



सीमाशुल्क आयुक्त (सामान्य) का कार्यालय
OFFICE OF THE COMMISSIONER OF CUSTOMS (GENERAL)
 कस्टम ब्रोकरअनुभाग, नवीन सीमाशुल्क भवन,
CUSTOMS BROKER SECTION, NEW CUSTOM HOUSE,
 बेलार्ड इस्टेट, मुंबई - I
BALLARD ESTATE, MUMBAI - I

F. No. GEN/CB/348/2025-CBS

Date: 03.12.2025

DIN: 20251277000000313063

ORDER NO. 16 /2025-26 CBS**UNDER REGULATION 16 (2) OF CUSTOMS BROKER LICENSING
REGULATION, 2018**

M/s. Amba Shipping Agencies, (CB No.- 11/939) (PAN-AABPD7063P) having address registered at No 7, 1st Floor, Ashok Chambers, 56 Bharuch Street, Devji Ratansi Marg, Mumbai-400009 (hereinafter referred as the Customs Broker/CB) is holder of Customs Broker License No. 11/939, issued by the Commissioner of Customs, Mumbai under Regulation 8 of CHALR, 1984, [Now regulation 7(2) of CBLR, 2018] and as such they are bound by the regulations and conditions stipulated therein.

2. An Offence Report in the form of a letter dated 26.04.2025 to take action against CB M/s Amba Shipping Services (CB No. 11-939) along with SCN NO: 80/2024-25 dated 07.02.2025 and statements received from SIIB (I), NCH, Mumbai in this office through this office email dated 30.06.2025. Vide the offence report, inter alia, the following has been informed:

3. M/s. Charanjit Transport Company, a proprietorship firm (IEC No. 0516997050), proprietor name Smt. Charan Jit Kaur, having registered office at A1/139, A-Block, Inderpuri, New Delhi - 110012 had filed 55 Bills of Entry during the period May 2020 to October 2023, through two Custom Brokers, including M/s Amba Shipping Agencies, Customs Broker Licence No. - AABPD7063P (11/939) having registered office at 7, Ashok Chamber, Bharuch Street, Masjid Bunder (E), Mumbai-400009. Old and used cranes are classifiable under Custom Tariff Head 8426 4100 as per the Customs Tariff Act, 1975 and applicable duty structure for assessment is Basic Customs Duty @7.5%, Cess@10% and IGST@18%.

4. An intelligence was received by SIIB (Import-I), New Custom House, Ballard Estate, Mumbai, that the importer is importing "Old and Used Crane" by mis-declaring the year of manufacturing in order to undervalue the goods to evade applicable customs duty.

The intelligence revealed that, as per Bill of Entry No. 9459449 dated 08.07.2022, imported goods i.e. old and used crane having chassis no. LXGCPA413CA012357 the YOM was 2013. However, after the crane got registration, YOM of the same crane was found to be 2020 in the Registration Certificate issued by the Assistant Regional Transport Officer at Vadala, N.H.No.8, Dist: Bharuch, Gujarat – 392001.

5. On further scrutiny of the intelligence received, it was noticed that in a specific Bill of Entry No. 9459449 dated 08.07.2022, the importer had declared a different YOM of the imported Old and Used Crane as year 2013 in the Bill of Entry presented before the customs department, whereas the said old and used Crane imported vide said BoE, Model No. XCMG QY50K and Chassis No. LXGCPA413CA012357 was registered at the Assistant Regional Transport Office, Vadala, N.H.No.8, Dist: Bharuch, Gujarat – 392001 under Vehicle Registration No. GJ16BS3941 by declaring YOM as Year 2020. The intelligence was verified through the letter dated 13.06.2023 and obtained details of the Registration particulars from the Assistant Regional Transport Officer, at Vadala, N.H.No.8, Dist: Bharuch, Gujarat – 392001 vide their letter F. No. Non-Trans/Vehicle/INFO/BRH/ON/1555 dated 05.07.2023.

