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

संचिका सं./F. No.- GEN/CB/246/2025–CBS

CAO No. 21/2026-27/CAC/PCC(G)/AKP/Adj-CBS

आदेश दिनांक/Date of Order: 03.07.2026

जारी दिनांक/Date of issue: 03.07.2026

DIN-20260777NO000000E9E1

द्वारा जारी: अजय कुमार पाण्डेय	Issued By : Ajay Kumar Pandey
प्रधान आयुक्त, सीमाशुल्क (सामान्य)	Principal Commissioner of Customs (Gen.)
मुंबई -400 001	Mumbai – 400 001

ORDER-IN-ORIGINAL मूल आदेश

ध्यान दीजिए/ N.B. :

1. यह प्रति उस व्यक्ति को निजी उपयोग हेतु निःशुल्क प्रदान की जाती है, जिसे यह जारी की जा रही है। 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 की धारा 129A(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 (कार्यविधि) नियमावली, 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 संदर्भ 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 (अपीलस) नियमावली, १९८२ के नियम के तहत निर्धारित है एवं उसी नियमावली के नियम 3 के उपनियम 2 में उल्लेखित व्यक्ति 6 द्वारा हस्ताक्षरित एवं सत्यापित की जाएगी।
The Appeal should be filed in Form C.A.-3 prescribed under Rule 6 of the Customs (Appeals) Rules, 1982 and shall be signed and verified by the person specified in sub-rule 2 of rule 3 rules ibid.

6. (i) यदि प्रतिवादित आदेश, जिसके विरुद्ध अपील की गई है, में शुल्क एवं मांगे गए ब्याजवलगाएगए जुर्माने की राशि रु-/पाँच लाख या इस से कम होतो रु. 1000 ., (ii)यदि यह राशि रुपाँच लाख से अधिक .) हो किंतु पचास लाख से अधिक न होतो रु. 5000/- एवंiii) यदि यह राशि रुपचास लाख से अधिक होतो . रु. 10000/- के शुल्क 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, की अनुसूची मद 6 के तहत निर्धारित रु. 50 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:

1. M/s A. M. SODDER & Co. (PAN NO: AAAFA3933G) having office address at ghogari Mension, 1st Floor, Flat 15/16, 2nd hasnabad Lane, Mumbai, Santacruz (West), Maharashtra, 400054 is holder of regular Customs Broker License No. 11/01, issued by the Commissioner of Customs, Mumbai under as per Regulation 9 of Customs Broker Licensing Regulations, 2018 and as such they are bound by the regulations and conditions stipulated therein.

2. An offence report in the form of Show Cause Notice No. 22/2025-26/ADC/GR.I&IA/NS-I/CAC/JNCH dated 07.04.2025 issued by ADC/Gr. I & IA/ NS-I/ JNCH, Zone-II, issued by Additional Commissioner of Customs, Gr. I&IA NS-I, JNCH, Mumbai was received in the Customs Broker Section wherein inter-alia following were informed:

2.1 Importer, M/s. Karad Agro Exports (IEC: AJFPK3224Q), through the CB M/s A. M. SODDER & Co. (PAN NO: AAAFA3933G) (CB No. 11/01), filed B/E No. 3012616 dated 22.10.2022 for clearance of 20,900 Kgs of Fresh Kiwi (declared origin: Greece) valued at Rs. 10,85,711.37 with duty of Rs. 3,58,285/-.

Table -1

Bill of Entry No. & Date.	3012616 dated 22.10.2022
Customs Broker Name.	M/s A. M. SODDER & Co. (PAN NO: AAAFA3933G) (CB No. 11/01)
Description of Goods.	Fresh Kiwi Fruit
Declared Assessable Value	Rs. 10,85,711.37/-
Declared Duty	Rs. 3,58,285/-.
Supplier/Consignor	M/s Bab Al Bahr Goods Wholeser LLC
Declared Country of Origin	Greece
Port of Loading	Jebel Ali, UAE.
Container Details	TGHU9959380

2.2 The goods, shipped from UAE, were put on hold by CIU, JNCH, and 100% examined on 31.10.2022, confirming correct quantity and description. Owing to their perishable nature, they were released on 28.11.2022. However, based on communication from ADG/NCTC dated 13.12.2022 regarding possibly forged Phytosanitary Certificates for goods shipped via UAE, investigation was re-opened for verification of origin.

2.3 On perusal of the certificate uploaded by the CB/Importer in the Bill of Entry No. 3012616 dated 22.10.2022, it was seen that both features i.e., Leaf & Container Number are missing in the Phytosanitary certificate uploaded/submitted by the Importer/CB that was forged/manipulated.

3. Statements:

3.1 Statement of Mr Rahul Vilasrao Karad, Proprietor of M/s Karad Agro Exports was recorded on 15.11.2022, 16.12.2022 and 19.10.2023 wherein he inter-alia stated that:

Mr. Rahul Vilasrao Karad, Proprietor of M/s Karad Agro Exports, imported around five consignments of fruit cargo, including Greece-origin Kiwi, routed through Dubai. Aware that importation of Iranian Kiwi is prohibited, he claimed to have no purchase order or shipping documents for the consignment and stated that his family friend Mr. Sainath Tukaram Chaudhari, residing in Dubai, arranged the order from M/s Golden Sea General Trading LLC. Mr. Chaudhari issued a post-dated cheque of AED 45,980 as security. The phytosanitary and shipping documents were allegedly submitted to UAE Customs, and he has no copies. He clarified that the goods were inspected in a Dubai cold storage and not cross-stuffed from ship to ship, as claimed in the supplier's letter.

Mr. Karad stated he handed over the invoice to Mr. Chaudhari with directions to clear the cargo and was informed that the goods were stored at Prabhu Hira Agro Cold Storage, Vashi. On visiting the storage, he found the goods in good condition and was told by Mr. Chaudhari that they had been sold to Delhi-based buyers, with proceeds to be credited to his account. However, the goods were stored under a different entity's name, and Mr. Chaudhari justified this by citing his financial involvement. Mr. Karad issued a sales invoice to Jagdish Kumar/Rajesh Kumar at Azadpur Mandi on Mr. Chaudhari's request, having received only Rs. 1,26,000 out of the promised Rs. 21,67,000.

3.2 Mr. Sainath Tukaram Chaudhari, authorized representative of M/s Karad Agro Exports, in his statement dated 20.03.2023 stated that:

All decisions regarding the import and sale of the kiwi consignment were taken solely by Mr. Rahul Karad, who instructed the Customs Broker to make duty and related payments. He claimed Karad was present during cargo clearance and had finalized a deal with Delhi-based buyer for Rs. 21.67 lakhs. Chaudhari denied knowledge of the buyer or payments received, asserting he only acted in good faith. He issued a security cheque of AED 46,000 on Karad's behalf but hasn't been reimbursed. He disputes Karad's victim narrative as misleading. On seeing the Phytosanitary Certificate submitted in the subject consignment and sample certificate, he affirmed that both the certificates are different from each other. Leaf symbol and container details are different in the certificate.

3.3 Mr. Zuber H. Sheikh (having Kardex No. S-3198 valid up to 31.12.2026) of CB M/s A.M. Sodder & Co. (11/01) in his statement dated 16.05.2023 stated that:

Mr. Rahul Karad and Mr. Sainath Chaudhari jointly approached him for clearing a consignment of Greek-origin kiwis, providing KYC and documents of M/s Karad Agro Exports. After CIU NOC, Mr. Karad paid all duties and related charges, and the goods were shifted to Prabhu Hira Agro Cold Storage, Vashi. He clarified that Mr. Karad, not Chaudhari, made all payments. The Customs Broker uploaded documents without verifying their authenticity. Upon comparing phytosanitary certificates, he found discrepancies, concluding that a manipulated certificate was submitted by the importer in this consignment.

4. Investigation:

4.1 The goods were declared as of Greek origin, but the packing and phytosanitary certificate raised doubts. While 'M/s Mega fruits, Kiwi Exports' in Greece uses cardboard boxes, the examined consignment was packed in white plastic crates. The submitted Greece phytosanitary certificate lacked key identifiers like leaf symbol and container number, suggesting manipulation.

4.2 A phytosanitary certificate is an official document required when shipping regulated items such as fruits, plant products, plants or other regulated articles. It is generated from the exporting country's department of horticulture, agriculture, food, or water resources. Each phytosanitary certificate is unique to each import or consignment and attests that the items intended for import meet the phytosanitary import requirements of importing countries and are in conformity with the certifying statement. It can only be issued by an authorized officer from a government department that is authorized by the National Plant Protection Agency (NPPO). The agency is mandated to prevent the threat of spreading pests, contamination, or diseases into the country of import.

4.3 In the Annex to the International Plant Protection Convention (IPPC), there are two types of certificates: a "phytosanitary certificate for export purposes" and a "phytosanitary certificate for re-export" for re-export purposes. A phytosanitary certificate for export is usually issued by the NPPO of the country of origin. A phytosanitary certificate for export describes the consignment, and through a certifying statement, additional declarations, and treatment records, it declares that the consignment meets phytosanitary import requirements. A phytosanitary certificate for export may also be issued in certain re-export situations for plants, plant products, and other regulated articles originating in countries other than the country of re-export if compliance with the phytosanitary import requirements can be attested by the country of re-export (e.g., by inspection).

4.4 A phytosanitary certificate for re-export may be issued by the NPPO of the re-exporting country in the case where the commodity in the consignment was not grown or processed to change its nature in that country, and only where an original phytosanitary certificate for export or a certified copy is available. The phytosanitary certificate for re-export provides the link to a phytosanitary certificate issued in the country of export and takes into account any changes in phytosanitary status that may have occurred in the country of re-export. Procedures for managing the issuance of the two types of phytosanitary certificates and the systems that ensure their legitimacy are the same. The IPPC model phytosanitary certificates provide standardized wording that shall be followed for the preparation of phytosanitary certificates. The standardization of the phytosanitary certificates is necessary to ensure consistency, that they are easily recognized, and that essential information is reported. Phytosanitary certificates are not valid until all requirements have been met and they are dated, signed, stamped, sealed, marked, or completed by the NPPO of the exporting or re-exporting country.

4.5 In the subject case, the Greece phytosanitary certificate submitted by Importer may be classified as a phytosanitary certificate for export purposes, and the United Arab Emirates phytosanitary certificate can be classified as a phytosanitary certificate for re-export Accordingly, upon thorough analysis of these certificates, it was noticed that Phytosanitary certificate of Greece is not valid as it fails to meet all requirements. It is worth mentioning that, as per the International Plant Protection Convention (IPPC), each phytosanitary certificate is unique to every import. The IPPC clearly mandates that the phytosanitary certificate for re-export provides the link to a phytosanitary certificate issued in a country of export and considers any changes in phytosanitary status that may have occurred in the country of re-export. The United Arab Emirates (UAE) phytosanitary certificate links the Greece phytosanitary certificates; however, since Greece Phytosanitary is fake, the UAE phytosanitary certificate itself become invalid.

