



प्रधानआयुक्त, सीमाशुल्क (सामान्य) का कार्यालय  
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS  
(GENERAL),

नवीन सीमाशुल्क भवन, बेलाई इस्टेट, मुंबई- 400 001. NEW CUSTOM  
HOUSE, BALLARD ESTATE, MUMBAI - 400 001.

संचिका सं./F. No.- GEN/CB/533/2024 -CBS

आदेश दिनांक/Date of Order: 30.06.2025

CAO No. 47/2025-26/CAC/PCC(G)/RC/Adj-CBS जारी दिनांक/Date of issue: 01.07.2025

संख्या:

DIN:- 2025077700000000000000E3

द्वारा जारी : राजन चौधरी

Issued By : **Rajan Chaudhary**

प्रधान आयुक्त, सीमाशुल्क(सामान्य)

Pr. 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 129 A(1B)(i) के संबंध में 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, 1982, के प्रावधानों के अंतर्गत, यथोत्तखंडपीठ 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 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 क्षेत्रीय खंडपीठ, के M/s Knowledge Infrastructure Systems Pvt. Ltd. & Others vs ADG, DRI, Mumbai के संदर्भ में जारी आदेश क्रमांक A/86617-86619/2018 दिनांक

31.05.2018के अनुसार न्यायिक आदेश तदोउ 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 विरुद्ध कई कारण बताओ नोटिस लगाकर आदेश पारित किया जाता है तो प्रत्येक प्रकरण में अलग अपील दायर की जाए।

In case where an order is passed by bunching several show cause notices on an identical issue against the same party, separate appeal may be filed in each case.

5. यह अपील फॉर्म C.A.-3 में दायर की जानी चाहिए जो कि सीमाशुल्क )अपीलस (नियमावली, १९८२ के नियम 6के तहत निर्धारित है एवं उसी नियमावली के नियम 3 के उपनियम 2 में उल्लेखित व्यक्ति 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 ब्याजवलागाएगए जुर्माने की राशि रु.पाँच लाख या इस से कम होतो रु-/1000 ., (ii)यदि यह राशि रु.पाँच लाख से अधिक हो किंतु पचास लाख से अधिक न होतो रु-/5000 .एवं) iii) यदि यह राशि रु.पचास 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, 1870की अनुसूची मद 6 के तहत निर्धारित रु. 50का कोर्ट फी स्टैम्प लगा होना चाहिए एवं इसके साथ संलग्न इस आदेश की उक्त प्रति में रु. 50का कोर्ट फी स्टैम्प लगा होना चाहिए।

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

**BRIEF FACTS OF THE CASE:**

M/s. Globotrans Clearing and Forwarding Pvt. Ltd. (11/1973) PAN No. AAHICG2592H, having registered address Office No. 6D1 6th Floor D1 D Wing Gundecha Onclave Kherani Road, Sakinaka, Andheri East, Mumbai-400072 (hereinafter referred to as the Customs Broker/CB) is holder of Customs Broker License No. 11/1973, issued by the Commissioner of Customs, Mumbai under Regulation 7(1) of CBLR, 2013 (now regulation 7(2) of CBLR, 2018) and as such they are bound by the regulations and conditions stipulated therein.

2. An offence report issued vide F. No. SG/MISC-162/2023-24/CIU/JNCH/790/D-Cell dated 17.09.2024 received from the Commissioner of Customs, CIU/JNCH (NS-G), Nhava Sheva wherein inter-alia following were stated:

2.1 The Importer M/s Aban Singapore Pvt. Ltd has filled two (02) Bills of Entry Nos. 8869403 dated 21.11.2023 and 8943233 dated 25.11.2023 through their Customs Brokers M/s Globotrans Clearing and Forwarding Pvt. Ltd (11/1973) (CHA NO. AADCG2592HCH001) and other one Customs Broker which were put on hold by the CIU, JNCH vide hold letter No. 475/2022-23 dated 20.12.2023.

2.2 Details of the subject goods covered under the above mentioned two (02) Bills of Entry are tabulates as below:

**TABLE-1**

Sr. No.	Bills of Entry	Invoice No.	Bill of Lading No.	Description	Container No.	Declared Grs. weight as per Bill of Entry (in Kgs)
1.	8869403/ 21.11.2023	SE5756	PSPFE40 731A	(OLD & USED) P/N-SPC- 1045621-1/4" 2M CAMERON TYPE DOUBLERAM BOP (OEMSL NO 120618745001) WITH 4-1/16 5M FLANGD	HLBUB09 -0638	19000

				SIDE		
2.	8943233/ 25.11.2023	SES755	PSPFE40 7318	USED OILWELL EQUIPMENT (PO NO 04- 0016881) CIC 4148 13-5/85M NOV SHAFFLER ANNULAR BOP ORM SL NO 152461-955) 5M STUDD	HLBU823 4653	6500

3. The goods covered under the above-mentioned Bill of Entry was examined by the officers of Central Intelligence Unit, JNCH under Panchanama dated 22.12.2023. During examination, the goods were found to be mis-declared in terms of description as against the declaration made in the subject Bills of Entry. The details of the same are tabulated as below:

TABLE-II

Sr. No.	Bills of entry	Description	Container No.	Declared Gross weight as per bill of entry (in kgs)	Wt.as per gate in slip (in kgs)	Goods found during CIU examination
1.	8869403/21.11.2023	(OLD & USED) P/N-SPC1045621-1/4” 2M CAMERON TYPE U DOUBLERAM DOP (OEMSL NO 120618745001)	HLAU8090638	19000	9240	USED OILWELL EQUIPMENT (PO NO-04-0016881) CPC 4148 13-5/85M NOV SHAFFLER ANNULAR BOP ( OEM

		WITH 4-1/16 5M FLANGD SIDE				SL NO- 152461-955) 5M STUDD
2.	8943233/25.11.2023	USED OILWELL EQUIPMENT (PO NO-04- 0016881) CPC 4148 13-5/85M NOV SHAFFLER ANNULAR BOP ( OEM SL NO-152461- 955) 5M STUDD	HLBU8234653	6500	19240	(OLD & USED) P/N- SPC1045621- 1/4" 2M CAMERON TYPE U DOUBLERAM DOP (DEMSL NO 120618745001) WITH 4-1/16 5M FLANGD SIDE

4. Therefore, it is evident from the above-mentioned table that the goods in respect of two containers pertaining to the subject two Bills of Entry were found to be cross stuffed and the same was not amended before taking Out of Charge of the goods as per Circular No. 13/2005-Customs dated 13.03.2005.