6. Accordingly, an Investigation was initiated vide summons dated 21.06.2023 issued to the importer to submit complete documents related to the Bill of Entry no. 9459449 dated 08.07.2022, which was not responded to by the importer. Further, a summons dated 12.07.2023 was issued to the importer to appear before the department for recording of statement and produce documents for carrying out the investigation. In compliance with the summons dated 12.07.2023, the importer replied vide e-mail dated 24.07.2023 that he will appear before the department on 08.08.2023. The power of attorney holder of M/s. Charanjit Transport Company, Shri Jaspal Singh Dhodi appeared on 08.08.2023. During his statement recorded on 08.08.2023 under Section 108 of the Customs Act, 1962, in connection with the mismatch found in YOM of imported crane vide Bill of Entry No. 9459449 dated 08.07.2022, he stated that forgery in the document might have been done by the RTO agent to get the crane registered and he did not provide the complete requisite documents required for investigation. The importer initially tried to mislead the investigation by shifting the blame on the RTO agent. Evasive replies were given by the importer and he wilfully tried to mislead the investigation.

7. Further, during investigation, the Insurance Copy of the registered crane having Registration No. GJ16BS3941 and Chassis No. LXGCPA413CA012357 was called for from the Importer M/s. Charanjit Transport Company (IEC No. 0516997050) vide letter dated 30.08.2023 having been issued under DIN No. 2023087700000000FDC5. In response to the said letter, the Importer vide email dated 05/09/2023 submitted the Policy Schedule Cum Certificate of Insurance having Policy Number 31170131230200001217

dated 14.08.2023 for the period 14.08.2023 to 13.08.2024. In the said Insurance Policy, it was noticed that the YOM is mentioned as Year 2020.

8. Impact of mis-declaration of Year of Manufacture on assessable value and evasion of Customs Duty as per CBIC's Circular No. 493/124/86-Cus.VI dated 19.11.1987

8.1 The Valuation of Second-Hand Machinery and fixation of Scale of depreciation is governed by the CBIC's Circular No. 493/124/86-Cus.VI dated 19.11.1987. As per this circular, maximum depreciation allowed with age of the old machines is 70%. As shown below Table-1, the depreciation in value increases along with increase in age of the machines:

Table-1 Rate of Depreciation

Sr. No.	Age of Machine	Depreciation per quarter of the year	Depreciation for the whole year	Cumulative Depreciation till this year
1.	First Year	4%	$4 \times 4\% = 16\%$	16%
2.	Second Year	3%	$4 \times 3\% = 12\%$	28%
3.	Third Year	2.5%	$4 \times 2.5\% = 10\%$	38%
4.	Fourth Year	2%	$4 \times 2\% = 8\%$	46%
5.	Fifth Year	2%	$4 \times 2\% = 8\%$	54%
6.	Sixth Year	2%	$4 \times 2\% = 8\%$	62%
7.	Seventh Year	2%	$4 \times 2\% = 8\%$	70%
8.	Eighth Year and on onwards	0%	$4 \times 0\% = 0\%$	70%

8.2 In Bill of Entry No. 9459449 dated 08.07.2022, the importer declared the Year of Manufacture (YOM) of an old and used crane as 2013, thereby availing 60% depreciation. However, the Registration Certificate (RC) showed the actual YOM as December 2020, making the importer eligible for only 22% depreciation as per Circular No. 493/124/86-Cus.VI dated 19.11.1987.

8.3 Upon re-assessment of the imported crane based on the correct Year of Manufacture (December 2020), the assessable value was determined to be Rs. 99,79,510, whereas the importer had declared a significantly lower value of Rs. 49,93,750, resulting in undervaluation of Rs. 49,85,760. Accordingly, the customs duty payable on the correct assessable value amounts to Rs. 27,67,817, while the importer paid only Rs. 13,99,501, leading to a differential duty liability of Rs. 13,68,316.

9. **Verification of the past imports made by the Importer during the last 5 years:**

9.1 On detection of the above modus operandi adopted by the importer to evade customs duty, past data of five years of imports made by the importer were scrutinized to unearth

the complete modus operandi and tax evasion with respect to 55 units of 'old and used cranes of different makes and models. In respect of the same details of RCs were sought from the various RTO Offices.

9.2 The RCs submitted by the importer and received from various RTOs were cross-examined with the declarations made in the Bills of Entry filed before the customs department at the time of import. It was found that the importer had mis-declared the Year of Manufacture in 55 cranes and also mis-declared the capacity in 28 cranes. It was further observed that the average mis-declaration in the age of the cranes ranged between 5 to 8 years.