5. Violation of Special Conditions of Import, Plant Quarantine Order 2003.

i. The relevant portion of the Chapter III of the Special Conditions of Import, Plant Quarantine Order 2003 may be referred in (RUD- 17) is reiterated as below:

Special Conditions of Import, Plant species:

1. In addition to the general conditions listed above in Chapter-II, the plant species herein after mentioned in Schedule-V, VI and VI shall not be permitted to be imported except when specifically authorized or covered under import permit *issued by an appropriate issuing authority and subject to such restrictions and conditions specified in this Chapter.*

2. Every consignment of plant species hereto specified in Schedule-V and VI shall be accompanied by a Phytosanitary Certificate issued by the authorized officer at country of origin or Phytosanitary Certificate re-export issued by the country of re-export along with attested copy of original phytosanitary certificate, as the case may be, with the additional declarations being free from pests mentioned under Schedule-V and VI of this order or that the pests as specified do not occur in the country or state of origin as supported by documentary evidence thereof.

3. General conditions shall apply to all consignments including in respect of those mentioned in Schedule V, VI and VIII.

ii. The fresh kiwi fruit falls under Schedule VI of the Plant Quarantine Order, 2003. Paragraph number of the special import conditions mandates the importer to submit the phytosanitary certificate for re-export issued by the country of re-export along with an attested copy of the original phytosanitary certificate. In the subject case, the importer has riled to obtain and submit the attested copy of the original phytosanitary certificate; rather, he has used the unattested Greece phytosanitary certificate to clear shipments fraudulently. In the context of above, goods were imported in violation to the special condition of Plant Quarantine Order 2003.'

6. The investigation revealed that the importer M/s Karad Agro Exports, its proprietor Mr. Rahul Karad, his authorized representative Mr. Sainath Tukaram Chaudhari, and the Customs Broker (CB) M/s A.M. Sodder & Co. knowingly used manipulated Phytosanitary Certificates to fraudulently import fresh kiwis into India. The certificate purportedly from Greece was found to be doctored and inconsistent with genuine samples. These falsified documents were physically brought by Mr. Chaudhari from Dubai and handed over to the importer and CB, who uploaded them on e-Sanchit without verifying their authenticity. Despite agreeing that the documents were fake, they used them to bypass the mandatory Plant Quarantine Order requirements, mis-declared the country of origin, and cleared prohibited goods through customs. The imported goods were later sold in the domestic market, generating proceeds of ₹21,67,000/-, with key roles played by Mr. Karad, Mr. Chaudhari, Mr. Nilesh Gosavi, and Mr. Sahil Bhareja.

6.1 The goods were declared as of Greek origin, but the packing and phytosanitary certificate raised doubts. While Mega fruits in Greece uses cardboard boxes, the examined consignment was packed in white plastic crates. The submitted Greece phytosanitary certificate lacked key identifiers like leaf symbol and container number, suggesting manipulation. As per IPPC norms and the Plant Quarantine Order, 2003, fresh kiwis require a re-export certificate from the UAE with an attested copy of the original Greece certificate. The importer failed to provide this, violating import conditions. The fraudulent import of perishable goods poses public health risks and may support illicit activities.

6.2 As a result, the goods became liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962, and though not available for seizure, the involved parties are liable for penalties under Sections 112(a), 112(b), 114AA, and Section 121 for recovery of sale proceeds. The CB failed in his regulatory duties under the Customs Broker Licensing Regulations (CBLR), 2018, by not verifying the genuineness of documents and facilitating the clearance of prohibited goods. His conduct warrants penal action under the CBLR, 2018.

7. Role of Individuals who were involved in the importation of the goods:

7.1 The importer and his authorized representative Mr Sainath Tukaram Chaudhari were given ample opportunities to obtain Invoice, packing list, Bill of Lading, purchase order from the Country of Origin (Greece) to UAE, however, they have not produced any evidence. Further, with the collusion with Sainath Tukaram Chaudhari, Kiwi fruits were imported with fake Phytosanitary certificate of Greece. Consequently, they had violated the special condition of Plant Quarantine Order 2003 by not producing the attested copy of the original phytosanitary certificate. With the instruction of Importer, Mr Sainath Tukaram Chaudhari has paid the charge of AED 46,000/- on 04.11.2022 through cheque to shipper M/s Golden Sea General Trading LLC.

7.2 Further, Mr Rahul Vilasrao Karad has also confirmed that payment to foreign counterpart's M/s Golden Sea General Trading LLC was made by Mr Sai Tukaram Chaudhari and further confirmed that till date his foreign counterparts had never contacted him to transfer the due amount.

7.3 In the clarification letter dated 02.11.2022 issued by Supplier, it was mentioned "Cross Stuffing from Ship Sho Ship". This term was asked from Mr Rahul Vilasrao Karad while recording of statement on 15.11.2022. During statement he had committed that he will get a clarification from supplier However, he had not submitted any clarification in this regard till date.

7.4 Further, Mr Rahul Karad, Importer informed that all the transactions/communications with foreign supplier & payment of Customs duties were done by Mr Sainath Tukaram Chaudhari and that the imported goods were sold by Mr Sainath Tukaram Chaudhari. Mr Rahul Karad further submits that the Phytosanitary Certificate is manipulated and submitted by Mr Sainath Tukaram Chaudhari and that his IEC has been used by Mr Sainath Tukaram Chaudhari.

7.5 Mr Sainath Tukaram Chaudhari submitted that CB paid all the Customs duties and expenses as per direction of Mr Rahul Karad and that the imported goods were sold by Mr Rahul Karad for Rs. 21,67,000/-. He affirms that the Phytosanitary certificate submitted in respect of B/E No. 3012616 dated 22.10.2022 is different from the samples shown to him. He does not have any clue whether the Phytosanitary certificate is fake or otherwise.

7.6 Mr Zuber H Sheikh, Customs Broker submitted that Importer Mr Rahul Karad paid all the duties. He affirms that the Phytosanitary certificate submitted in respect of B/E No. 3012616 dated 22.10.2022 is different from the samples shown to him and confirmed that the importer had submitted manipulated Phytosanitary certificate of Greece.

7.7 Mr Nilesh Bhimrao Gosavi authorised representative of M/s SKB Impex who is a friend of Mr Sainath Tukaram Chaudhari, has paid the Customs Duty of Rs 3,68,437/- on 01.12.2022 from the account 50200014700856 (HDFC Bank) 7 Star Platinum Logistics'. He confirmed the same while recording his statement on 02.08.2024.

7.8 Further, as per the Certificate of Esiablishment of 7 Star Platinum Logistics having Registration No 1610200310628531 produced during recording of statement under Rule 6 of the Maharashtra Shops and Establishment Rules, 1961, Mr Nilesh Bhimrao Gosavi is the employer. M/s SKB Impex has also paid the Shipping line local charges, detention charges, security deposit and container demurrage charges before clearance of the imported goods.

7.9 Mrs Sheetal Nilesh Gosavi, wife of Mr Nilesh Bhimrao Gosavi and proprietor of M/s SKB Impex has also authorized him to act on her behalf for all matters related to the business operation of M/s SKB Impex and any action taken by him in relation to business will be considered as having been taken by her.

7.10 In view of the above payment details, it is clearly signifying that Mr Nilesh Bhimrao Gosavi has a hand in gloves with Importer Mr Rahul Vilasrao Karad and Mr Sainath Tukaram Chaudhari. They are blaming each other for misleading the investigation.

7.11 Mr Sahil Bhareja, owner of M/s JR Agro is also involved in the financial trail. As per the statement submitted by Importer Mr Rahul Vilasrao Karad, Mr Sahil Bhareja has transferred Rs 90,000/-in the account of Importer. He had also transferred Rs 90,000/-in the account of 7 Star Platinum Logistics'. He had also paid the amount of 16,962/- for Detention Charges for 2 days to Shipping Line M/s Maxim Shipping Pvt Ltd.

7.12 As per the Panchanama drawn dated 31.10.2022, during the examination of cargo, Mr Sahil Bhareja was one of the Panchas. Further, while recording his statement on 04.07.2024, he has committed to share bank statement of M/s JR Agro Impex for the year 2022 and 2023 on 05.07.2024. However, he failed to deliver the same. A summon was also issued on 27.08.024, however no response was received from him. Such irresponsive approach signifies that he is not supporting with the investigation.

7.13 As per the statement of Manager Shri Mr Shekhar Lalchand Gupta of Cold storage/warehouse, Mr Sahil Bhareja directed him to store goods in the name of M/s Param Hans Impex. Further, as per the statement of Mr Ashish Sahni, employee of M/s JCO International has also confirmed that MË Sahil Bhareja asked him to store the goods in M/s Prabhu Hira Agro Cold storage in the name of some other company. However, Mr Sahil Bhareja while recording his statement on 04.07.2024 has denied above facts.

7.14 In view of the above, it is clear that Mr Sahil Bhareja has supressed the facts and mislead the investigation. Further, his financial trail also enlighten that he has also colluded with Importer Mr Rahul Vilasrao Karad, Mr Sai Tukaram Chaudhari and Mr Nilesh Bhimrao Gosavi in the import of Kiwi fruits with fake phytosanitary certificate.

7.15 The Customs Broker M/s A.M. Sodder & Co has failed to advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof. He has failed to exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work.

8. Role of The Customs Broker

8.1 From the findings of Investigation of the said SCN, it appears that the CB have failed to fulfil their obligations in terms of Regulation 10 (d), (e), (f) and (m) of CBLR, 2018. Further, CB has been made liable for penalty under Section 112 (a) and/or 112(b) and 114AA of the Customs Act, 1962 vide the said SCN.

Regulation 10(d) of the CBLR, 2018:

It obligates the Customs Broker to:

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

The CB has a statutory obligation to guide their clients to follow all relevant laws, not just the Customs Act, but also "allied Acts", such as:

i. Plant Quarantine (Regulation of Import into India) Order, 2003
ii. Destructive Insects and Pests Act, 1914.

However, in this case: The importer submitted a forged phytosanitary certificate, which is a critical document establish that the imported agricultural/horticultural product is free from pests.

CB has failed to advise their client to comply with the provisions of the Customs Act, other allied Acts and the rules and regulations thereof. Forged/Fake phytosanitary certificates could have been identified easily with the help of scanning QR code, however CB has failed to do so and in case of any doubt/non-compliance, matter should be brought to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, however Customs Broker has failed to do so. Even if the CB was unaware of the forgery at the time (as admitted in their statement dt. 17.05.2023), their omission in educating the importer about compliance amounts to negligence.