5. In pursuance of investigation, a summons was issued to Shri Sudhakar koty Pujari, G-card holder of Customs Broker M/s Globotrans Clearing and Forwarding Pvt. Ltd (11/1973) u/s 108 of the Customs Act, 1962 and statement of Shri Sudhakar koty Pujari, was recorded on 28.12.2023 wherein Shri Sudhakar koty Pujari inter-alia stated that -

- He came to know that the goods in the container was mis-declared and was not ours on the basis of Bill of Entry as the cargo declared in the Bill of Entry No. 8869403 dated 21.11.2023 did not match with the cargo stuffed in the said container No. HLB08090638.

- Later he came to know about the cross stuffing.
- On being asked about the amendment I would like to state that the importer wanted to clear the consignment urgently so he went with the CHA of M/s Globotrans Clearing and Forwarding Pvt. Ltd. to DC with a request letter dated 12.12.2023 for clearance of consignment. On being asked about the examination I would like to state that that CE did the inspection on 14.12.2023 and gave the final report on 15.12.2023 and examination was done on same day.
- He agreed that there is a need of amendment in the said Bill of Entry.

6. The Customs Broker M/s Globotrans Clearing and Forwarding Pvt. Ltd (11/1973) after knowing the cross stuffing of goods instead of suggesting the importer for amendment in IGM for Bill of Entry as per Circular No. 13/2005-Customs dated 13.03.2005, he agreed to collective examination of cross-stuffed goods of both the Bills of Entry and gets the Out of Charge without making necessary amendments in the IGM and Bill of Entry.

7. The CB has a very important role in customs clearances and lot of trust has been placed by the Department on the CB. In regime of trade facilitation and with more and more of the goods being facilitated by the Risk Management Systems without examination by the Customs, the role of CB has further increased so that economic frontiers of the country are well guarded. In this regard, I rely on the judgement of the Hon'ble Supreme Court in case of Commissioner of Customs Vs M/s K.M. Ganatra & Co has held that:

*"the Customs House Agent (CHA) occupies a very important position in the customs house. The customs procedures are complicated. The importers have to deal with a multiplicity of agencies namely carriers, custodians like BPT as well as the Customs. The importer would find it impossible to clear his goods through its agencies without wasting valuable energy and time. The CHA is supposed to*

*safeguard the interests of both the importers and the customs. A lot of trust is kept in CHA by the importers/exporters as well as by the government agencies..."*

8. In view of observation and in light of the offence report, it appeared that the CB has not fulfilled the obligations of Regulation 10(d), 10(e), 10(f) and 10(m) of CBLR, 2018. From the offence report, the following omissions leading to the violation of obligations stipulated in Regulation 10 of CBLR, 2018 are apparent: -

**8.1 The regulation 10(d) of CBLR, 2018, which read as:**

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

In the instant matter, the Customs broker appears to have knowledge about the cross stuffing of goods but despite the facts knowing, he did not take efforts to make necessary amendments in the bill of entry and had tried to facilitated the importer by clearing the imported goods. Apart from that, CB did not bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs. Under the Regulation 10(d) of CBLR, 2018, it is the responsibility of CB to advise his client to comply with the provisions of non-compliance. Also, CB should have informed Docks DC/AC about the instance, but CB failed to do so. Therefore, in view of the above, it appeared that CB has violated the provisions of Regulation 10(d) of CBLR, 2018.

**8.2 The regulation 10(e) of CBLR, 2018, which read as:**

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

On scrutiny of the subject offence report, it appears that the Customs Broker has failed to exercise due diligence and aided the importer to clear the goods without making the necessary amendments to the Bills of Entry as per Circular No. 13/2005-Customs dated 13.03.2005. It is the responsibility of CB to ascertain the correctness of any information which he imparts to his client but in the instant case, CB was convinced with the importer to process the subject bill of entry without any amendment despite knowing the fact that goods have been cross stuffed in the container. Thus, it appeared that CB has violated the provisions of Regulation 10(e) of CBLR, 2018.

**8.3 The regulation 10 (f) of CBLR, 2018, which read as:**

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

It is the responsibility of the Customs Broker to inform the importer about the instructions and public notices regarding the amendment in Bill of entry. In the said matter it appeared that Customs Broker has not followed the proper procedure of amendment in IGM for Bill of Entry as per Circular No. 13/2005-Customs dated 13.03.2005 and abetted with the importer by trying to clear the imported goods without making the necessary amendments to the Bills of Entry despite knowing the actual facts. Therefore, the said regulation appeared to have been violated by the Customs Broker.

**8.4 The regulation 10 (m) of CBLR,2018, which read as:**

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

In the instant case, it appeared that Customs Broker has connived with the importer to clear the subject bill of entry without following the due procedure of amendment as prescribed in Circular No. 13/2005-Customs dated 13.03.2005. Thus, it appeared that CB

has failed to discharge his duties as a Customs Broker and leading to an unwarranted delay in the clearance of the subject consignment. Hence, the Customs Broker has not fulfilled his duties with the speed and efficiency, thus appeared to have violated the provisions of Regulation 10(m) of CBLR, 2018.

9. In view of the above, it appeared that M/s Globotrans Clearing and Forwarding Pvt. Ltd (11/1973) has failed to comply with sub-regulations 10(d), 10(c), 10(f) & 10(m) of Customs Brokers Licensing Regulations, 2018 and thereby committed misconduct rendering themselves liable to penalty under Regulation 18 of the CBLR, 2018.