9.3 Further, it was observed that in respect of Bill of Entry No. 8464139 dated 25.10.2023, which is separate from the aforementioned 55 Bills of Entry, the importer had correctly declared the YOM and capacity. However, the importer failed to declare all the goods imported under the said Bill of Entry and suppressed information regarding one piece of glass windscreen (size 7'11" x 3'7") and two pieces of tie rods, which were found undeclared during examination conducted under panchanama by the officers of SIIB (Import).

9.4 Out of the total 56 Bills of Entry, 37 Bills of Entry were filed and cleared by the Customs Broker M/s. Amba Shipping Agencies, on behalf of the importer M/s. Charanjit Transport Company.

10. Investigation in respect of live Bill of Entry:

10.1 During the ongoing investigation, a Bill of Entry No. 8464139 dated 25.10.2023 was filed by the importer for clearance of one unit used Sany STC250H Mobile Truck Crane declaring chassis number LFCNLC5P8C2000830. The said consignment was put on hold by SIIB(I), NCH for examination and the same was examined in the presence of an empanelled Chartered Engineer on 31.10.2023.

10.2 After examination, it was found that the Trade Mark, Model No. SYM5303JQZ/(STC250H), Engine Model SC8DK280Q3 and Chassis No./VIN LFCNLC5P8C2000830 were listed on the manufacturer plate. Upon visual inspection of this plate, it was found that it had been planted later and that the original plate might have been displaced. When the affixed plate was removed, it was noticed that there were some previous plates fastening marks below the affixed plate and it was painted over with yellow colour paint. It seemed to indicate tampering of some specification/information plate which was missing. The size of plate was measured by the CE and it was found as 16 cm X 20 cm whereas the size of fastening marks found below the plate was 15 cm X 18 cm. The Chassis number mentioned on the Bill of Entry was found embossed on the chassis of the

Crane. All the above details are recorded under examination panchanama dated 31.10.2023.

10.3 Further examination revealed that there were two more items which were not declared in the import document. The undeclared goods found were one pc windscreen of size 7'11" X 3'7" and 2 pcs of Tie-rods. The CE informed that the windscreen and Tie-rods were in addition to Standard Accessories.

10.4 The goods covered under Bill of Entry No. 8464139 dated 25.10.2023 were seized vide Seizure Memorandum No. 12/2023 dated 09.11.2023 under Section 110(1) of the Act under the reasonable belief that the said goods are liable for confiscation under the provisions of Section 111(l) and Section 111(m) of the Act.

11. Searches under the provisions of section 105 of the Act:

11.1 With Approval of competent authority under reasonable belief that importer is not fully cooperating in investigation and not providing complete documents required to unearth complete tax evasion, simultaneous searches were conducted at following locations:

- a. Premises 1- At the registered premises of M/s. Charanjit Transport Company, at A-1/139, A-Block, Inderpuri, New Delhi-110012 on 03.11.2023.
- b. At the godown, which was under possession of Sh. Jaspal Singh Dhodi, at the address 6/16-A, Opposite Pillar No.587, Punjabi Dhabe Wali Gali, Mundka, Delhi
- c. The premises situated at Y-9, 1st floor, Room No.2, Loha Mandi, Naraina, New Delhi-28 which was under possession of M/s. Charanjit Transport Company was also searched on 04.11.2023.

11.2 Search was conducted at premises-1 and proceedings were recorded under Panchanama dated 03.11.2023. During the search of the premises, some documents related to the investigation of crane case were found and they were seized for further scrutiny. Smt. Charanjit Kaur, proprietor of the firm M/s. Charanjit Transport Company informed that her husband Shri. Jaspal Singh Dhodi looks after all the day to day business work of the firm to which Shri Jaspal Singh Dhodi also consented. Shri Jaspal Singh Dhodi also confirmed that he is the authorized signatory on behalf of the firm and bears power of attorney. Shri. Jaspal Singh Dhodi voluntarily submitted his mobile phone having brand iPhone 14 Plus (iOS version 16.6, Model No.MQ4Y3HN/A, Sr. No. YXN0VVKD7Y, mobile number 9811166942) (IMEI-1 - 352115383516143 and IMEI-2 - 352115383570199) to the customs officers for further enquiry/ investigation. On specific enquiry about the cranes, Sh. Jaspal Singh Dhodi informed that few cranes pertaining to M/s Charanjit Transport Company were standing at their godown situated at Opposite Pillar No.587, Punjabi Dhabewali Gali, Mundka, Delhi (Premises-2).