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

<u>Regulation 10(e) of the CBLR, 2018:</u>

It obligates the Customs Broker to:

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

The CB is not merely a passive forwarding agent the law imposes active responsibility to verify the authenticity and correctness of documents submitted to Customs. However, in this case, it appears that the Customs Broker has not imparted correct information to his client regarding the Phytosanitary certificates issued by Greece. The CB uploaded a forged phytosanitary certificate on e-SANCHIT, without verification of its authenticity. The phytosanitary certificate had obvious signs of forgery (i.e., missing leaf, missing Container No), CB should have noticed discrepancy in the Phytosanitary certificates issued by Greece. The CB blindly uploaded a forged certificate, breaching their obligation to verify documents before submission thus, indicating gross negligence and a breach of due diligence on their part.

Hence, it appears that the CB has failed to exercise due diligence to ascertain the correctness of information that they were imparting to the importer. Thus, it appears that the Customs Broker has violated the provisions of Regulation 10(e) of CBLR, 2018.

<u>Regulation 10(f) of the CBLR, 2018:</u>

It obligates the Customs Broker to:

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

The law imposes a vital responsibility of sharing information contained in any public notice relating to clearance of cargo issued by the Customs authorities. However, in this case:

a. As per JNCH Public Notice 11/2014 dated 01.04.2014 it is clearly stipulated that all imports of agricultural commodities, including those involving wood or plant-based materials, must be accompanied by a valid phytosanitary certificate (PSC) and that compliance with phytosanitary regulations is mandatory. The CB in this case however, failed to inform the importer about the requirement of submitting an original, verifiable phytosanitary certificate as mandated under the above Public Notice. It was the duty of CB to impart such instruction/circulation to his client to avoid any mis-declaration.

b. Further, it has been noted that the 'fresh kiwi fruit' falls under Schedule VI of the Plant Quarantine Order, 2003. Paragraph number 2 of the special import conditions mandates the importer to submit the phytosanitary certificate for re-export issued by the country of re-export along with an attested copy of the original phytosanitary certificate. In the subject case, it appears that CB has not informed his client about such regulations, which resulted into that the importer has failed to obtain and submit the attested copy of the original phytosanitary certificate; rather, he has used the unattested fake/forged Greek phytosanitary certificate to clear the present consignments.

Hence, in view of the above, it appears that CB has violated the provisions of Regulation 10(f) of CBLR, 2018.

Regulation 10(m) of the CBLR, 2018:

It obligates the Customs Broker to:

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

Although this clause focuses on speed and efficiency, courts and authorities interpret "efficiency" as including accuracy, professionalism, and adherence to law. However, in this case:

a. Uploading a forged certificate without basic scrutiny shows a casual, non-professional approach to documentation. Efficiency is not just about speed, but also about doing the job responsibly. CB failed to perform his job efficiently.

b. If the CB mechanically uploads documents to expedite clearance without verifying them, it reflects a failure of professional efficiency and invites disciplinary action.

The CB's failure to follow verification protocols before uploading documents compromises the integrity of the clearance process and violates Regulation 10(m).

9. From the above stated facts and outcome of the investigation, it appears that the CB M/s A. M. SODDER & Co., (CB No. 11/01) has failed in fulfilling the obligations as mandated under CBLR, 2018 and has violated the Regulation 10(d), 10(e), 10(f) and 10 (m) of CBLR, 2018.

9.1 In terms of Regulation 17(1) of CBLR, 2018, CB M/s C.C. Shah & Sons Agent Pvt. Ltd., (CB No. 11/01) is hereby called upon to show cause, as to why:

i. The Customs Broker license bearing no. 11/01 issued to them should not be revoked under regulation 14 read with regulation 17 of the CBLR, 2018.
ii. Security deposited should not be forfeited under regulation 14 read with regulation 17 of the CBLR, 2018;
iii. Penalty should not be imposed upon them under regulation 18 read with regulations 17 of the CBLR, 2018.

10. The CB M/s A. M. SODDER & Co., (CB No. 11/01) is directed to submit written submission to this show cause notice within 30 days from the date of issue of this notice. They are directed to appear for personal hearing on the date as may be fixed and to produce proof of evidence/documents, if any, in their defence to Sh. C. R. Reddy, AC/Audit who has been appointed as the Inquiry Officer to conduct inquiry into the case under regulation 17 of CBLR, 2018.

INQUIRY REPORT: -

11. The Inquiry officer (here in after referred to as the 'IO') concluded the inquiry proceedings and submitted the inquiry report dated 03.02.2026, wherein all the charges levelled against the CB of violation of Regulations 10(d), 10(e), 10(f), 10(m) of the CBLR, 2018 are held as **"Proved".**

FINDINGS OF THE INQUIRY OFFICER: -

12.1 The IO submitted that he had gone through the records of the case, laws, rules and regulations and submissions made by the CB and proceed to conclude his findings.

12.2 The IO submitted that on perusal of the records, it was noticed that the entire investigation was done by CIU, JNCH, after receipt of specific intelligence from NCTC. Investigation by CIU officers was conducted for the consignment of M/s. Karad Agro Exports imported Fresh Kiwi from supplier i.e. M/s. Golden Sea General Trading LLC, UAE with declared country of origin of the goods as Greece.

12.2.1 The IO submitted that the Importer/Authorised representative/CB uploaded 2 Phytosanitary certificates, one phytosanitary certificate for export purposes which was to be issued from the country wherein the goods were originated, i.e., "Greece" in this case, and another may be called as phytosanitary certificate for re-export purpose which was to be issued from the country where the goods were not grown or processed and only where an original phytosanitary certificate for export or a certified copy is available, which is UAE in this case.

12.2.2 The IO submitted that NCTC had provided samples of Phytosanitary ceritificates for the goods which are originated from Greece to the CIU/JNCH and CIU/JNCH after detailed analysis of sample certificates and certificates uploaded by the Importer/Authorised representative/CB, revealed that the phytosanitary certificate of Greece uploaded by Importer/Authorised representative/CB is not valid at is fails to meet all parameters and requirements.

12.2.3 During investigation, it is also found that IPCC (International plant protection convention) mandates that the phytosanitary certificate for re-export provides the link to a phytosanitary status that may have occurred in the country of re-export. The United Arab Emirates (UAE) phytosanitary certificate links the Greece phytosanitary certificates; however, since Greece Phytosanitary is fake, the UAE phytosanitary certificate for re-export itself become invalid.

13. The IO found that during the course of investigation, statement of Mr. Zuber H Sheikh (Kardex No. S-3198) of CB firm M/s. A. M. Sodder & Co. (License No. 11/1) was recorded on 17.05.2023 by CIU/JNCH wherein he inter-alia stated that Phytosanitary certificate of Greece submitted in the subject consignment and sample certificate shown, both are different from each other; Leaf symbol and container details are not mentioned in the certificate uploaded, whereas the sample certificate contains. He also stated that after comparing both the certificates, it appears that the importer had submitted manipulated Phytosanitary certificate of Greece.

14. The IO submitted that a Show Cause Notice No. 32/2025-26 dated 10.10.2025 was issued by the Commissioner of Customs (General), NCH, Mumbai to the Customs Broker M/s. A.M. Sodder & Co. (CB No. 11/01) under Customs Brokers Licensing Regulations, 2018 vide which an inquiry was ordered to be conducted against the said CB and asked the IO, to submit the inquiry report. On-going through the said SCN, it is observed that the CB has been

alleged to have violated the provisions of Regulation 10(d), 10(e), 10(f) and 10(m) of CBLR, 2018.

15. The IO submitted that he had carefully perused all the available records, including RUDs, statements mentioned in the Show Cause Notice No. 32/2025-26 dated 10.10.2025 issued by Commissioner of Customs (General), Mumbai Zone-I.

16. **ANALYSIS OF CHARGES-I: Regulation 10(d) of CBLR, 2018:-**

> *"* 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";*

16.1 The IO submitted that on going through the above Regulation, it was observed that the law imposes a vital responsibility on CB, to guide their clients to follow all relevant laws, not only the Customs Act, but also "allied Acts", such as:

i. Plant Quarantine (Regulation of Import into India) Order, 2003,
ii. Destructive Insects and Pests Act, 1914.

16.2 However, the IO submitted that in this case the importer submitted a forged phytosanitary certificate, instead of attested copy of phytosanitary certificate of Greece as mandated by the Plant Quarantine Order 2003, which is a critical document to establish that the imported agricultural/horticultural product is free from pests.

16.3 The IO submitted that in this case, the importer declared the goods as originating from Greece, supported by a Phytosanitary Certificate naming "Megafruits Kiwiexports, Greece" as the exporter. However, doubts arose because the exporter usually uses cardboard boxes, while the inspected consignment was packed in white plastic crates. Moreover, the Greek Phytosanitary Certificate was missing key identifiers like the leaf symbol and container number, suggesting possible manipulation.

16.4 Further, the IO submitted that when the goods are exported from the country other than the country of origin, then as per sub-para (2) of para (10 Special conditions for import of plant species Chapter III) of Plant Quarantine Order 2003,

> *"Every consignment of plant species hereto specified in Schedule-V and VI shall be accompanied by Phytosanitary certificate issued by the Authorised officer at country of origin or Phytosanitary certificate re-export issued by the*

country the country of re-export along with an attested copy of original Phytosanitary certificate, as the case may be, with the additional declarations being free from pests mentioned under Schedule-V and VI of this order or that the pests as specified do not occur in the country or state of origin as supported by documentary evidence thereof."

Accordingly, the IO submitted that the importer/CB should have uploaded the Phytosanitary certificate re-export issued by the country of re-export along with an attested copy of original Phytosanitary certificate. Where as in this case, the CB has uploaded only original Phytosanitary certificate for re-export issued by the country of re-export (UAE) and copy of Phytosanitary certificate of Greece without having leaf symbol and container number. Also, as per sub-para (2) of para (10 Special conditions for import of plant species Chapter III) of Plant Quarantine Order 2003, it is mandatory to upload attested copy of original Phytosanitary certificate. The IO submitted that the CB should have work with due diligence and advise his Client to comply with the same. Further, the IO submitted that as stated by the CB's authorized representative that the PC of Greece submitted by the importer is manipulated and if they had verified the genuineness of the documents with due diligence they could have avoided the act of fraud of the importer.

16.5 From the above, the IO submitted that the CB had failed to advise their client to comply with the provisions of the Customs Act, other allied Acts and the rules and regulations thereof. Thus, in view of the above, it appears that CB had violated the provisions of Regulation 10(d) of CBLR, 2018.

16.6 In view of the above facts, the IO submitted that the Charged CB had not accomplished their obligation reposed under Regulation 10(d) of CBLR, 2018 and thus, the Article of Charge-I for contravention of Regulation 10(d) of CBLR, 2018 framed against the charged CB firm appear to have been PROVED conclusively.

17. **Article of Charge-II: As per Regulation 10(e) of CBLR, 2018: -**

"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:"

17.1 The IO submitted that on going through the above Regulation, it is observed that the law imposes a vital responsibility on CB, to exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage.