**SUSPENSION OF CB LICENSE AND SHOW CAUSE NOTICE:-**

10. In view of the Offence Report issued vide F. No. SG/MISC-162/2023-24/CIU/JNCH/790/D-Cell dated 17.09.2024 received from the Commissioner of Customs, CIU/JNCH (NS-G), Nhava Sheva, action under CBLR, 2018 was taken against the CB M/s Globotrans Clearing and Forwarding Pvt. Ltd (11/1973). In view of the Board's Instruction No. 24/2023 dated 18.07.2023, the case was not considered appropriate for immediate suspension of CB license under Regulation 16 of CBLR, 2018. However, the inquiry under Regulation 17 of CBLR, 2018 was initiated against the CB M/s Globotrans Clearing and Forwarding Pvt. Ltd (11/1973) and accordingly, on the basis of the offence report, the following articles of charges were framed against the CB:

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

10.1 In light of the above, a Show Cause Notice (SCN) No. 67/2024-25 dated 18.12.2024 was issued to the CB under the provisions of Regulation 17(1) of CBLR, 2018 wherein the CB was called upon to show cause, as to why:

- a. The Customs Broker license bearing no. 11/1973 issued to them should not be revoked under regulation 14 read with regulation 17 of the CBLR, 2018;

- b. Security deposited should not be forfeited under regulation 14 read with regulation 17 of the CBLR, 2018;
- c. Penalty should not be imposed upon them under regulation 18 read with regulations 17 of the CBLR, 2018.

11. Also, Shri Ankit, Deputy Commissioner of Customs was appointed as Inquiry Officer (IO) to conduct the inquiry proceedings in the matter. The IO submitted the inquiry report dated 18.03.2025, which is discussed below.

**INQUIRY REPORT: -**

12. The Inquiry officer (here in after referred to as the 'IO') concluded the inquiry proceedings and submitted the inquiry report dated 18.03.2025, wherein the charges levelled against the CB of violation of section 10(d), 10(e), 10(f) & 10(m) of CBLR, 2018 were held as "Proved".

**FINDINGS OF INQUIRY OFFICER (IO): -**

13. The IO had carefully examined the Show Cause Notice, along with the documents relied upon therein, as well as the defence submissions dated 16.01.2025 and 28.02.2025 filed by the CB, in conjunction with the material available on record.

13.1 The IO stated that the charge levelled against the CB under Regulation 10(d) is that the CB had knowledge of the cross-stuffing of the goods, but despite being aware of the facts, failed to take necessary action to amend the bill of entry and, instead, attempted to facilitate the clearance of the imported goods. Further, it is alleged that the CB did not bring the matter to the attention of the Deputy Commissioner of Customs (DC) or Assistant Commissioner of Customs (AC) at the Docks. Additionally, the CB is alleged to have failed in their duty to advise their client to comply with the provisions of the Customs Act and inform the DC/AC at the Docks of the non-compliance, as required.

13.2 The IO stated that in response, the CB submitted that the proper officer granted "Out of Charge" for the subject bill of entry on 16.12.2023, following a thorough

examination by the Customs Examiners (CE) and Docks officers, and after assessment by the Appraising Group, all with full knowledge of the cross-stuffing of the consignments. The CB contended that both the importer and the representative of the CB had informed the concerned officers about the cross-stuffing, and that it was the importer's request (not the CB's request) to clear the goods, claiming that the error was clerical in nature, without any revenue implications. The CB further argued that they had no authority to complete the assessment after the first check appraisal and, therefore, could not be held accountable when the officers acted with full knowledge of the facts.

13.3 The IO observed that the violation alleged under Regulation 10(d) pertains to the failure of the CB to advise their client to comply with the provisions of the Act and, in cases of non-compliance, to report the matter to the DC/AC at the Docks. To evaluate this, the oral testimony of both Customs Brokers (CBs), recorded under Section 108 of the Customs Act on 27.12.2023 and 28.12.2023, must be considered. Mr. Amit Ramesh Vichare, H-Card Holder (M/s Freight Field (M) Private Limited, in his statement, indicated that the CB informed them of the cross-stuffing, after which both CBs verbally informed the DC of the incident. The DC allegedly advised that the matter was one of amendment and that it would take approximately 3 to 4 days to complete the amendment. Despite this, the CB proceeded with the importer's request for clearance without making the necessary amendments, as evidenced by a letter dated 12.12.2023. Mr. Vichare further that the CB instructed them to clear the consignment without amendment, citing the importer's urgency. This same account was corroborated by Shri Sudhakar Koty Pujari, G-Card Holder (M/s Globotrans Clearing and Forwarding Pvt. Ltd.), in his statement dated 28.12.2023. It is noteworthy that neither of the CBs has retracted their statements, nor have these statements been challenged during the personal hearing, thus giving them substantial weight in the fact-finding process. Based on these events, it appears that instead of advising the importer to amend the bills of entry, the CB proceeded with the clearance of the goods without amendment. The claim of the

importer's urgency cannot be considered a valid excuse for procedural violations under Circular No. 13/2005 dated 13.03.2005.

13.4 The IO further submitted that there is no documentation on record from the CB advising their client to amend the bill of entry and follow the proper procedure before the goods were cleared Out of Charge. The defence put forth by the CB, that the error was of a clerical nature and that the Out of Charge was granted by the proper officer, does not absolve them of responsibility. One wrong does not justify or excuse another. The CB had a duty to advise their client to amend the bill of entry, and should have done so promptly. The bill of entry was given Out of Charge on 16.12.2023, and the CIU hold was placed on 20.12.2023. The CB's failure to ensure that the necessary amendments were made, despite the clear procedure, is a breach of their obligations under the Customs Broker Licensing Regulations. Moreover, the letter from the importer dated 22.12.2023, referencing the suggestion of the CBs regarding the amendment, appears to be an afterthought and lacks documentary evidence, thus failing to substantiate the CB's claims. The attempt to attribute responsibility to unspecified representatives of the importer, not mentioned in their statement of 28.12.2023, appears to be a tactic to obfuscate the actual sequence of events. In light of the foregoing, the IO concluded that the CB has violated the provisions stipulated under Regulation 10(d) of the CBLR, 2018.

14. The IO stated that the charge levied against the CB under Regulation 10(c) is that the CB appears to have failed to exercise due diligence and, in doing so, facilitated the importer in clearing the goods without making the requisite amendments to the bill of entry, in contravention of Circular No. 13/2005-Customs, dated 13.03.2005. It is further alleged that the CB had a duty to ascertain the accuracy of any information provided to the client, but in this instance, the CB is accused of conspiring with the importer to process the subject bill of entry without any amendments, despite being fully aware that the goods had been cross-stuffed in the container.