11.3 The search was conducted at premises-2, which was under possession of Sh. Jaspal Singh Dhodi, on 04.11.2023. During search of the godown, it was found that four Cranes were standing in said premises, out of which two cranes were of Indian Brand "ACE" and two were imported. On checking the chassis numbers of two imported cranes standing at aforesaid premises, it was observed that the chassis numbers engraved on said two cranes were LFCNPG6P7D2046278 (Make & Model: SANY) & LXGDPA5598A000546 (Make & Model: XCMG) respectively. However, the Make & Model plates of both the cranes were missing. On examination of the above imported cranes, it was noticed that the crane bearing chassis number LFCNPG6P7D2046278 (SANY) was in damaged condition. The capacity logo of crane with chassis number LXGDPA5598A000546 (XCMG) was found to be removed.

11.4 On being asked about the missing Make & Model plates of the above two imported cranes and relevant documents of the said cranes, Shri Jaspal Singh Dodhi informed the officers that the number plates may be lying at the new office premises at premises-3, which they have recently taken on rent. Shri Jaspal Singh Dodhi voluntarily requested the officers to visit the said premises at Naraina and said that he will hand over the above two missing Make & Model Name Plates and other relevant documents of M/s Charanjit Transport Company. Before leaving the premises-2, the said two imported cranes vide Bills of Entry Nos.6443401 dated 16.06.2023 and 6443407 dated 16.06.2023 placed under seizure vide Seizure Memo dated 04.11.2023.

11.5 Further, search was conducted at Premises-3, used by Sh. Jaspal Singh Dhodi as his office. During the search, documents and files suggesting possible willful suppression of facts and use of false documentation were resumed for further scrutiny and investigation. The office computers were inspected, and the email inbox of the firm's official ID charanjittransport2530@gmail.com was accessed. Relevant data was copied to a hard drive with the voluntary consent of Sh. Jaspal Singh Dhodi.

11.6 On scrutiny of the various documents seized from the premises of the importer 04 original vehicle particulars were found. On further scrutiny, it is noticed that there are substantial mis-declaration in YOM of the imported cranes. The details of such vehicle particulars are as under:

Sr. No.	RC No.	Chassis No.	YOM as per RC	Bill of Entry No.	YOM as per BE
1.	GJ16BS3941	LXGCPA413CA012357	2020	9459449 dated 08.07.2022	2013
2.	GJ16BS3540	LXGCPA4017A014473	2020	7660093 dated 26.02.2022	2015

3.	GJ16BS3606	LFCNPG6P4C2000578	2020	8228546 dated 11.04.2022	2012
4.	GJ16BS3310	LXGAJH39X7A001433	2018	4192968 dated 04.06.2021	2010

12. Search conducted at the office premise of M/s. Amba Shipping Agencies (Custom Broker) leading to detection of two parallel invoices:

12.1 Simultaneous search was conducted on 03.11.2023 in compliance of by the officers of SIIB(I), NCH, Mumbai at the office premises of Custom Broker namely M/s Amba Shipping Agencies at their office viz. 7, Ashok Chamber, 1st Floor, 56, Bharuch Street, Masjid Bunder (E), Mumbai – 400009 under panchanama dated 03.11.2023. During the search, officer checked the mobile phone of Mr. Rupesh Narkar and after checking the chat between Mr. Rupesh and Shri Jaspal Singh Dhodi it was found the Rupesh is asking to make some changes in Proforma Invoice and then the importer asked him to do it himself. Further, it was found that two separate commercial invoice having same number MI20231010 dated 10.10.2023 pertaining to the import of one old and used SANY Crane 25T came to notice. On critical examination of both the invoices it was revealed that the invoice is related to Bill of Entry No. 8464139 dated 25.10.2023, issued by supplier Jinchuan Machinery Limited, Shanghai, China however, in one invoice the value of Sany crane was mentioned as USD 29,500 whereas other invoice reflected the value of same crane as USD 22,500, which was clear indication of manipulation in import documents and created doubt over truthfulness of declaration made by the importer in his other consignments also.

12.2 Further, as per the details of invoice of the said BoE, available in the ICES, it was found that importer has uploaded invoice where in the value of the old and used SANY Crane 25T was mentioned as 22,500 USD by reducing it from the value of 29,500 USD mentioned in the second Invoice. Hence it appears from these parallel invoices that Importer and Customs Broker, both colluded and acted together with the sole objective to undervalue these cranes before the Customs Department.