17.2 The IO submitted that in the instant case, the CB had acted as a mere passive forwarding agent whereas the law imposes active responsibility to verify the authenticity and correctness of documents submitted to Customs. The IO submitted that the CB if actively acted, he should have asked for the attested copy of original phytosanitary certificate as required under Schedule VI of the Plant Quarantine Order, 2003. Thus, it appears that the Customs Broker has not imparted correct information to his client regarding the Phytosanitary certificates issued by Greece. The CB uploaded a forged phytosanitary certificate on e-SANCHIT, without verification of its authenticity and its legality. The IO submitted that the phytosanitary certificate had obvious signs of forgery (i.e., missing leaf, missing Container No), CB should have noticed discrepancy in the Phytosanitary certificates issued by Greece. Thus, the IO submitted that prima facie it appears that the CB, blindly uploaded a forged certificate, breaching their obligation to verify documents before submission thus, indicating gross negligence and a breach of due diligence on their part.

17.3 The IO submitted that he had also relied on the Judgement of the Hon'ble Madras High Court in the case of M/s. Cappithan Agencies versus Commissioner of Customs, Chennai-VIII [2015(10) LCX 0061], wherein the following observations were made:

> *13. The very purpose of granting a license to a person to act as a Customs House Agent is for transacting any business relating to the entry or departure of conveyance or the import or export of goods in any customs station. For that purpose, under Regulation 9 necessary examination is conducted to test the capability of the person in the matter of preparation of various documents determination of value procedures for assessment and payment of duty, the extent to which he is conversant with the provisions of certain enactments etc. Therefore, the grant of license to act as a Custom House Agent has got a definite purpose and intent. On a reading of the Regulations relating to the grant of license to act as CHA, it is seen that while CHA should be in a position to act as agent for the transaction of any business relating to the entry or departure of conveyance or the import or export of goods at any custom station, he should also ensure that he does not act as an Agent for carrying on certain illegal activities of any of the persons who avail his services as CHA. In such circumstances, the person playing the role of CHA has got greater responsibility. The very description that one should be conversant with the various procedures including the offences under the Customs Act to act as a Custom House Agent would show that while acting as CHA, he should not be a cause for violation of those provisions. A CHA cannot be permitted to misuse his position as CHA by advantage of his access to the Department. The grant of license to a person to act as CHA is to some extent to assist the Department with the various procedures such as scrutinizing the various documents to be presented in the course of*

transaction of business for entry and exit of conveyances or the import or export of the goods. In such circumstances, great confidence is reposed in a CHA. Any misuse of such position by the CHA will have for reaching consequences in the transaction of business by the Customs House officials. Therefore, when, by such malpractices, there is loss of revenue to the custom house, there is every justification for respondent in treating the action of the Petitioner Applicant as detrimental to the interest of the nation and accordingly, final order of revoking his license been passed.

17.4 The IO submitted that in a regime of trade facilitation, a lot of trust is placed on the Customs Broker who directly deals with the importers/exporters as the department does not have interface with importers/exporters. Failure to comply with this regulation by the CB to get away with import-export violations and revenue frauds. The IO submitted that the CB had failed to bring this act of forgery of document by their client to the notice of the Customs Authorities. The IO submitted that all the persons including the CB involved knowingly abetted/supported the illegal activity of unscrupulous persons in order to earn money by unfair means. Thus, the IO found that there is clear intent of malafide exhibited by the CB who participated in the fraud. The IO submitted that as discussed above, there is all round failure of the CB. Therefore, the IO submitted that the facts on record proved that CB violated various provisions of CBLR, 2018.

17.5 In view of the above, the IO submitted that the Charged CB had not accomplished their obligation reposed under Regulation 10(e) of the CBLR, 2018 and thus, the Article of Charge-II for contravention of Regulation 10 (e) of CBLR, 2018 framed against the CB firm appears to have been PROVED conclusively.

18. **Article of Charge-III: As per Regulation 10(f) of CBLR, 2018: -**

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

18.1 The IO submitted that on going through the above Regulation, it is observed that the law imposes a vital responsibility of sharing information contained in any public notice relating to clearance of cargo issued by the Customs authorities with a client.

18.2 In the instant case the IO observed that the CB failed in the following counts:

18.2.1 The IO submitted that as per JNCH Public Notice 11/2014 dated 01.04.2014 it is clearly stipulated that all imports of agricultural commodities, including those involving plant-based materials, must be accompanied by a valid phytosanitary certificate (PSC) and that compliance with phytosanitary regulations is mandatory. The CB in this case however, failed to inform the importer about the requirement of submitting an original, verifiable phytosanitary certificate as mandated under the above Public Notice. The IO submitted that it was the duty of CB to impart such instruction/circulation to his client to avoid any mis-declaration.

18.2.2 Further, it is seen that the 'fresh kiwi fruit' falls under Schedule VI of the Plant Quarantine Order, 2003. Paragraph number of the special import conditions mandates the importer to submit the phytosanitary certificate for re-export issued by the country of re-export along with an attested copy of the original phytosanitary certificate. In the instant case, the IO stated that the CB had not informed their client about such regulations, which resulted into that the importer, had failed to obtain and submit the attested copy of the original phytosanitary certificate; rather, he had used the unattested fake/forged Greek phytosanitary certificate to clear the present consignments.

18.2.3 From the above, it is evident that these clear instructions of the Public Notice and regulations of Plant Quarantine Order, 2003 were not passed on to the importer to comply them and also not verified the documents for its genuineness and also in respect of requirement as per allied acts as per their general practice and uploaded the documents given by the importer mechanically, which leads to the clearance of prohibited goods. Thus, it appears the CB acted in an unprofessional manner and violated Regulation 10(f) of CBLR, 2018.

18.3 In view of the above, the IO submitted that the Charged CB had not accomplished their obligation reposed under Regulation 10(f) of the CBLR, 2018 and thus, the Article of Charge-III for contravention of Regulation 10 (f) of CBLR, 2018 framed against the CB firm appears to have been PROVED conclusively.

19. **Article of Charge-IV: As per Regulation 10(m) of CBLR, 2018: -**

“a Customs Broker Shall discharge his duties as a customs broker with utmost speed and efficiency and without any delay"

19.1 The IO submitted that although this clause focuses on speed and efficiency, courts and authorities interpret "efficiency" as including accuracy, professionalism, and adherence to law.

19.2 In view of the above, the IO noticed that the CB failed in the instant case on the following grounds:

i. Uploading a forged certificate without basic scrutiny shows a casual, non-professional approach to documentation. Efficiency is not just about speed, but also about doing the job responsibly. CB failed to perform his job efficiently.

ii. If the CB mechanically uploads documents to expedite clearance without verifying them, it reflects a failure of professional efficiency and invites disciplinary action.

19.2.1 The IO submitted that from the above, it is evident that the CB uploaded the unattested fake/forged Greek phytosanitary certificate to clear the present consignments inspite of clear instructions under JNCH Public Notice 11/2014 dated 01.04.2014 and regulations of Plant Quarantine Order, 2003 without verifying the documents for its genuineness and also in respect of requirement as per allied acts as per their general practice mechanically, which leads to the clearance of prohibited goods. Thus, it proves that the CB failed to follow verification protocols before uploading documents by compromising the integrity of the clearance process and violates Regulation 10(m) of CBLR, 2018.

19.3 In view of the above, the IO submitted that the Charged CB had not accomplished their obligation reposed under Regulation 10(m) of the CBLR, 2018 and thus, the Article of Charge-IV for contravention of Regulation 10 (m) of CBLR, 2018 framed against the CB firm appears to have been PROVED conclusively.

20. SUMMARY OF THE FINDINGS

From the above said discussions as mentioned above, the IO concluded the findings as under:

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

WRITTEN SUBMISSIONS OF THE CB: -

21.1. The CB submitted that they categorically denied all allegations of collusion, mis-declaration, suppression, or abetment of any offence under the Customs Act, 1962, and respectfully submitted that all actions taken by them were in good faith, in accordance with documents provided by the importer and in compliance with the Customs Brokers Licensing Regulations (CBLR), 2018.

21.2. The CB submitted that the importer, M/s Karaf Agro Exports., engaged them for customs clearance of goods imported vide the said Bill of Entry through their and they had obtained all necessary documents for KYC Pertaining to said firm.

21.3. The CB submitted that all pre-shipment documents Commercial Invoice, Packing List, Air Waybill, and Freight Certificate were received from the Authorized representative of the importer along with importer himself as stated in the statement mentioned in Para 3.3. of the said Show Cause Notice.

21.4. The CB submitted that they had acted in good faith based on documents provided by the importer along with their forwarder and the overseas supplier. The CB stated that no mens rea or intention to contravene provisions of the Customs Act is established.

21.5. The CB submitted that the Commercial Invoice issued by the supplier indicated "Greece" as the Country of Origin which was further substantiated with the Country of Origin Certificate and Phyto Sanitary Certificates, and accordingly, the Country of Origin was declared as "Greece" in the Bill of Entry.

21.6. The CB submitted that the checklist was forwarded to the importer for verification and approval. The importer approved the declaration without any objection.

21.7. Thus The CB submitted that they acted only as a facilitator of documentation and electronic filing based on importer-approved data, without any intent or reason to doubt the authenticity of documents supplied by the importer. The CB stated that it is also pertinent to note that they had also submitted all the requisite documents in e-sanchit which shows their authenticity and non-involvement in any act which lead to mis-declaration or duty evasion or any sort of undue notification.

21.8. Further, the CB submitted that the department had failed to appreciate the fact that all the involved parties had attended and cooperated with the department for statements and providing all necessary information required by them for investigation.

21.9. The CB submitted that the investigation had failed to appreciate the fact that the goods were released after obtaining No Objection Certificate from Plant Quarantine and Food Safety and Standards authority of India (FSSAI) who are the regulatory bodies governing the import of these products. Hence, the CB submitted that there is no procedural lapse at their end.

21.10. The CB submitted that it may also be noted that the entire show cause notice revolves around the Country of Origin and Doctored Phyto Sanitary Certificate. However, the CB submitted that the department have no where pointed out their active involvement as a Custom Broker. The CB submitted that they had been made as a Noticee purely for presenting the facts and for co-operating with the department.

21.11. The CB submitted that the Investigation and Show Cause Notice is also silent about their active involvement in any sort of forgery in the documents or any sort of coercion or suppression from their end. However, they have failed to appreciate the facts that the Nodal Agencies such as FSSAI and Plant Quarantine had provided NOC on the basis of Phyto Sanitary Certificate submitted by the importer, how is it possible for Custom Broker to verify and doubt the same.

21.12. The CB submitted that the fact that they had provided all the information and documents to the department to the best of their knowledge.

22.1. Non applicability of Section 112(a)

(i) Section 112 (a) reads as under:

112 Penalty for improper importation of goods, etc. Any person, -

(a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act-

(ii) The CB submitted that they had not rendered the goods liable to confiscation, by any of their act(s) and/or omission(s). And also, they did not in any manner perform any act rendering the goods liable to confiscation.