14.1 The IO stated that in their defence, the CB contended that Regulation 10(e) pertains solely to ensuring the accuracy of information imparted by the broker to the client, not information provided by the client to the broker. The CB argued that the proper officer granted the Out of Charge clearance after due examination and that, having advised the importer on the necessity of amending the IGM, the CB could not have refused to present the importer's request to the proper officers, irrespective of whether the request was accepted or not. The CB further maintained that the authority to approve or reject the importer's request lay solely with the proper officer and that the CB had no authority to make a judgment in this regard.

14.2 The IO observed that it is an established fact that the bill of entry was granted Out of Charge without the necessary amendment. The mere fact that the proper officer granted the Out of Charge clearance in error does not absolve the CB from responsibility for their actions. The CB actively assisted the importer by submitting a request letter, dated 12.12.2023, seeking clearance of the bill of entry without any amendment. The fact that the CB acted as the agent of the importer does not obligate them to support every representation made by the importer, particularly when such representations are inconsistent with the provisions of Customs laws and procedures. Moreover, no documentary evidence exists to show that the CB expressed any disagreement with the importer's request to clear the goods without amending the IGM. Customs Brokers have a duty to safeguard the interests of both the importer and the Customs Department, as they interact with multiple stakeholders, including carriers and custodians. As such, they are entrusted with a significant degree of responsibility. Therefore, the CB's defence that they could not have refused the importer's request does not stand up to scrutiny. In light of the foregoing, the IO concluded that the CB has violated the provisions stipulated under Regulation 10(e) of the CBLR, 2018.

15. The IO stated that the charge levelled against the CB under Regulation 10(f) is that the CB failed to follow the proper procedure for amending the Import General Manifest

(JGM) for the Bill of Entry, as mandated by Circular No. 13/2005-Customs, dated 13.03.2005, and further abetted the importer by attempting to clear the imported goods without making the requisite amendments to the Bill of Entry, despite being fully aware of the material facts.

15.1 The IO stated that in their defence, the CB has asserted that they did not withhold any information, and that they advised the importer of the necessity to amend the import documents. They contended that the Circular referred to in the SCN was in the public domain. The CB also argued that since the proper officer allowed the clearance without insisting on the required amendment, they should not be held solely responsible, as the departmental authorities, well-versed in the procedures, did not enforce the amendment process. Additionally, the CB denied any abetment, claiming they did not stand to benefit from the clearance of the goods without the necessary amendment.

15.2 The IO submitted that, as discussed earlier, it is evident that the CB made efforts to, and ultimately succeeded in, obtaining clearance for the Bill of Entry without the necessary amendments. This process involved a false Chartered Engineer (CE) report and the improper grant of "Out of Charge" by the Deputy Commissioner (DC). Furthermore, the CB has failed to provide any documentary evidence (such as a letter or email) that would suggest they advised the importer to amend the Bill of Entry, in accordance with the Circular. As per their statement recorded on 28.12.2023, there is evidence of abetment, as the CB proactively proceeded with the importer, submitting a request letter dated 12.12.2023, despite having been initially advised by the DC to follow the proper amendment process. In light of the above, the IO concluded that the CB has violated the provisions of Regulation 10(f) of the CBLR, 2018.

16. The IO stated that the charge levelled against the CB under Regulation 10(m) is that the CB appears to have conspired with the importer to clear the subject Bill of Entry without adhering to the due procedural requirements for amendment, as prescribed in

Circular No. 13/2005-Customs, dated 13.03.2005. Consequently, the CB has failed to fulfill their duties as a customs broker, resulting in unwarranted delay in the clearance of the subject consignment.

16.1 The IO stated that, in their defence, the CB has asserted that they had no role in the process after the Out of Charge copy of the Bill of Entry was issued, and that any delay was due to the Central Intelligence Unit (CIU) adopting a position contrary to that of the Appraising Officers. The CB further contended that they were not responsible for the documents requiring amendment, nor for the amendment of the Import General Manifest (IGM) or the amendment of House Bills of Lading, which were prerequisites for IGM amendment. The CB also argued that no specific instance of negligence or dereliction of duty on their part has been cited and that, as customs brokers, they were duty-bound to submit all representations from the importer to the proper officers without delay, without making judgments on the propriety of the importer's request.

16.2 The IO submitted that, as discussed earlier, it is apparent that the CB failed to discharge their duties as a customs broker effectively. Their attempt to hasten the clearance of the goods without the necessary amendments ultimately led to the goods being liable for confiscation. The CB's defence, attributing the delay to CIU, JNCH, is unsubstantiated, as their failure to effect the necessary amendments in the IGM was the primary cause of the delay in the smooth clearance of the Bill of Entry. Moreover, their argument that they were merely fulfilling their duty to submit the importer's requests to the proper officers without assessing their propriety reflects a lack of due diligence and failure to act in accordance with the Customs Act and the rules thereunder. In view of the above, the IO concluded that the CB has violated the provisions set forth in Regulation 10(m) of the CBLR 2018.

17. Under the provisions of Regulation 17(6) of CBLR, 2018, a copy of the Inquiry Report dated 18.03.2025 was shared with the CB. Also, for the sake of Principle of

Natural Justice' and under the provisions of Regulation 17(6) of CBLR, 2018, an opportunity of personal hearing was granted to the CB on 07.05.2025.

#### **RECORDS OF PERSONAL HEARING:-**

18. The personal hearing in the matter was held on 07.05.2025. Sh. Prashant Patankar, Authorized Representative of the CB appeared for hearing. He invited attention to the submissions before the inquiry officer dated 16.01.2025 alongwith its enclosures and the follow up mails submissions dated 28.02.2025 and affidavit dated 26.03.2025 and reiterated the same. He also explained that the IO has ignored the fact that the amendment of BL/IGM and the Bill of Entry was under process when the out-of-charge was given following first-check-appraisal on 16.12.2023 as can be seen from the mail dated 08.12.2023 supported by the affidavit and the letter by the importer addressed to CC dated 22.12.2023.

#### **WRITTEN SUBMISSION OF CB:**

19. The CB, vide letter dated 16.01.2025, submitted that at the outset the charges in the SCN under reference is not sustainable on facts and the merits. The SCN under reference dated 18/12/2024 is primarily based on the premise that the CB did not advise the importer to seek amendment of the IGM and bill of entry. The CB submitted that the premise is hypothetical, presumptuous and factually incorrect. The CB submitted that they did advise the importer to seek the amendment of the subject of IGM following the amendment of respective bills of lading.