12.3 The mobile phones of staff and owner of the Custom Broker firm were examined by the officer of SIIB(I) during the search. On examination of the mobile phone being used by Mr. Rupesh Narkar, an employee of the Custom Broker, it was observed that Mr. Rupesh Narkar was suggesting the importer, Mr. Jaspal Singh Dhodi to make some changes in Proforma invoice on which the importer asked him to do it himself indicating alteration in import documents. From, these WhatsApp chats retrieved from the mobile phone it appears that importer and Customs Broker were collectively involved in suppressing the actual value of the goods.

12.4 For further scrutiny of mobile's data, the mobile handset of Sh. Hiralal Dagha and Sh. Rupesh Narker were seized under panchanama dated 03.11.2023.

12.5 The competent authority allowed for provisional release for 3 Bills of Entry vide letters dated- 15.01.2024 and 29.03.2024, after submission of requisite Provisional Duty bond of 100 % of entire value of the good and Bank Guarantee equal to 5% of assessable value.

13. Statements: -

13.1. Statements of Shri Jaspal Singh Dhodi, Power of Attorney holder of the importer M/s. Charanjit Transport Company, Delhi was recorded on 08.08.2023 under Section 108 of the Act in which he inter-alia stated that:

- *He is the Power of Attorney holder on behalf of M/s. Charanjit Transport Company;*
- *They had imported an XCMG QY50K crane vide Bill of Entry No. 9459449 dated 08.07.2022;*
- *They received import documents such as Invoice, Packing List and Bill of Lading from foreign supplier on WhatsApp. And the same were forwarded to their Customs Broker M/s. Classic Clearing & Forwarded by e-mail for filing Bill of Entry;*
- *The value, description and quantity of the goods imported vide B/E No. 9459449 dated 08.07.2022 is according to the Invoice, Bill of Lading and Packing List which were provided to them by foreign supplier M/s. Jinchuan Machinery Limited, China.*
- *They have submitted original and actual documents for registration of crane in RTO through RTO agent.*
- *They have declared the correct YOM i.e. 2013. The YOM shown as 2020 in the registration document is incorrect.*
- *On specific enquiry regarding different YOM mentioned in RC particulars of the crane imported vide Bill of Entry No. 9459449 dated 08.07.2022, he said that RTO agent might have forged the documents to get it registered.*

13.2 Consequent to search held on 03.11.2023 at various premises in Delhi belonging to the importer, Sh. Jaspal Singh Dodhi, was again called for further recording of his statements at SIIB(I) on 08.11.2023, however, vide letter dated 07.11.2023 he requested to fix any date after 14.11.2023. Considering the request made by the importer a summon dated 09.11.2023 to appear on 16.11.2023 was issued. Statement of Shri Jaspal Singh Dhodi, Power of Attorney holder of the importer M/s. Charanjit Transport Company, Delhi was recorded on 16.11.2023, 28.11.2023 and 05.12.2023 under Section 108 of the Act. In his statements, he, inter-alia submitted as under:

- *He is solely responsible for all the operations, purchase sale, all other kinds of dealings or omission or commission by the firm.*
- *He started importing cranes from China around in 2017 for self-use as well as trading purposes.*
- *He was in contact with Mr. Michel, who is a dealer of second hand cranes and the supply cranes on behalf of M/s Jinchuan Machinery Limited, Shanghai.*
- *He had not made any contract with foreign supplier in respect of importing old and used cranes.*
- *On being asked how he received import documents from the supplier, he replied that he received all import documents through WhatsApp.*
- *On being further asked about chat between him and supplier, he admitted that he had deleted all the chats with supplier (Mr. Michael) because he was afraid of customs.*
- *He had availed services of two custom brokers namely M/s Classic Clearing & forwarding and M/s Amba Shipping Agencies.*
- *with respect to shifting from one custom broker M/s Classic Clearing & forwarding to M/s Amba Shipping Agencies, he submitted that former CB did not agree to clear his cranes below Rs.1,10,000/- per ton. Due to competitiveness, he shifted to M/s Amba Shipping Agencies as they assured us for lower valuation and clearance.*
- *He accepted that he had made changes in invoice with respect of value pertaining to the goods covered under live Bill of Entry No. 8464139 dated 25.10.2023.*
- *He admitted that he has defrauded the government and has paid short customs duty.*
- *He was shown vehicle registration particulars against specific Bs/E wherein YOM declared as per Bill of Entry (B/E) and YOM declared as per RTO Registration were different. On being asked which one is the correct YOM, he accepted that YOM declared in RTOs are true and correct declarations. He also accepted a mis-declaration in capacity of the imported cranes.*
- *He accepted the undervaluation of the imported cranes.*
- *He deposed the names and contact numbers of agents through whom he got his cranes registered, admitted manipulation in YOM declaration, accepted that he intentionally did not disclose correct YOM in description of Bills of Entry and agreed that he has done mis-declaration in import documents.*