(ii). No deliberate mis-declaration or intent to evade duty or any other policy restrictions.

- The CB submitted that they merely had filed the Bill of Entry based on importer-provided and approved documents.
- The CB submitted that there was no knowledge or reason to believe that the Country of Origin declared as Greece was incorrect as they relied upon the Phytosanitary Certificate and Country of Origin as declared in the invoice and Phyto.
- In fact, the CB stated that they had uploaded all the requisite documents provided to them by the importer and had not supressed any material facts in the Bill of Entry.

The CB submitted that they had placed reliance upon the case of V. Lakshmipathy v. Commissioner of Customs, 2003 (153) ELT 640 Tri Bang, wherein it was held: -

"The imposition of a penalty under Section 112(a) of the Customs Act presupposes an existence of an element of mens rea. There is no evidence to indicate any such guilty mind on the part of the appellant herein. There is no evidence that the appellant herein had dealt with any manner with the goods found to be liable to confiscation. The provisions of Section 112 would apply

only to persons who engage themselves in the physical act of importation of the goods."

The CB submitted that they had placed reliance upon the Hon'ble Mumbai Tribunal in another case of Nazir-ul-Rehman vs. Commissioner of Customs, Mumbai, 2004 (174) E.L.T. 493 (Tri. -Mumbai) held as follows:

*"**13** In regard to penalty imposed on the appellants, we observe that no evidence has been brought out by the dept. to establish that the two appellants-committed any one of the acts enumerated u/s 112(b) of the customs act knowingly. Mensrea is a necessary ingredient for imposing a penalty. While the goods are liable to confiscation no penalties can be imposed on the appellants u/s 112(b) as no Evidence was adduced by the dept. to show that the appellants were knowingly transporting smuggled goods.*

***14** Having regard to the circumstances as discussed above the following order is passed.*

(a) Confiscation of the goods is upheld.

(b) Penalties on the appellants are set aside.

***15**. The appeals are thus partly allowed."*

Further, the CB submitted that the onus of correctness of declaration lies on the importer and not the Custom Broker. The onus of correctness of declaration lies upon the importer, as held in:

- CC (Import), Mumbai v. Kunal Travels (Cargo) [2017 (349) ELT 199 (Tri. Del)]
- CCE v. Ashok Trading Co. [2016 (331) ELT 117 (Tri. Ahmd.)]

In view of the above mentioned cases, the CB submitted that penalty under Section 112(a) is not justified.

22.2. <u>Penalty cannot be imposed in the absence of any specific reason</u>

The CB submitted that in any case, it is pertinent to note that there is not even a single allegation against them in the SCN establishing mala fide on its part or its involvement in the alleged import of goods.

The CB submitted that they neither had intent nor knowledge of any false declaration.

The CB submitted that penalty cannot be imposed in the absence of any reason. In this regard, the CB relied upon the case of Vivek Joshi vs. Commr. of Cus. (Imports), Nhava Sheva, Mumbai, 2004 (178) E.L.T. 526 (Tri. -Mumbai), wherein Hon'ble Mumbai Tribunal held that penalty cannot be imposed in the absence of any reasons given for such imposition or in the absence of mention of any specific act/omission, on the part of the person on whom penalty is imposed, rendering the goods liable to confiscation. Relevant portion of the judgment is extracted below for ready reference:

"(c) As regards Shri Vivek Joshi, appellant in C/1001/03. Though the order imposes a penalty of Rs. 50,000/-under Section 112(a) of the Customs Act, 1962, on him, yet there is no finding arrived in the order as to why he is liable for penalty and as to what were the acts which he did or omitted to do, which have rendered the goods liable to confiscate. In absence of the same, no penalty on him could be sustained."

Similarly, the CB submitted that in the case of Jeevaraj vs. Collector of Customs and Central Excise, Bangalore, 1985(22) ELT44(Kar.), the Hon'ble Karnataka High Court held in clear terms that penalty cannot be imposed arbitrarily and that the same should be supported by reasons. Relevant portion of the same is extracted below for ready reference:

"30. But, in imposing a penalty of Rupees 2,00,000/-on each of these petitioners, the Collector has not given reasons. Both the appellate and the revisional authorities have not examined this aspect and have not also given reasons. Even on the quantum of penalty to be imposed, the authorities cannot act arbitrarily. A decision on this aspect also should be on the application of mind and must be supported by reasons which are lacking in the case of these petitioners. In this view, there is no other alternative for this Court except to quash the imposition of penalties against these petitioners and direct the Collector to re-examine and decide the same".

In view of the above cases, the CB submitted that it is very clear that it is necessary to give reasons before imposing any penalty. In the present case, the SCN does not even discuss the active role played by them or any of such acts in the alleged contravention of various provisions of law.

22.3. <u>Also, the CB submitted that penalty cannot be imposed on them for the following reasons:</u>

i. The CB submitted that the whole dispute in the present case relates to forged Phytosanitary Certificate and Mis-declaration of country of origin for the said goods. In such cases/ disputes, mens rea cannot be attached. Section 112(a) and 114AA can apply only where there is mens rea (guilty intent).

In this regard, the CB submitted that they had relied upon the case of Jay Kay Exports & Industries vs. C.C. (Port), Kolkata, 2004 (163) E.L.T. 359. And, it is a well settled position of law that penalty cannot be imposed in the absence of mens rea. The CB submitted that they had also placed reliance on the case of V. Lakshmipathy v. Commissioner of Customs, 2003 (153) ELT 640 Tri Bang.

Further, the CB stated that they had no intention to evade any policy restrictions or assist in misdeclaration. It is settled law that penal liability under Section 112(a) requires conscious knowledge and deliberate act of abetment. The CB submitted that no such evidence exists against them. Hence, the CB submitted that RAN Penalty under Section 112(a) is not sustainable.

The CB submitted that under Section 46(4) and Section 17(1) of the Customs Act, 1962, it is the importer who self-assessed the duty and is responsible for correctness of the declaration.

The CB submitted that they act as an agent, not as an importer, and is not responsible for verifying the veracity of supplier-side declarations unless there are visible discrepancies.

The CB submitted that the Commercial Invoice and Phyto Sanitary Certificate clearly mentioned "Greece." Hence, there was no apparent discrepancy visible to the Broker warranting doubt or further investigation.

Thus, the CB stated that attributing intention or knowledge to the CB is factually and legally untenable.

22.4. ABSENCE OF COLLUSION OR MALAFIDE INTENTION

The CB submitted that no evidence of any communication, benefit, or collusion between the CB and importer has been adduced.

The CB submitted that they had filed the Bill of Entry based on standard trade documentation flow through importers a routine practice in international logistics and Customs Clearing.

The CB submitted that as held in CCE v. Express Clearance Pvt. Ltd. [2013 (298) ELT 162 (Tri. Del)], mere filing of a Bill of Entry without active participation in misdeclaration does not attract penalty under Sections 112 or 114AA.

Further, the CB submitted that they had fully cooperated with investigation, produced all documents, and explained the procedure transparently.

The CB submitted that the declaration of Country of Origin as "Greece" was approved by the importer, and the Broker had no independent means to verify manufacturing origin in absence of any other documents.

22.5. NO VIOLATION OF OBLIGATIONS UNDER CUSTOMS BROKER LICENSING REGULATION, 2018

(i) Regulation 10 (d) of CBLR, 2018: -

"A Custom House Agent shall advise his client comply with the provisions of the Act, other Allied acts and the Rules and regulations thereof land 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 they had advised the client to provide true and complete documentation; there was no occasion of non-compliance known to them. The CB stated that as a procedure they had also obtained No Objection Certificate for clearance from Nodal Agencies such as Plant Quarantine and FSSAI. Further, the said goods were duly assessed by the assessing officer after examining all the relevant documents and the discrepancy was only noticed during the examination goods. The CB stated that they had fully cooperated with investigation, produced all documents, and explained the procedure transparently. There is no material evidence to bring on record that they had prior knowledge about any alleged mis-declaration regarding the product or country or origin to bring to the notice of Deputy Commissioner of Customs or Assistant Commissioner of Customs. Hence, the CB submitted that there is no violation of obligation under Regulation 10(d) of the Customs Broker Licensing Regulation, 2018.

(ii) <u>Regulation 10 (e) of CBLR, 2013:</u> -

"Custom House Agent 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 regard, the CB stated that Due diligence was exercised - all documents (Invoice, packing list, Bill of Lading, Phyto Sanitary Certificate) were checked and filed as per normal trade practice. The declaration of Country of Origin as "Greece" was approved by the importer, and the Broker had no independent means to verify manufacturing origin in absence of any other documentary evidences.

Insofar the CB submitted that as the alleged breach of 10(e) of Customs Brokers Licensing Regulations, 2018 requiring the customs broker to exercise due diligence in ascertaining correctness of information which is imparted to a client, it would appear that inappropriate construct has been placed on the misconduct intended to be deterred. The CB submitted that it was erroneous on the part of the customs authorities to construe every obligation in the Regulations as intended to ensure that customs broker is surrogate for customs authorities even to the extent of having to instruct importer/exporter on the contents of the statute. On the contrary, the licence issued to a customs broker is certificate of competency of the broker as reliably familiar with all aspects of clearance and it falls to the censing authority to initiate action for any deficiency thereof owing to which the transaction of importer/exporter has been jeopardized. Consequently, this allegation may be levelled A only in circumstances in which the importer/exporter is found to have been innocently led to breach of statutory compliance in any transaction and such circumstance is brought to the attention of the licencing authority. The CB submitted that there is no allegation, nor any suggestion from the importer, that incorrect information had been imparted which led to acts of omission and commission on their part. The CB stated that the invoking of this provision in these proceedings are incorrect."

The CB submitted that Hon'ble High court of Delhi had held in the case of Kunal (Travels) cargo vs Principal Commissioner of Customs(I&G), IGI airport New Delhi reported in 2017 (3) TMI 1494-Delhi High court that the Customs Broker is not an officer of customs who would have an expertise to identify misdeclaration of goods. They rely on this decision.

Hence, the CB submitted that there is no violation of obligation under Regulation 10(e) of the Customs Broker Licensing Regulation, 2018

(iii) <u>Regulation 10 (f) of CBLR, 2013.</u>

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

In this regard, the CB submitted that no evidence has been led in the SCN to establish violation of regulation 10(f) by the Customs Broker. The CB submitted that they had instructed the importer to produce all the requisite documents along with Phytosanitary Certificate which is mandatory import of these goods. Further, the importer was well in advance explained about the mandate of these certificates which he had then arranged from the supplier. However, the CB submitted that they as a third party to this certificate have no knowledge about the authenticity and correctness of the certificate and hence they had produced the same to the customs in e Sanchit for verification. The CB submitted that they had no independent source to verify the same. However, the CB submitted that they had followed all the due process and obtaining all the requisite NOCs from the regulatory departments.