19.1 The CB enclosed a copy of the importer's letter dated 22/12/2023 addressed to the Chief Commissioner of Customs, Mumbai Zone-II seeking release of the consignments held-up after the proper officers had granted out of charge. The CB also invited attention in particular to the Para 9 of the importer's representation wherein the importer has clearly stated that:

*"9. According to the Customs Brokers Instructions we initiated the BL/IGM amendment through our Freight Forwarders at overseas. As we understand the amendment of BL and IGM requires necessary documents including Shipping Line No Objection. However after following vigorously with the overseas shipping line through our forwarders, we got no response"*

19.2 The CB submitted that they also wrote to the Docks Customs about the incident in detail and requested to release the cargo as it is to avoid further delay and meeting the dead line of ONGC for early production of Oil and Gas which is utmost important to the nation. Customs Broker submitted the letter to the Dock Customs accordingly. Thus, the Customs Broker had advised the importer for the amendment of IGM.

19.3 The CB submitted that it is relevant that the responsible person from the importer was apparently not questioned and no statement seems to be recorded from any person representing the Importer, as can be noted from the SCN/the Offence Report. The CB submitted that they were interacting with the representatives of the importer, namely, Mr. P K Joseph (Cell No. 99403 40050), Asst. General Manager, Materials & Logistics; and Mr. Avdhut Anjikhane, Asst. Manager, Logistics (022-2661 6016). The CB requested to call the responsible representatives of the importer to confirm the facts relating to our advice about the necessity to amend the IGM appropriately. Their addresses for communication were also provided by the CB.

19.4 The CB submitted that they understand that the importer had taken appropriate steps for amending the IGM before the Out of Charge was granted for the subject bill of entry by the proper officer. The CB also enclosed the mail of the importer dated 08/12/2023 addressed to Navigator/TKM Global / Saltire Energy (the shipper). The CB submitted that they understand that the importer approached to the Customs authorities for assessment of the bill of entry and release of the consignment considering that the two

consignments from the same supplier were cross-stuffed as noted in the SCN treating the error as of technical and clerical nature.

20. The CB further submitted that the Offence Report indicates that the Customs Broker instead of suggesting the importer for amendment agreed for collective examination of cross-stuffed goods. However, the SCN has failed to appreciate that the CB cannot be faulted for the collective examination for the verification of the apparent cross-stuffing of the containers. It is common knowledge that even the competent authority could not have allowed amendment or initiated any action against the importer, without conducting a thorough and collective examination of the two containers. The CB submitted that they besides advising the importer for seeking amendment of the IGM, agreed for the collective examination.

20.1 The CB submitted that the contentions in the SCN are factually incorrect, without any evidence to support the contentions and also not legally sustainable. The SCN fails to appreciate that the proper officer granted the out-of-charge for the subject bill of entry on 16/12/2023, after due examination by the CE as well as the Docks officers, and the assessment by the Appraising Group with clear knowledge of the fact of cross-stuffing of the consignments. The importer accompanied by the representative of the CB had appraised the concerned officers about the cross-stuffing. It was the importer's request (not the CB's request) to allow clearance as a measure of facilitation considering that the error was of clerical nature, without revenue implication. The CB had no authority to complete the assessment after First Check Appraisal, following the examination report from the Docks officers. The CB cannot be faulted with violation of Regulation 10(d) of the CBLR, 2018, when the officers exercised their authority with conscious knowledge of the facts. It should be appreciated that the CB had acted in a responsible manner, by advising the importer about the amendment of IGM and assisting the officers and the importer in fact finding following collective examination. The CB argued that the Regulation 10(d) cannot be understood to mean that the CB should adjudicate about the

validity of importer's request for clearance of the imported goods as the CB is not competent to decide these issues.

20.2 The CB submitted that the Regulation 10(e) is about ascertaining the correctness of any information which CB imparts to the client and not about any information imparted by the client to the CB. At the cost of repetition, CB submitted that only the proper officers of the Customs were responsible for the assessment of the subject bill of entry, after due examination of the consignment and grant of Out-of-Charge, in spite of the knowledge that the containers were 'cross-stuffed'. Having advised the importer about the necessity of the IGM amendment, the CB could not have refused to present the request of the importer before the proper officers, whether or not they agreed with the request being made by the importer. It was the prerogative of the proper officers to accept or reject the request of the importer and the Customs Broker had no authority in the matter and the Customs Broker could not sit in judgement of the request. The CB argued that there is no case that the Customs Broker imparted any incorrect information to the importer so as to invite allegation of violation of Regulation 10(e) of the CBLR 2018.

20.3 The CB submitted that the SCN fails to appreciate that the CB has not withheld any information about any order, instruction or public notice relating to clearance of cargo or baggage issued by the Customs authorities, from the client who is entitled to such Information. The CB advised the importer about the necessity of amendment in the import documents and accordingly the importer initiated the process of amendment of BL/IGM through their overseas freight forwarder as can be seen from the submissions in the foregoing paragraphs. The CB also submitted that it may be appreciated that Circular No. 13/2005-Customs dated 13/03/2005 informing the procedure for amendment was available in public domain and the Customs Broker did not withhold any information from the importer. Moreover, when clearance was allowed by the proper officer in spite of having knowledge about cross-stuffing of containers, without insisting for the necessary amendment. The CB cannot be singled out for the departmental authorities

conversant with the said procedure and also the facts of the instant case, did not insist upon following the process of amendment.

20.3.1 The CB argued that the SCN out of context alleges that the Customs Broker 'abetted' the importer in clearance of the subject consignment. The SCN does not appreciate that the Customs Broker did not stand to benefit from the clearance of the subject consignment without necessary amendment. As such the CB could not have said to have abetted the importer as the 'abetment' pre-supposes knowledge of the proposed offence and also presupposes benefits to be derived therefrom. CB referred to the decision of the Tribunal in the case of Commissioner of Customs Mumbai Vs M. Vasi 2003 (151) ELT 312 (Tri.- Mumbai). In the absence of the essential ingredients, the charge of 'abetment' is unfounded. The CB argued that, in the circumstances, the charge of violation of provisions of Regulation 10(f) of the CBI.R, 2018 is not sustainable.