From above statement it appears that he had willfully suppressed the YOM and committed this commercial fraud to evade Customs duty by giving wrong declaration of YOM of

imported cranes and tried to obtain maximum depreciation and in turn evaded customs duty.

13.3 Summons dated 10.10.2024 was issued to Proprietor of M/s. Charanjit Transport Company. Accordingly, the statement of the Proprietor of M/s. Charanjit Transport Company i.e. Smt. Charan Jit Kaur, was recorded after sending the questionnaire on their email id 'charanajittransport2530@gmail.com' on 23.10.2024. In response to the questionnaire, Smt. Charan Jit Kaur provided a written reply vide their letter dated 24.10.2024. In the said reply letter dated 24.10.2024 Smt. Charan Jit Kaur stated that as the proprietor she holds the official legal title of the firm and she is the registered owner of the business, and all legal documents, tax filings and licenses are under her name. Further, she stated that profits and losses generated by the firm legally belongs to the proprietor, however, with a power of attorney, her husband has been granted the authority to act on behalf of the proprietor in managing business. Her authorized power attorney can make decisions, sign documents, enter into contracts, and handle finances as per need of the business. Further, she stated that as per her knowledge and belief she agreed with the submissions given by her husband (Power of Attorney holder) before the customs during the entire investigation of this case.

13.4 Further Statements of Shri Jaspal Singh Dhodi, Power of Attorney holder of the importer M/s. Charanjit Transport Company, Delhi were recorded on 24.10.2024 under Section 108 of the Act in wherein he, inter-alia stated that he agrees with all the facts stated by his wife Smt. Charan Jit Kaur in her statement. He further stated that he is handling all the work related to the firm M/s. Charanjit Transport Company and said that he is operating both the bank account of the firm and he has submitted two letter from banks regarding authorized signatory of these bank accounts in support of his claim of operating these bank accounts.

13.5 Statements of Shri Hiralal H. Dagha, the proprietor of Customs Broker M/s. Amba Shipping Agencies (11/939) was recorded on 29.11.2023 & 04.12.2023 under Section 108 of the Act in which he inter-alia stated that:

- *The CB firm is a proprietorship firm and he is the sole proprietor of the firm.*
- *His firm is working in Mumbai Customs only.*
- *He receives documents from his clients through email and WhatsApp. In respect of M/s. Charanjit Transport Company, he stated that import documents were received through WhatsApp.*
- *Regarding KYC verification of M/s. Charanjit Transport Company, he stated that they have checked the details provided by the importer through the website of*

ICEGATE and GST. They have verified the IEC details and GST number online only.

- His firm is filing bill of entry on behalf of M/s Charanjit Transport Company since February, 2023.
- On being asked specifically about the parallel invoice w.r.t. Bill of Entry No. 8464139 dated 25.10.2023 found during search conducted at his office premises on 03.11.2023 he stated that in the said consignment two items were declared i.e. one unit used Sany STC250H mobile truck crane and one New cabin, however, on examination it was found that there are two more items i.e. one windscreen and 2-piece Tie-rod. We asked the importer about the same and advised him to obtain one letter from the supplier in this regard, however, the importer did not provide a letter. Instead, he sent one more invoice with the same number with change in value. The said invoice was directly sent to my employee Mr. Rupesh Narkar on his mobile. Later on, Rupesh told me about these changes.

