This indicated a lapse in the level of care and diligence expected while handling such matters. In view of the above, it appeared that the CB had not fully complied with the requirements of Regulation 10(e) of the CBLR, 2018.

16.1 I find that the inquiry officer, in this regard, has observed that the Customs Broker violated Regulation 10(e) of CBLR, 2018 by failing to exercise due diligence in verifying the accuracy of information provided to the client. Although the CB initially prepared a correct checklist, they failed to re-verify the importer's "revised" Bill of Entry, which falsely claimed benefits under Notification No. 189/2009. The IO determined that as a professional bridge between the trade and Customs, the CB had a mandatory duty to verify the legality of these revisions; had they done so, the non-compliance regarding the indirect shipment from China would have been evident, preventing the subsequent irregularities and duty evasion. The findings further dismissed the CB's defence that fulfilling KYC norms (citing the *Baraskar Brothers* case) absolved them of liability under this regulation. The IO clarified that Regulation 10(e) specifically pertains to the accuracy of information related to cargo clearance, not just the identity of the client. By processing the revised

documents without ensuring they met notification conditions, the CB acted as a mere facilitator for the importer's fraud rather than a responsible agent of the law. Consequently, the IO held the charge under Regulation 10(e) as "Proved" beyond doubt due to the CB's gross negligence in its statutory verification duties.

16.2 I have perused the defence submission of the CB wherein the CB maintains that they fulfilled their duty of due diligence by ensuring all filings were based strictly on documents provided by the importer and only after completing mandatory KYC verification. They emphasize that the Customs Department's own assessing officers scrutinized these documents, defaced the Certificates of Origin, and granted "out of charge," which reinforces the CB's position that the information appeared accurate at the time of filing. The CB argues that they are not required to look behind the face of valid-looking documents provided by a client, and having followed standard verification protocols, they should not be held liable for the importer's underlying fraud.

16.3 I have perused the documents on record and the CB's submission. The CB contended that they fulfilled their obligations by verifying KYC and relying on documents provided by the importer. This argument is legally flawed. Regulation 10(e) mandates that a CB exercise due diligence to verify the accuracy of information imparted to a client. The IO rightly pointed out that when the importer proposed revisions to claim a benefit that the CB initially deemed inapplicable, the CB had a heightened responsibility to re-verify the accuracy of the revised information. Instead, the CB acted as a mere facilitator for the importer's convenience, leading to the filing of inaccurate declarations. The CB's reliance on the *Baraskar Brothers* case is misplaced, as that case focused on KYC verification rather than the accuracy of notification compliance. I, therefore, accept the IO's finding that the charge under Regulation 10(e) is Proved. I hold the CB M/s. Amity Shipping & Logistics guilty of violation of Regulation 10(e) of the CBLR, 2018.

17. I find that the charge of violation of Regulation 10(m) of the CBLR, 2018 has been levelled against the CB on the grounds that the Customs Broker, despite having certain information suggesting that the consignment may not be eligible for the AIPFA exemption,

did not raise the matter with the department or seek further clarification. This inefficient handling of the situation–where the declaration was revised solely at the importer's request, resulting in an undue claim of benefits reflects a lack of the professionalism and efficiency expected in such cases. In light of the above, it appeared that the CB had not fully complied with the obligations laid down under Regulation 10(m) of the CBLR, 2018.

17.1 I find that the inquiry officer, in this regard, has observed that the Customs Broker violated Regulation 10(m) of CBLR, 2018 by failing to discharge their duties with the required degree of efficiency. The IO determined that "efficiency" under this regulation is not limited to the speed of cargo clearance, but encompasses the professional integrity and accuracy with which a broker handles declaration. By failing to scrutinize the revised Bill of Entry despite possessing knowledge that the transit through China rendered the AIFTA exemption inadmissible, the CB demonstrated a profound lack of professional efficiency, leading to an undue claim of benefits and a compromise of statutory duties. The findings specifically rejected the CB's defence that the absence of delays in clearance satisfied the requirements of the regulation. The IO clarified that Regulation 10(m) mandates three distinct components: speed, efficiency, and timeliness; a broker who facilitates a fraudulent declaration at the importer's request ignoring clear evidence of non-compliance fails the "efficiency" standard regardless of how quickly the documents are processed. Consequently, the IO held that the CB's failure to raise the matter with the Department or seek clarification on the goods' eligibility established the charge under Regulation 10(m) as "Proved" beyond doubt.

17.2 I have perused the defence submission of the CB wherein the CB contends that the charge lacks any evidentiary basis as the regulation specifically mandates discharging duties with speed and efficiency to avoid delays. They point out that the importer has made no allegations of delay and that the goods were cleared following standard assessment procedures, thereby satisfying the requirement for speed. The CB further argues that the Show Cause Notice (SCN) failed to provide any specific findings or technical grounds to justify a lack of "efficiency". They maintain that by processing the documents provided by

the client in a timely manner leading to the successful issuance of out of charge, they fully met the professional standards expected of a Customs Broker.

17.3 I have perused the documents on record and the CB's submission wherein the CB argued that since the goods were cleared without delay, they satisfied the requirements of Regulation 10(m). However, "efficiency" in a regulatory context extends beyond the speed of clearance; it requires the professional integrity to ensure that filings are legally sound. The CB possessed information suggesting the consignments were ineligible for the AIFTA exemption but chose to ignore these red flags. Filing a revised declaration that results in an undue claim of benefits constitutes a lack of professionalism and a failure to discharge duties with the required efficiency. I find no reason to deviate from the IO's conclusion and hence uphold the charge of violation of Regulation 10(m) of the CBLR, 2018.