20.4 The CB further submitted that the SCN is mischievous in as much as it blames the CB for the consignment held up after the proper officers granted 'Out-of-charge' for the subject bill of entry on 16/12/2023. The SCN fails to appreciate that the Customs Broker has no role after the Out-of-Charge copy of the bill of entry was printed. The delay in clearance is attributable to the fact Central Intelligence Unit took a view different from the view of the Appraising Officers who completed the assessment with clear knowledge that the subject containers were cross-stuffed. Even otherwise the Customs Broker was not responsible for the documents which necessitated the amendment. The Customs Broker was also not responsible for the amendment of the IGM or the amendment of House Bills of Lading as a pre-requisite of the IGM amendment.

20.4.1 The CB argued that there is no case against the CB that they did not display speed and efficiency in discharge of duties. No specific instance of any laxity on the part of CB causing delay in clearance is cited either in the SCN issued to the CB or the underlying Offense Report. The Customs Broker was duty bound to submit every representation

from the importer before the proper officers, which they did without any delay, without sitting in judgement over propriety of the request of the importer. In fact the SCN appears to suggest that the CB should not have submitted the importer's representation before the Customs Officers unless the amendment was effected and should not have agreed to the 'collective examination'. The CB argued that the charge of violation of Regulation 10(m) of CBLR, 2018 contradicts the basic premise of the SCN, therefore, Charge of Violation of Regulation 10 (m) of CBLR, 2018 is not sustainable.

21. In view of the submissions, CB submitted that the CB is not guilty of any violations of the provisions of the CBLR, 2018 as alleged in the SCN under reference and deserves to be exonerated from the charges.

#### **DISCUSSIONS AND FINDINGS:-**

22. I have gone through the facts of the case, the materials brought on records; the offence report issued vide F. No. SG/MISC-162/2023-24/CIU/JNCH/790/D-Cell dated 17.09.2024 received from the Commissioner of Customs, CIU/JNCH (NS-G), Nhava Sheva; the Show Cause Notice No. 67/2024-25 dated 18.12.2024 issued under Regulation 17 of CBLR, 2018; the Show Cause Notice No. 1634/2024-25/ADC/Gr-V/NS-V/CAC/JNCH dated 16.01.2025 issued under Customs Act, 1962 by the Additional Commissioner of Customs, Grp-V, NS-V, JNCH; the inquiry report dated 18.03.2025 and the oral and written submission dated 16.01.2025 reiterated by the CB at the time of personal hearing.

23. Briefly stated, the present case has been booked and investigated by the Central Intelligence Unit (CIU), JNCH, Nhava Sheva against the importer M/s Aban Singapore Pvt. Ltd. For the goods imported vide Bills of Entry Nos. 8869403 dated 21.11.2023 and 8943233 dated 25.11.2023. The goods were found to be mis-declared in terms of description as against the declaration made in the subject Bills of Entry as the goods in respect of two containers pertaining to the subject two Bills of Entry were found to be

cross stuffed and the same was not amended before taking Out of Charge of the goods as per Circular No. 13/2005-Customs dated 13.03.2005. The container wise details of the goods have been already discussed above in Table-I and Table-II under paras 2 and 3 respectively. The Bill of Entry No. 8869403 dated 21.11.2023 was filed by the charged CB in the present case i.e. M/s. Globotrans Clearing and Forwarding Pvt. Ltd (11/1973) and the Bill of Entry No. 8943233 dated 25.11.2023 was filed by another CB i.e. M/s. Freight Field (M) Private Limited. Hence, action under CBLR 2018 was initiated against the CB M/s. Globotrans Clearing and Forwarding Pvt. Ltd. (11/1973) for apparent act of violation of Regulations 10(d), 10(c), 10(f) and 10(m) of CBLR, 2018.

24. I find that the charges of violation of Regulation 10(d) and 10(e), *ibid*, have been levelled against the CB on the grounds that 'the Customs broker appears to have knowledge about the cross stuffing of goods but despite the facts knowing, he did not take efforts to make necessary amendments in the bill of entry and had tried to facilitated the importer by clearing the imported goods neither the CB informed this to the AC/DC Docks; that the Customs Broker has failed to exercise due diligence and aided the importer to clear the goods without making the necessary amendments to the Bills of Entry as per Circular No. 13/2005-Customs dated 13.03.2005, as it is the responsibility of CB to ascertain the correctness of any information which he imparts to his client but in the instant case, CB was convinced with the importer to process the subject bill of entry without any amendment despite knowing the fact that goods have been cross stuffed in the container'.

24.1 I find that the inquiry officer, in this regard, has observed that 'there is no documentation on record from the CB advising their client to amend the bill of entry and follow the proper procedure before the goods were cleared Out of Charge; that the defence put forth by the CB, that the error was of a clerical nature and that the Out of Charge was granted by the proper officer, does not absolve them of responsibility as one wrong does not justify or excuse another; that the CB had a duty to advise their client to

amend the bill of entry, and should have done so promptly; that the bill of entry was given Out of Charge on 16.12.2023, and the CIU hold was placed on 20.12.2023 and it was the CB's failure to ensure that the necessary amendments were made, despite the clear procedure, is a breach of their obligations under the Customs Broker Licensing Regulations; that the fact that the CB acted as the agent of the importer does not obligate them to support every representation made by the importer, particularly when such representations are inconsistent with the provisions of Customs laws and procedures; that no documentary evidence exists to show that the CB expressed any disagreement with the importer's request to clear the goods without amending the IGM; that the Customs Brokers have a duty to safeguard the interests of both the importer and the Customs Department, as they interact with multiple stakeholders, including carriers and custodians and as such, they are entrusted with a significant degree of responsibility'. Accordingly, the inquiry officer has held that the CB has violated the Regulations 10(d) and 10(e) of CBLR, 2018.