Therefore, the CB submitted that the allegation of violation of Regulation 10(f) of CBLR, 2018 cannot be sustained.

(iii) <u>Regulation 10 (m) of CBLR, 2013</u>.

"Discharge his duties as a Custom Broker with utmost Speed and efficiency and without any delay."

In this regard, the CB submitted that this clause focuses on speed and efficiency. In this regard, the CB stated that they had done their job without any delay and with speed and total efficiency. However, not identifying the forged documents which is far beyond their purview shall not be termed as an inefficiency as they had truly succeeded in providing all the requisite documents to the customs officials as and what as provided without any tampering to the same. The CB submitted that instead of appreciating they had been marked as an Noticee in the said show cause notice. The CB submitted that the investigation is totally silent about their speed and efficiency as a Custom Broker. However, the CB stated that they had totally co-operated with the department.

Therefore, the CB submitted that the allegation of violation of Regulation 10(f) of CBLR, 2018 cannot be stained.

The CB submitted that in view of their detailed submissions as aforesaid, the allegation of regarding violation of Regulations 10(d) and10 (e) 10(f) and 10(m) of CBLR, 2018 cannot be sustained and as such, no valid ground exists for imposition of penalty in terms of Regulation 14 and Regulation 18 of CBLR, 2018.

23. <u>CONCLUSION AND PRAYER</u>

In view of the above submissions, the CB respectfully prayed that:

i) The proceedings initiated against M/s A M Sodder & Co. (C. B No. 11/01) under Sections 112(a), 114AA of the Customs Act, 1962, and alleged contravention of Regulations 10(d), 10(e), 10(f) and 10(m) of CBLR, 2018 may kindly be dropped in toto:

ii) They may kindly be exonerated of all charges and the case may be disposed of without any adverse order like revocation of license and forfeiture of Security Deposit;

iii) They be discharged of all allegations.

iv) Opportunity of personal hearing may kindly be granted before any final decision

<u>RECORDS OF PERSONAL HEARING</u>: -

24. An opportunity for a Personal Hearing was granted to the CB M/s A.M. Sodder & Co. CB No. (11/01) on 02.06.2026 at 12:45 p.m. Shri Tahir Godhrawala along with Shri Sanjay Babar, H-category pass holder appeared for the Personal Hearing before the Principal Commissioner of Customs (General). During the hearing, they had reiterated their earlier written submission as discussed above, which was taken on record. Consequently, the matter was

taken up for final adjudication based on the facts of the case, the Inquiry Officer's report, their written submissions, and the evidence available on record.

DISCUSSIONS AND FINDINGS: -

25. I have carefully gone through the Show Cause Notice No. 32/2025-26 dated 10.10.2025 issued under Regulation 17 of the CBLR, 2018; the detailed Inquiry Report dated 03.02.2026 submitted by Shri C. R. Reddy, Assistant Commissioner (Inquiry Officer); the evidence on record including Show Cause Notice No. 22/2025-26/ADC/GR.I&IA/NS-I/CAC/JNCH dated 07.04.2025 issued under the Customs Act, 1962 along with relied-upon documents (RUDs), as well as the comprehensive written submissions filed by the Noticee CB M/s A. M. SODDER & Co. (CB No. 11/01) (PAN No. AAAFA3933G). In compliance with the principles of natural justice, sufficient opportunities were granted to the Noticee to present their defence through written submissions as well as during personal hearing. All the submissions advanced by the Noticee have been carefully considered and taken on record before proceeding to adjudicate the present proceedings on merits.

26. The present proceedings against the Customs Broker M/s A. M. SODDER & Co. (CB License No. 11/01) originated from specific intelligence generated by the ADG/NCTC on 13.12.2022, which flagged the possibility of forged Phytosanitary Certificates in respect of fresh kiwi consignments imported via UAE but declared as originating from Greece. Pursuant to this intelligence, the CIU, JNCH took up detailed investigation into the subject consignment covered under Bill of Entry No. 3012616 dated 22.10.2022, filed by importer M/s Karad Agro Exports (IEC: AJFPK3224Q) through Customs Broker M/s A. M. SODDER & Co. (CB License No. 11/01). During investigation, it was observed that the Greek Phytosanitary Certificate uploaded by the importer/CB on e-Sanchit was manipulated/forged — it lacked key security features such as the leaf symbol and container number, which were present in genuine sample certificates provided by NCTC. The statement of Mr. Zuber H. Sheikh (authorised representative of the CB, Kardex No. S-3198) was recorded on 16.05.2023 / 17.05.2023, wherein he admitted that the submitted certificate differed from genuine samples and appeared manipulated.These findin gs were culminated in Show Cause Notice No. 22/2025-26/ADC/GR.I&IA/NS-I/CAC/JNCH dated 07.04.2025, highlighting the CB’s role in the clearance. Thereafter, the present Show Cause Notice No. 32/2025-26 dated 10.10.2025 was issued to M/s A. M. SODDER & Co. under the Customs Brokers Licensing Regulations, 2018, alleging contravention of Regulations 10(d), 10(e), 10(f), and 10(m). In essence, the present case against the CB triggered due to the CB’s alleged failure to

exercise due diligence while handling and uploading the questionable phytosanitary documents.

27. Following the issuance of Show Cause Notice No. 32/2025-26 dated 10.10.2025, Sh. C. R. Reddy, Assistant Commissioner / Audit was formally appointed as the Inquiry Officer under Regulation 17 of the CBLR, 2018 to conduct a detailed inquiry into the allegations leveled against M/s A. M. SODDER & Co. (CB License No. 11/01) regarding violations of Regulations 10(d), 10(e), 10(f), and 10(m) of CBLR, 2018. The Inquiry Officer concluded the proceedings and submitted his detailed Inquiry Report dated 03.02.2026. In the report, after examining all case records, statements, documents, and submissions made by the CB, the IO held **all four charges as "Proved"** — i.e., violations of Regulations 10(d), 10(e), 10(f), and 10(m) of CBLR, 2018. The IO found that the CB failed to advise the client on compliance with allied laws (Plant Quarantine Order, 2003), did not exercise due diligence in verifying the manipulated Phytosanitary Certificate, failed to convey relevant public notices, and did not discharge duties with required efficiency and professionalism.

28. Upon careful consideration of the brief facts and allegations contained in the Show Cause Notice No. 32/2025-26 dated 10.10.2025, the written submissions advanced by the Noticee dated 29.04.2026, the Inquiry Report dated 03.02.2026 and the evidence available on record, I find that the following principal issues arise for determination in the present proceedings:

a) Whether the Customs Broker M/s A. M. SODDER & Co. (CB No. 11/01) has violated Regulations 10(d), 10(e), 10(f) and 10(m) of the CBLR, 2018.

b) Whether the Customs Broker failed to exercise due diligence in verifying the authenticity of the Phytosanitary Certificates (particularly the manipulated Greek certificate) before uploading them on e-Sanchit and facilitating clearance.

c) Whether the CB breached its statutory obligation to advise the importer on compliance with allied laws (especially the Plant Quarantine Order, 2003) and to bring any non-compliance to the notice of Customs officers.

d) Whether there was any mens rea / knowledge / collusion on the part of the CB or whether it was a case of mere negligence / lack of professional care, and to what extent this affects liability under the CBLR, 2018.

e) Whether the extreme penalties of revocation of the Customs Broker License and forfeiture of security deposit are warranted, or whether a lesser penalty under Regulation 18 would suffice, considering the facts, the CB's defence, and principles of proportionality.

29. **Regulation 10(d) of CBLR, 2018**

29.1. Regulation 10(d) casts a clear obligation on every Customs Broker to advise their client to comply with the provisions of the Customs Act, 1962 as well as other allied Acts, rules and regulations, and in case of any non-compliance, to bring the matter to the notice of the Deputy Commissioner or Assistant Commissioner of Customs. In the instant case, the impugned imported goods fresh kiwi fruit falls under Schedule VI of the Plant Quarantine (Regulation of Import into India) Order, 2003. The special conditions of import of such goods explicitly mandate that every such import consignment must be accompanied by a Phytosanitary Certificate for re-export issued by the country of re-export (UAE in this case) along with an attested copy of the original Phytosanitary Certificate issued by the country of origin (Greece in this case). But it was revealed during investigation that the importer, through the CB, submitted only an unattested and manipulated Greek certificate that lacked essential security features such as the leaf symbol and container number.

29.2. There is nothing on record to show that the CB advised the importer about these mandatory requirements or insisted on proper documentation. Even when the CB's authorised representative, Mr. Zuber H. Sheikh, compared the submitted certificate with genuine samples and found it to be manipulated during the investigation, he had failed to intimate such manipulation to the Customs authorities upfront. This failure to guide the client and report non-compliance amounts to a serious breach of the advisory and reporting duty under Regulation 10(d). The CB cannot take shelter under the plea that they were merely acting as per importer's instructions, as the regulation imposes an active professional responsibility on licensed brokers to ensure legal compliance.

30. **Regulation 10(e) of CBLR, 2018**

30.1. Regulation 10(e) requires a Customs Broker to exercise due diligence to ascertain the correctness of any information which he imparts to the client or submits before Customs in relation to clearance of cargo. Due diligence in this context implies reasonable verification and not blind acceptance of documents. In the present matter, the Greek Phytosanitary Certificate uploaded by the CB on e-Sanchit was visibly defective and did not conform to the standard format prescribed under the International Plant Protection Convention (IPPC). It lacked critical identifiers that genuine certificates from Greece contain, as confirmed by samples provided by NCTC.

30.2. The statement of Mr. Zuber H. Sheikh dated 16/17.05.2023 explicitly acknowledges that the submitted certificate was different from genuine ones and appeared manipulated. The CB was supposed to exercise this due diligence before filing/ uploading the documents in the Customs ICEGATE for the purpose of clearance of the import consignment. Despite this, the CB proceeded to upload and rely upon the manipulated document for clearance. A prudent Customs Broker dealing with regulated perishable agricultural goods ought to have cross-checked the certificate, especially when the consignment was routed through a third country. By failing to perform even basic scrutiny, the CB breached the duty of due diligence under Regulation 10(e). This is not a case of minor oversight but a failure to uphold the professional standards expected from a holder of a Customs Broker license.

31. **Regulation 10(f) of CBLR, 2018**

31.1. Regulation 10(f) prohibits a Customs Broker from withholding any information contained in orders, instructions, or public notices issued by Customs authorities from a client entitled to receive such information. In this case, JNCH Public Notice No. 11/2014 dated 01.04.2014 specifically highlights the mandatory requirement of valid Phytosanitary Certificates for import of agricultural and plant-based commodities and underscores strict compliance with phytosanitary regulations. Additionally, the Plant Quarantine Order, 2003 clearly stipulates the exact documentation needed for Schedule VI items.