18. Regarding the CB's request for cross-examination, I agree with the IO that the liability in this case is primarily established through documentary evidence including dual Bills of Lading and Certificates of Origin which clearly show the China transit. Since the statements used are corroborative and in the nature of admissions, the denial of cross-examination does not violate the principles of natural justice. Furthermore, the CB's claim that the SCN was barred by limitation is found to be baseless and unelaborated.

19. I find that a Customs Broker occupies a very important position in the Custom House and is supposed to safeguard the interests of both the importers/exporters and the Customs Department. A lot of trust is kept in CB by the Government Agencies; however, by their acts of omission and commission, the Customs Broker M/s. Amity Shipping & Logistics (CB License No. 11/2392) has violated Regulations 10(d), 10(e) and 10(m) of the Customs Brokers Licensing Regulations (CBLR), 2018. I find that for the violation of obligations provided under CBLR, 2018 and for their act of omission and commission, the Customs Broker M/s. Amity Shipping & Logistics (CB License No. 11/2392) have rendered themselves liable for penal action under the CBLR, 2018. Hence, while deciding the matter, I rely on the following case laws:

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

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

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

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

20. As discussed above, after a careful consideration of the Offence Report, the show cause notice under CBLR, 2018, Inquiry Report dated 02.09.2025, the oral and written submissions made by the Customs Broker (CB), and the evidence on record, I have arrived at the conclusion that the charges of violating Regulations 10(d), 10(e), and 10(m) of the CBLR, 2018 have been established beyond doubt. The evidence clearly demonstrates that the CB M/s. Amity Shipping & Logistics was fully aware that the subject goods,

"Electrolytic Manganese Metal Flakes," were shipped from China, thereby disqualifying them from the AIFTA duty exemption. Despite this knowledge, the CB revised the Bills of Entry at the importer's request to claim a NIL rate of duty, resulting in a significant loss to the Government. This act of failure to advise the client against non-compliance or to alert the Department, constitutes a breach of the trust and statutory responsibilities reposed in a Customs Broker. The CB's attempts to hide behind procedural technicalities, such as the denial of cross-examination or limitation issues, are not tenable, as the violations are proven primarily through undisputed documentary evidence and the CB's own admissions. Further, the adjudicating authority in the Offence Report Order-In-Original No. 344/2024-25/Commr./NS-III/CAC/JNCH dated 21.03.2025 observed that, "*I further find that initially when the Custom Broker were filing Bill of Entry No. 8622141 dated 10.05.2022, they had submitted filed Bill of Entry for No exemption and on 5% BCD. However, when the Customs Broker sent the same for confirmation, the importer M/s Tata International Limited asked to revise the Bill of Entry, so that the said benefit under Notification may be availed and also provided the Country-of-Origin Certificate as well. Accordingly, the BE was filed at 0% BCD in accordance with the Notification No. 46/2011 dated 01.06.2011 by the Custom Broker*". The aforementioned observation indicates the lack of *mens rea* on the part of the Customs Broker in filing the impugned Bills of Entry claiming benefit of the Notification No. 46/2011 dated 01.06.2011. The CB succumbed to the importer's influence rather than prudent decision-making which led to the violation of responsibilities bestowed upon the CB under the CBLR, 2018. Hence, under the factual matrix of the case and considering the defence arguments of the CB, to some extent and applying the principle of proportionate punishment I am not inclined to revoke the License of the CB as the punishment of revocation of license is harsher and disproportionate to the offence committed. However, I am of the considered view that the ends of justice will be met by forfeiture of security deposit under Regulation 14 of the CBLR, 2018 and imposing a penalty on the CB, under Regulation 18 of the CBLR, 2018 which suffices both as a punishment for the infraction and as a deterrent to future violations. In this regard, I place reliance on the following caselaws:

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

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

21. Further, I find that the Inquiry Report in the present case was received on 06.10.2025. The inquiry report was shared with the CB and an opportunity for Personal Hearing (PH) was granted to the CB on 13.11.2025. However, the CB failed to appear on the aforementioned date and as detailed in the foregoing para 11, the CB did not appear on the next two PH dates viz. 20.11.2025 and 09.12.2025 and the PH could be conducted not

before 16.12.2025. Further, with regard to the timelines prescribed under Regulation 17 of CBLR, 2018, relying on the following caselaws, I observe that the timelines under the CBLR 2018 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.), which stipulates 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".

22. In view of the above-discussed facts and for their acts of omission and commission, the CB M/s. Amity Shipping & Logistics (CB License No. 11/2392) 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(m) of the CBLR, 2018 and is liable for penal action. Accordingly, I pass the following order:

ORDER

23. I, Commissioner of Customs (Gen.), 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 Rs. 2,50,000/- (Rs. Two Lakh Fifty Thousand Only) from the security deposit furnished by the CB M/s. Amity Shipping & Logistics (CB License No. 11/2392) under Regulation 14 of the CBLR, 2018.

(ii) I, hereby impose a penalty of Rs. 50,000/- (Rupees Fifty Thousand only) on M/s. Amity Shipping & Logistics (CB License No. 11/2392) under Regulation 18(1) of the CBLR, 2018.

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

20/1/26

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

To,

M/s. Amity Shipping & Logistics (CB License No. 11/2392)
B-12, Shree Sai Darshan Dham CHS Ltd.,
Dr. Nemade Lane, Old Dombivali Road,
Dombivali West, Kalyan, Thane,
Maharashtra, Pin – 421202.

Copy to:

1. The Pr. Chief Commissioner/ Chief Commissioner of Customs, Mumbai - I, II, III Zone.
2. The Commissioner of Customs, NS-III, JNCH, Mumbai - II.
3. EDI of NCH, ACC & JNCH
4. ACC (Admn), Mumbai with a request to circulate among all departments.

5. JNCH (Admn) with a request circulate among all the concerned.
6. Cash Department, NCH.
7. Office copy.