24.2 I have also perused the defence submission of the CB wherein the CB has inter alia argued that 'the importer accompanied by the representative of the CB had appraised the concerned officers about the cross-stuffing and it was the importer's request (not the CB's request) to allow clearance as a measure of facilitation considering that the error was of clerical nature, without revenue implication; that the Regulation 10(d) cannot be understood to mean that the CB should adjudicate about the validity of importer's request for clearance of the imported goods as the CB is not competent to decide these issues; that having advised the importer about the necessity of the IGM amendment, the CB could not have refused to present the request of the importer before the proper officers, whether or not they agreed with the request being made by the importer; that it was the prerogative of the proper officers to accept or reject the request of the importer and the Customs Broker had no authority in the matter and the Customs Broker could not sit in judgement of the request'.

24.3 Having perused the facts of the case, I find that it is a matter of fact that the CB was well aware of the non-compliance of the Circular No. 13/2005-Customs dated 13.03.2005 and the CB ignored the fact and handled the clearance of the impugned B/E by suppressing the fact that amendment of the B/E is necessary in view of the said circular. Shri Sudhakar Koty Pujari, G-card holder of CB has admitted the same under his statement recorded under Section 108 of the Customs Act, 1962. Further, the CB not brought the said facts to the notice of the Deputy/Assistant Commissioner of Customs. Hence, these facts are substantial indications that the CB failed to perform due obligation stipulated under Regulation 10(d) and 10(e) of CBLR, 2018. The CB cannot run from their obligations by citing that it was the importer's request to get the B/E cleared without the requisite amendment. The CB had worked in completely negligent manner and relied blindly on the importer and the CB himself/themselves did not exercised due diligence with respect to the fact that amendment of the B/E is necessary for compliance of the Circular No. 13/2005-Customs dated 13.03.2005. I find that a CB has an important role in respect of documentation and Customs Clearances. I find that in the instant case, the CB did not advise the importer which resulted in such imports with non-compliance of statutory rules, also the CB did not bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs. Hence, the CB cannot shy away from the responsibilities & obligations cast upon them under the CBLR, 2018. The responsibility of a Customs Broker play a crucial role in protecting the interest of the Revenue and at the same time he is expected to facilitate expeditious clearance of import/export cargo by complying with all legal requirements. I find that there is no revenue implications, however, having taken into cognizance of all the facts of the case, I find that that the CB has worked in a lackadaisical approach and ignored their primary role, as Customs Broker, of advising their client about the laws and rules pertaining to the impugned imports which resulted in out-of-charge of the goods without necessary amendments in the B/E. Hence, I rely on the findings of the inquiry officer and approve

the decision of the inquiry officer and hold that the charges of violation of Regulation 10(d) and 10(e) of CBLR, 2018 levelled against the CB are sustainably proved.

25. I find that the charges of violation of Regulation 10(f) and 10(m) of CBLR, 2018, *ibid*, have been levelled against the CB on the ground that 'the Customs Broker has not followed the proper procedure of amendment in IGM for Bill of Entry as per Circular No. 13/2005-Customs dated 13.03.2005 and abetted with the importer by trying to clear the imported goods without making the necessary amendments to the Bills of Entry despite knowing the actual facts and the CB has failed to discharge his duties as a Customs Broker and leading to an unwarranted delay in the clearance of the subject consignment'.

25.1 I find that the inquiry officer, in this regard, has observed that 'the CB has failed to provide any documentary evidence (such as a letter or email) that would suggest they advised the importer to amend the Bill of Entry, in accordance with the Circular; that as per their statement recorded on 28.12.2023, there is evidence of abetment, as the CB proactively proceeded with the importer, submitting a request letter dated 12.12.2023, despite having been initially advised by the DC to follow the proper amendment process; that the CB attempted to hasten the clearance of the goods without the necessary amendments ultimately led to the goods being liable for confiscation; that the CB's defence, attributing the delay to CIU, JNCH, is unsubstantiated, as their failure to effect the necessary amendments in the IGM was the primary cause of the delay in the smooth clearance of the Bill of Entry'. Accordingly, the inquiry officer concluded that the CB has violated the provisions of Regulations 10(f) and 10(m) of CBLR, 2018.

25.2 I find that the CB, in defence, has submitted that 'the CB could not have said to have abetted the importer as the 'abetment' pre-supposes knowledge of the proposed offence and also presupposes benefits to be derived therefrom; that they refer to the decision of the Tribunal in the case of Commissioner of Customs Mumbai Vs M. Vasi 2003 (151) ELT 312 (Tri.- Mumbai); that no specific instance of any laxity on the part of

CB causing delay in clearance is cited either in the SCN issued to the CB or the underlying Offense Report; that the Customs Broker was duty bound to submit every representation from the importer before the proper officers, which they did without any delay, without sitting in judgement over propriety of the request of the importer’.

25.3 On a careful perusal of the reasons assigned by the inquiry officer and as extracted above, it is evident that the inquiry officer has conducted a meticulous exercise to examine and appreciate the evidence on record and came to a categorical finding that the CB was not guilty of non-performance of the statutory duties cast upon them under Regulation 10(f) and 10(m) of CBLR, 2018. In view of the above discussions and under the factual matrix of the present case I am inclined to accept the inquiry officer’s report, as I do not find any sustainable ground for disagreement with the inquiry report in respect of Articles of charge III & IV viz. violation of Regulation 10(f) and 10(m) of CBLR, 2018, hence, I approve the conclusion of the inquiry officer in respect of the charge of violation of Regulation 10(f) and 10(m) of CBLR, 2018 and uphold the same. Here, I rely on the judgement of Hon’ble Tribunal in the case of **Him logistics Pvt Ltd vs Commissioner of customs, New Delhi reported in 2015 (325) ELT 793 (Tri-Del) on 07.04.2016 in Custom Appeal No. 50267/2016-CU(DB)**, wherein it is held that:-

*“We find that the impugned order passed on disagreement with the inquiry report has not brought out clear sustainable grounds for such extreme action of revocation of license. Violation of CBLR, 2013 has not been brought out as all the points have been elaborately discussed in the inquiry report and no sustainable ground for differing with the same could be made out”*

26. I find that a Custom Broker occupies a very important position in the Custom House and supposed to safeguard the interests of both the importers/exporters and the Customs Department. A lot of trust is kept in CB by the Government Agencies; however, by their acts of omission and commission it appeared that the CB M/s. Globotrans Clearing and Forwarding Pvt. Ltd. (11/1973) has violated Regulations 10(b), 10(e), 10(f) and 10(m) of the Customs Broker Licensing Regulation (CBLR), 2018. I find that for the

violation of obligations provided under CBLR, 2018 and for their act of omission and commission, the CB M/s. Globotrans Clearing and Forwarding Pvt. Ltd. (11/1973) has rendered themselves liable for penal action under CBLR, 2018. Hence, while deciding the matter, I rely on the following case laws:

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

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

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

*"6.1 These provisions require the Customs Broker to exercise due diligence to ascertain the correctness of any information and to advise the client accordingly. Though the CHA was accepted as having no mensrea of the noticed mis-declaration /under- valuation or mis-quantification but from his own statement acknowledging the negligence on his part to properly ensure the same, we are of the opinion that CH definitely has committed violation of the above mentioned Regulations. These Regulations caused a mandatory duty upon the 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."*

27. As discussed above, I conclude that the CB is guilty of violations of Regulations 10(b), 10(c), 10(f) and 10(m) of CBLR, 2018. However, considering all the facts and circumstances of the case and taken into cognizance of the arguments and case laws relied upon by the CB, I am of the view that revoking the CB license and forfeiture of security deposit is too grave a penalty to be imposed for the above violations, as the punishment of revocation of license is much harsh and disproportionate to the offences committed. However, I am of the considered view that the ends of justice will be met by imposing a penalty, on the CB, under Regulation 18 of CBLR, 2018. In this regard, I place reliance on the following case laws:

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

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

*period of time would be sufficient. That would be in a somewhat similar position to that of suspension of licence though it may not be so in all cases. On the other hand, there may be cases where the authorities may be of the view that licensee does not deserve a renewal either. Position would be different there. Though we have not dealt with the question of proportionality, it is to be noted that the authorities while dealing with the consequences of any action which may give rise to action for suspension, revocation or nonrenewal have to keep several aspects in mind. Primarily, the effect of the action vis-a-vis right to carry on trade or profession in the background of Article 19(l)(g) of the Constitution has to be noted. It has also to be borne in mind that the proportionality question is of great significance as action is under a fiscal statute and may ultimately lead to a civil death."*

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

*"11. Viewing these cases, in the background of the proportionality doctrine, it becomes clear that the presence of an aggravating factor is important to justify the penalty of revocation. While matters of discipline lie with the Commissioner, whose best judgment should not 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 CHA 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 that *"it is a settled law that the punishment has to be commensurate and proportionate to the offence committed"*.

28. Further, as regard the timelines prescribed under Regulation 17 of CBLR, 2018, relying on the following case laws, I observe that the timelines under CHALR/CBLR, are directory in nature and not mandatory:

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

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

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

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

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

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

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

*14. A reading of the Regulation 17 would also go to show that the Inquiry Officer during the course of his inquiry is not only required to record the statement of the parties but also to give them an opportunity to cross-examine and produce oral and documentary evidence. In the event of the respondents not co-operating, it would be difficult for the Inquiry Officer to complete the inquiry within the prescribed period of 90 days, as provided under Regulation 17(5). Therefore, we find force in the argument of the learned counsel for the appellant that the Regulation No.17 is required to be considered as directory and not mandatory. Though the word "shall" has been used in Regulation 17, an overall reading of the said provision of law makes it very clear that the said provision is procedural in*

*nature and non-compliance of the same does not have any effect. If there is no consequence stated in the Regulation for non-adherence of time period for conducting the inquiry or passing an order thereafterwards, 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 CHALR, 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".*

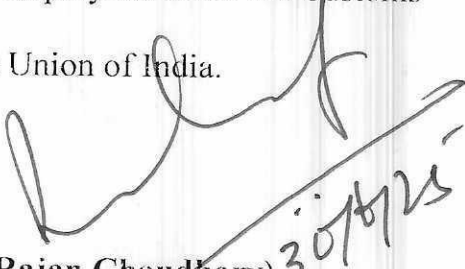
29. In view of the above judgements and the "Doctrine of Proportionality" which propagates the idea that a punishment for an offence should be proportional to the gravity of the offence, I am not inclined to revoke the license of the CB and to forfeit the security deposit furnished by the CB at the time of issuance of their CB license. However, for their acts of omission and commission, the CB M/s. Globotrans Clearing and Forwarding Pvt. Ltd. (11/1973) is held liable and guilty for violating the provisions of CBLR, 2018 as mentioned above. I hold that the CB has failed to discharge their duties cast upon them with respect to Regulation 10(b), 10(c), 10(f) and 10(m) of CBLR, 2018 and the interest of justice would be met by imposition of penalty under Regulation 18 of CBLR, 2018. Accordingly, I pass the following order:

**ORDER**

30. 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:

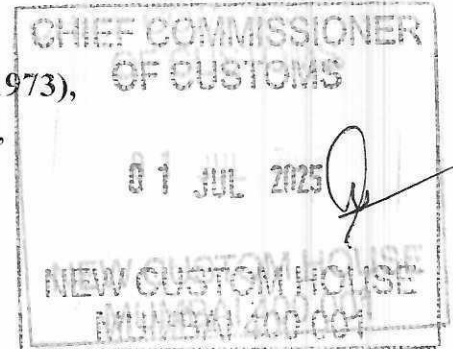
(i) I, hereby impose penalty of Rs. 35,000 /- (Thirty Five Thousands only) on M/s. Globotrans Clearing and Forwarding Pvt. Ltd. (11/1973, PAN No. AAHCG2592H) under Regulation 18(1) of the CBLR, 2018.

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

  
(Rajan Chaudhary) 30/6/25  
Principal Commissioner of Customs (G)  
NCH, Mumbai-I

To,

M/s. Globotrans Clearing and Forwarding Pvt. Ltd. (11/1973),  
6D1 6th Floor D1 D Wing Gundecha Onclave Kherani Road,  
Sakinaka, Andheri East,  
Mumbai-400072



Copy to:

1. The Pr. Chief Commissioner/ Chief Commissioner of Customs, Mumbai I,II, III Zone.
2. SIIB (X), ACC, Sahar, Mumbai.
3. EDI of NCH, ACC & JNCH
4. ACC (Admn), Mumbai with a request to circulate among all departments.
5. JNCH (Admn) with a request circulate among all the concerned.
6. Cash Department, NCH, Mumbai.
7. Notice Board
8. Office Copy