31.2. The CB neither informed the importer about these specific regulatory requirements nor ensured that the importer submitted the attested copy of the original Greek certificate along with the UAE re-export certificate. There is no evidence that the CB shared the relevant public notice or explained the consequences of non-compliance. This omission directly resulted in the importer submitting defective documents and clearing the goods in violation of the Plant Quarantine Order, 2003 read with JNCH Public Notice No. 11/2014 dated 01.04.2014. The CB's conduct clearly amounts to withholding vital regulatory information, thereby violating Regulation 10(f). The defence that the importer was aware of the requirements does not absolve the CB of its independent obligation under this regulation.

32. **Regulation 10(m) of CBLR, 2018**

32.1. Regulation 10(m) mandates that a Customs Broker shall discharge his duties with utmost speed and efficiency and without any delay. While speed is important, "efficiency" under this regulation encompasses accuracy, professionalism, vigilance, and responsible handling of documents to maintain the integrity of the clearance process. In the present case, the CB uploaded forged and manipulated documents mechanically without any verification, leading to the clearance of goods that violated plant quarantine norms.

32.2. In the present matter, the Greek Phytosanitary Certificate uploaded by the CB on e-Sanchit was visibly defective and did not conform to the standard format prescribed under the International Plant Protection Convention (IPPC). It lacked critical identifiers that genuine certificates from the country of origin Greece was supposed to contain. Such casual processing reflects a lack of professional efficiency and compromises the trust reposed in licensed Customs Brokers. The IO has correctly observed that uploading a visibly defective Phytosanitary Certificate without scrutiny demonstrates a non-professional approach. The CB's failure to follow verification protocols, despite dealing with a regulated commodity, clearly falls short of the standard of efficiency required under Regulation 10(m). This violation is compounded by the fact that the goods posed potential phytosanitary risks to the destined country. Therefore, the charge under Regulation 10(m) is also fully established.

33. Regulation 10(e) of the CBLR, 2018 explicitly requires a Customs Broker to exercise due diligence to ascertain the correctness of any information or documents submitted for clearance of cargo. In the present case, the Greek Phytosanitary Certificate uploaded on e-Sanchit was visibly defective did not conform to the standard format prescribed under the International Plant Protection Convention (IPPC). It lacked essential security features such as the leaf symbol and container number, which are present in genuine certificates issued by the National Plant Protection Organization of Greece. These discrepancies were later confirmed when the certificate was compared with genuine samples provided by NCTC.

33.1. The authorised representative of the CB, Mr. Zuber H. Sheikh, in his statement recorded on 16.05.2023 / 17.05.2023, admitted that the submitted Phytosanitary Certificate was different from the sample certificates and appeared to be manipulated. Despite this observation, the CB proceeded to upload the documents without any further verification, cross-checking, or alerting the Customs authorities. A licensed Customs Broker handling regulated agricultural produce like fresh kiwi (falling under Schedule VI of the Plant Quarantine Order, 2003) is expected to apply a higher level of scrutiny, especially when the goods are routed through a third country (UAE).

33.2. The act of mechanically uploading questionable documents without basic due diligence not only facilitated the clearance of goods with forged documents but also violated the fundamental professional responsibility of a Customs Broker. The defence that the CB relied on documents provided by the importer does not hold good, as due diligence requires independent verification of critical compliance documents. Therefore, the charge of failure to exercise due diligence is fully established against the Customs Broker. I, therefore, hold that the Customs Broker M/s A. M. SODDER & Co. failed to exercise due diligence in verifying the authenticity of the Phytosanitary Certificate to the standard format prescribed under the International Plant Protection Convention (IPPC).

34. Regulation 10(d) mandates that a Customs Broker shall advise his client to comply with the provisions of the Customs Act, 1962 and other allied Acts, rules and regulations, and in case of non-compliance, bring the matter to the notice of the Deputy/Assistant Commissioner of Customs. One of the most important allied laws in this case is the Plant Quarantine (Regulation of Import into India) Order, 2003. As per Chapter III of this Order, fresh kiwi fruit, being an item under Schedule VI, requires a Phytosanitary Certificate for re-export issued by the country of re-export (UAE) along with an attested copy of the original Phytosanitary Certificate issued by the country of origin (Greece). The CB failed to advise the importer about this mandatory requirement. Relevant Provisions are quoted below:

34.1. Plant Quarantine (Regulation of Import into India) Order, 2003

Chapter III – Special Conditions of Import

> "*1. In addition to the general conditions listed above in Chapter-II, the plant species hereinafter mentioned in Schedule-V, VI and VII shall not be permitted to be imported except when specifically authorized or covered under import permit issued by an appropriate issuing authority and subject to such restrictions and conditions specified in this Chapter.*
>
> 2. *Every consignment of plant species hereto specified in Schedule-V and VI shall be accompanied by a Phytosanitary Certificate issued by the authorised officer at country of origin or Phytosanitary Certificate for re-export issued by the country of re-export along with attested copy of original phytosanitary certificate, as the case may be, with the additional declarations being free from pests mentioned under Schedule-V and VI of this order or that the pests as specified do not occur in the country or state of origin as supported by documentary evidence thereof.*"

In the instant case, the imported goods Fresh Kiwi Fruit falls under Schedule VI of the Plant Quarantine Order, 2003. Therefore, the above condition is directly applicable.

34.2. JNCH Public Notice No. 11/2014 dated 01.04.2014 mandates that:

> "*All imports of agricultural commodities, including those involving wood or plant-based materials, must be accompanied by a valid Phytosanitary Certificate (PSC) and that compliance with phytosanitary regulations is mandatory.*"

This Public Notice emphasizes the mandatory requirement of a valid Phytosanitary Certificate for import of agricultural commodities and stresses strict compliance with phytosanitary norms.

34.3. There is no evidence on record to show that the CB informed or guided the importer regarding the specific documentation needed under the Plant Quarantine Order or the consequences of submitting incomplete or defective certificates. Instead, the CB simply accepted and uploaded the documents provided by the importer, which included a manipulated Greek Phytosanitary Certificate lacking essential security features. Mr. Zuber H. Sheikh, the authorised representative of the CB, compared the submitted certificate with genuine samples and found it to be manipulated during the investigation, although he had failed to intimate the same to the Customs authorities before filing the documents in ICEGATE. This complete inaction amounts to a serious breach of the advisory and reporting obligation under Regulation 10(d).

34.4. The CB cannot escape liability by claiming that it was the importer's responsibility alone. As a licensed professional, the Customs Broker is expected to possess knowledge of allied laws and play an active role in ensuring compliance. By failing to advise the importer properly and by not reporting the obvious non-compliance, the CB not only violated Regulation 10(d) but also facilitated the clearance of goods in violation of plant quarantine regulations. The Inquiry Officer has rightly held this charge as proved.

34.5. This lapse assumes greater significance because phytosanitary requirements are put in place to prevent the entry of pests and diseases into the country. The CB's failure to fulfil its statutory duty has potential public health and agricultural implications. Therefore, I hold that the Customs Broker M/s A. M. SODDER & Co. clearly breached its statutory obligation under Regulation 10(d) of the CBLR, 2018.

35. After careful examination of the entire evidence on record, it is held that there is no conclusive proof of mens rea, deliberate knowledge, or active collusion on the part of M/s A. M. SODDER & Co. or its authorised representative in the actual forgery of the Phytosanitary Certificate or in the mis-declaration of the country of origin. The investigation and the Inquiry Report do not bring out any evidence such as additional financial benefits, prior communication showing awareness of the forgery, or any direct involvement of the CB in procuring or creating the fake certificate. The documents were handed over by the importer / Mr. Sainath Tukaram Chaudhari, and the CB appears to have processed them in the normal course of business without following due diligence entrusted on them under the CBLR, 2018. Therefore, the allegation of active complicity or dishonest intention (mens rea) is not established.

35.1. However, the conduct of the Customs Broker clearly reflects gross negligence, lack of professional care, and serious failure in due diligence. Mr. Zuber H. Sheikh, the authorised representative of the CB (Kardex No. S-3198), in his statement dated 16.05.2023 / 17.05.2023 recorded under Section 108 of the Customs Act, 1962, explicitly admitted that he had compared the submitted Greek Phytosanitary Certificate with the genuine samples shown to him and found clear differences — particularly the absence of the leaf symbol and container number. Despite noticing these glaring discrepancies, which indicated possible manipulation, the CB neither rejected the documents, nor sought clarification from the importer, nor brought the matter to the notice of the Customs authorities at the time of filing of documents in the ICEGATE portal. Instead, they proceeded to upload the defective certificate on e-Sanchit and facilitated the out-of-charge and clearance of the goods. This was not a case of minor inadvertence but a complete abdication of professional responsibility, especially while dealing with a sensitive regulated item like fresh kiwi fruit under the Plant Quarantine Order, 2003.

35.2. Under the Customs Brokers Licensing Regulations, 2018, the liability of a Customs Broker is not confined only to cases involving dishonest intention. The Regulations impose a high standard of care, diligence, and professionalism. A Customs Broker is a licensed professional in whom the Department reposes significant trust by granting access to the customs clearance system. Regulations 10(d), 10(e), 10(f), and 10(m) are violated not only by positive acts of collusion but also by acts of omission, carelessness, and failure to exercise reasonable due diligence. The very purpose of licensing is to ensure that only competent and responsible persons act as intermediaries between the trade and the Customs department. Gross negligence in document verification, especially for phytosanitary certificates which have serious biosecurity implications, undermines the entire regulatory framework.

35.3. In the present case, while mens rea is absent, the persistent failure to verify critical documents, advise the client on legal requirements, and report red flags amounts to gross professional negligence. Such negligence has real consequences — it enabled the clearance of potentially non-compliant goods and exposed the country to phytosanitary risks. Under the CBLR, 2018, this level of professional misconduct is sufficient to warrant major penalty, including revocation of license and forfeiture of security deposit. The absence of dishonest intention may be considered as a mitigating factor only for the purpose of quantum of penalty, but it does not provide complete immunity from disciplinary action.

35.4. Even if the ingredients of conscious complicity or active facilitation are not fully established against the Customs Broker, the evidence on record clearly demonstrates gross negligence on their part, which is sufficient to hold them liable for violation of Regulations 10(d), 10(e), 10(f) and 10(m) of the CBLR, 2018. The Phytosanitary Certificate submitted by the importer was visibly defective and manipulated, lacking key security features such as the leaf symbol and container number. Despite this glaring red flag, the Customs Broker failed to exercise reasonable care, advise the importer to obtain the mandatory attested copy of the original certificate as required under the Plant Quarantine Order, 2003, or bring the discrepancy to the notice of Customs authorities. The statement of Mr. Zuber H. Sheikh, authorised representative of the CB, recorded on 16.05.2023, wherein he admitted that the submitted certificate was different from the genuine samples and appeared manipulated, is a clear admission of negligence.

35.5. A licensed Customs Broker cannot plead ignorance when critical compliance documents like the Phytosanitary Certificate show obvious signs of manipulation. This constitutes gross negligence in the discharge of their statutory obligations under the CBLR, 2018. While there is no direct evidence of monetary gain or active collusion with the importer, such negligence itself amounts to serious misconduct, as it facilitated the clearance of goods imported in violation of the Plant Quarantine Order, 2003. The Inquiry Officer has rightly appreciated this evidence and held the CB liable. Therefore, it is held that the evidence on record sufficiently establishes negligence by the Customs Broker, which is sufficient to sustain the charges framed against them under the CBLR, 2018. This negligence, though falling short of proven conscious complicity, is still grave enough to warrant penal action under the CBLR, 2018.

36. The CB's defence that the goods were cleared after obtaining No Objection Certificates from Plant Quarantine and FSSAI, and therefore there was no lapse on their part, is fundamentally flawed. The NOCs granted by these Participating Government Agencies (PGAs) were based entirely on the documents submitted by the importer through the Customs Broker, including the manipulated Greek Phytosanitary Certificate. These certificates were defective on the face of it — lacking critical security features such as the leaf symbol and container number. The regulatory authorities processed the consignment on the basis of the manipulated documents presented to them at that point of time. The subsequent detection of forgery during post-clearance investigation by CIU, JNCH clearly shows that the NOCs were obtained by suppression of the true nature of the documents. The CB, being the person who uploaded these documents on e-Sanchit, cannot now take shelter behind the NOCs (which was obtained by producing manipulated documents) to claim absolution from liability.

36.1. A licensed Customs Broker occupies a special position in the clearance process. While Participating Government Agencies (PGAs) like Plant Quarantine and FSSAI perform their statutory functions, the CB has an independent and higher obligation under the CBLR, 2018 to ensure that only correct and genuine documents are submitted. Regulation 10(e) requires due diligence, and Regulation 10(d) requires advising the client and reporting non-compliance. The

CB failed on both counts. Grant of NOCs does not dilute or extinguish the CB's statutory responsibilities. If this defence is accepted, this would defeat the very purpose of the licensing regime, which is to have responsible professionals acting as gatekeepers in the customs clearance system. The CB's attempt to shift blame to Participating Government Agencies (PGAs) is therefore meritless and liable to be rejected.

37. The CB's defence that they merely relied upon the documents provided by the importer is directly contradicted by the evidence on record. In his statement dated 16.05.2023 / 17.05.2023, Mr. Zuber H. Sheikh, the authorised representative of M/s A. M. SODDER & Co., explicitly admitted that he had compared the Phytosanitary Certificate submitted in the subject Bill of Entry with genuine sample certificates provided by NCTC. He clearly stated that the submitted certificate was different, particularly missing the leaf symbol and container number, and appeared to be manipulated. Despite personally noticing these glaring discrepancies, the CB took no steps to verify the authenticity of the document, seek clarification from the importer, or report the issue to the Customs authorities. Instead, they proceeded to upload the defective certificate on e-Sanchit and facilitated the clearance of the consignment. This is not a case of innocent reliance but a conscious decision to ignore visible red flags.

37.1. This admission by the CB's own representative is highly damaging and demolishes their plea of good faith reliance. A licensed Customs Broker is expected to apply professional judgment and due diligence, especially while handling regulated items such as fresh kiwi fruit under Schedule VI of the Plant Quarantine Order, 2003. The defects in the certificate were not hidden or technical in nature — they were apparent on a simple visual comparison. By choosing to overlook these obvious signs of manipulation and uploading the document anyway, the CB failed in its fundamental duty under Regulations 10(d) and 10(e) of the CBLR, 2018. Such conduct amounts to gross negligence and reflects a serious lack of professional care, which cannot be defended by claiming routine reliance on importer-supplied documents.

38. The liability of a Customs Broker under Regulation 10 of the Customs Brokers Licensing Regulations, 2018 is primarily in the nature of Strict Liability. Regulation 10 of the CBLR, 2018 imposes specific, mandatory obligations on every Customs Broker, such as advising the client on compliance with the Customs Act and allied laws (including the Plant Quarantine Order, 2003), exercising due diligence in verification of documents, and not withholding relevant information or public notices. Breach of these obligations attracts penal consequences even in the absence of mens rea or deliberate dishonest intention. An objective failure to comply with the prescribed standard of care and professional conduct is sufficient to impose penalty under the CBLR, 2018. This

makes the liability under CBLR, 2018 largely strict in character, as the focus is on the broker's failure to fulfil the regulatory obligations rather than their subjective state of mind.

38.1. In the present case, the admission of Mr. Zuber H. Sheikh, the authorised representative of the CB, that he had compared the submitted Phytosanitary Certificate with genuine samples and found it to be manipulated, coupled with the failure to advise the importer on the mandatory requirements under the Plant Quarantine Order, 2003 and to report the discrepancy to Customs authorities, clearly demonstrates strict liability for non-compliance. Such liability is not dependent upon proof of active collusion or conscious facilitation. Gross negligence in the discharge of statutory duties is itself sufficient to sustain the charges under Regulations 10(d), 10(e), 10(f) and 10(m) of the CBLR, 2018. Therefore, the liability fastened upon M/s A. M. SODDER & Co. is squarely covered under the strict liability framework of the CBLR, 2018. This position is well settled by various judicial pronouncements wherein penalty has been upheld on the basis of failure to meet the regulatory standards, irrespective of intent.

39. Since I hold that the charges of violation of Regulations 10(d), 10(e), 10(f) and 10(m) of the CBLR, 2018 have been clearly established against M/s A. M. SODDER & Co., the question of appropriate penalty/action arises for my consideration. This includes application of the doctrine of proportionality and consideration of mitigating factors. The violations committed by the Customs Broker are substantive in nature as they relate to the clearance of imported goods using a manipulated Phytosanitary Certificate in violation of the Plant Quarantine (Regulation of Import into India) Order, 2003. A licensed Customs Broker is expected to act as a gatekeeper and exercise high standards of care and due diligence. However, the doctrine of proportionality requires that the penalty must be commensurate with the gravity of the offence and the culpability of the offender.

39.1 While the charges are proved, certain mitigating factors have been duly considered — there is no evidence of revenue loss to the Government, no proof of mala fide intention or active collusion with the importer, the CB has a clean past record, and full cooperation was extended during the investigation by providing all documents and statements. It is also noted that the CB has been operating with this license for several years without any previous violation. Nevertheless, the lapse involving a manipulated phytosanitary certificate for a regulated agricultural commodity cannot be ignored. Taking into account the doctrine of proportionality and the mitigating factors, revocation of the licence and forfeiture of security deposit would be excessive. Instead, imposition of maximum penalty under Regulation 18 of the CBLR, 2018 is considered just, fair and proportionate. This penalty adequately balances the need for deterrence with the principle of proportionality while taking note of the mitigating circumstances.

39.2. As discussed above, considering all the facts and circumstances of the case, I conclude that revoking the CB license or forfeiture of the whole amount of security deposit is too grave a penalty to be imposed for the above violations. The ends of justice will be met by imposing a penalty of Rs. 50,000/- on the CB. When I am ordering imposition of penalty on the CB under Regulation 18 of CBLR, 2018, it is to meet the ends of justice so that the violation of Regulation 10 of Customs Brokers Licensing Regulations, 2018 does not go completely unpunished. It has been proved beyond doubt from the facts and findings on record mentioned earlier that the CB actually violated Regulation 10 of CBLR, 2018 and therefore deserves to be penalized under the provisions of Regulation 18 of CBLR. I rely upon the following decisions in his order:

Rubal Logistics Pvt. Ltd. [2019 (368) E.L.T. 1006 (Tri. - Del.].

"*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 CHA was accepted as having no mens rea of the noticed misdeclaration/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 CHA, 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."*

40. Various High Courts have held that punishment for the offences should be proportionate to the gravity of offence. In this regard, I place reliance on the following case laws:

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".

41. Having gone through the facts of the case and evidence on record , it is noted that the role of the CB, although marked by negligence and a significant lapse in professional caution, appears to be one of administrative omission and failure to adhere to prescribed standards rather than a premeditated *modus operandi* to bypass Customs laws. This distinction is of material importance while determining the proportionality of punishment under the licensing regulations. The objective of action under the CBLR is not punitive alone but also corrective and deterrent, aimed at ensuring that Customs Brokers adhere to the high standards of diligence and responsibility expected of them as licensed intermediaries. In the present case, having regard to the nature of the violations and the fact that revocation of the license would have severe and disproportionate consequences on the livelihood of the CB and its employees, the extreme penalty of revocation or forfeiture of security deposit is not warranted.

42. I have gone through the available records and find that the Inquiry Report in the matter was received on 03.02.2026. Personal Hearing was scheduled by the Adjudicating Authority but the Noticee CB did not appear before the Adjudicating Authority for personal hearing. Meanwhile, the Adjudicating Authority changed due to the transfers ordered vide CBIC Order No. 59/2026 dated 30.04.2026. Consequently, in the interest of natural justice, Personal Hearing was conducted 02.06.2026. The adjudication proceedings could not be completed within the prescribed 90 days period of receipt of the Inquiry Report due to the aforementioned administrative reason. Further, with respect to the

timelines prescribed under Regulation 17 of the CBLR, 2018, I observe that the timelines under CHALR/CBLR are directory in nature and not mandatory in cases where the complexity of the investigation or administrative exigencies prevent the adjudication within the prescribed timeline. In this regard, I place reliance on the following case laws:

(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 (Bom.), observed that:

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

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

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

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

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

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

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

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

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

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

43. In view of the above considerations and the "Doctrine of Proportionality," which propagates the idea that a punishment for an offence should be proportional to the gravity of the offence, I am not inclined to revoke the license or forfeit the security deposit of the CB. However, for their acts of omission and commission, the Customs Broker, M/s A. M. SODDER & Co. (CB No. 11/01) (PAN

No. AAAFA3933G) is held liable and guilty for violating the provisions of Regulations 10(d), 10(e), 10(f) and 10(m) of the CBLR, 2018, as mentioned above. I hold that the CB has failed to discharge the duties cast upon them, and the interest of justice would be met by the imposition of a penalty under Regulation 18. Accordingly, I pass the following order:

ORDER

44. I, Principal Commissioner of Customs (General), in exercise of the power conferred upon me under Regulation 17(7) of the CBLR, 2018, pass the following order:

(i) I, hereby impose a penalty of **Rs. 50,000/- (Rupees Fifty Thousand only)** on the Customs Broker M/s A. M. SODDER & Co. (CB No. 11/01) (PAN No. AAAFA3933G) under Regulation 18(1) of the CBLR, 2018.

45. 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.

2.7.26

(AJAY KUMAR PANDEY)
Principal Commissioner of Customs (General)
New Customs House, Mumbai-I

To,

M/s A. M. SODDER & Co. (CB No. 11/01) (PAN No. AAAFA3933G)

Copy to:

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