13.6 Statements of Shri Rupesh Rajendra Narker, employee of Customs Broker M/s. Amba Shipping Agencies (11/939) was recorded on 29.11.2023 & 04.12.2023 (under Section 108 of the Act in wherein he among other things inter-alia stated as under:

- He has been working for the CB since 2011. His role is to prepare checklist and filing of Bill of Entry online. He possesses 'H' category customs pass. His role is limited to assisting the CB or his authorized employee.
- M/s. Charanjit Transport Company imports old and used cranes. Sh. Jaspal Singh Dhodi is the power of attorney holder in the company.
- Shri Jaspal Singh Dhodi used to send him draft BL, Proforma Invoice, Commercial Invoice, Packing List on behalf of M/s Charanjit Transport Company. M/s Charanjit Transport Company contacted his CB firm in Feb, 2023. Initially, Shri Jaspal Singh Dhodi used to send import documents on WhatsApp to the proprietor of M/s Amba Shipping Agency. Later on he started sending the documents on his WhatsApp.
- In reference to the WhatsApp chat related to preparation of Bill of Lading and Commercial invoice by Sh. Rupesh Narkar, in consultation with the importer, stated that Sh. Jaspal Singh Dhodi generally used to send draft BL and Proforma Invoice for checking the details such as model number, chassis number, IEC, GST No., PAN No., and HS code. On checking if I found any discrepancy in the draft BL or Proforma Invoice, I used to inform him to correct the same.
- with regard to the WhatsApp chat between him and Sh. Jaspal Singh related to sharing of a draft letter and e-mail id of SIIB (I), he stated that this chat was related with the summon issued to M/s. Charanjit Transport Company w.r.t. investigation

regarding import of old and used Cranes. He (Sh. Jaspal) had asked to suggest some draft reply to the summon. I shared a draft reply with him. I also shared the e-mail Id of SIIB for sending the reply in response to the summon received.

- On being asked specifically about the parallel invoice w.r.t. Bill of Entry No. 8464139 dated 25.10.2023 which was found on his mobile during a search conducted on 03.11.2023 he stated that the invoice no. MI20231010 dated 10.10.2023 is pertaining to B/E No. 8464139 dated 25.10.2023. When the machine unloaded, I checked that there was an additional glass and 2 tie rods with the crane, I immediately informed Shri Hiralal Dagha about the same. He instructed me to contact Shri Jaspal Singh regarding this matter. I informed Shri Jaspal Singh Dodhi that these are additional items which are not mentioned in the documents which is a mis-declaration according to Customs. He told me that he will make changes in the proforma invoice. However, he sent me a 2nd commercial invoice after making a change in bifurcation of value. I told him not to change the values in the invoice, just add these items in the proforma invoice then he messaged me to do it yourself. But I did not do any changes and the same 2nd Commercial Invoice was stored in my WhatsApp chat which was detected by officers during the search.*

13.7 Parallel invoice w.r.t. Bill of Entry No. 8464139 dated 25.10.2023 indicates that the importer along with his Customs Broker M/s. Amba Shipping Agencies are actively involved in the modus operandi of forging of Invoices of these old and used cranes. This forging of invoices indicates that the importer is not declaring the real/actual value of these old and used cranes and willingly doing the undervaluation of these cranes. By doing the forging of the invoices the importer along with his Customs Broker, M/s. Amba Shipping Agencies it appears that they willfully suppressed the actual YOM of the cranes to evade applicable customs duty on these imported cranes.

13.8 From above statements, WhatsApp Chats, Forged Invoices as discussed above, it appeared that all these mis-declarations were done by Importer with active involvement of CHA and his employees to mislead the Custom Department about the actual details of imported goods which is necessary to arrive at correct Assessable value and consequently involved in the evasion of the applicable customs duty.

Statements of CEs:

14. Statement of Shri Jitendra Narayan Darunkar, proprietor of M/s A.G. Associates and an empanelled CE was recorded on 06.12.2023 under Section 108 of the Act wherein he among other things inter-alia stated as under:

14.1 On being asked about his findings given vide Certificate No. AGA/ CEC/ JD/ CLASSIC CLEARING-CHARANJIT/ 0433/ 2021-22 dated 04.03.2022 with respect to the

crane imported vide Bill of Entry No. 7660093 dated 26.02.2022, where YOM recorded on inspection certificate was 2015 whereas the same crane is registered under RC number GJ16BS3540 with YOM as 2020, he stated that the YOM declared at RTO is correct and in such case the importer is entitled for less depreciation benefit. The value of the concerned imported cranes may be ascertained again keeping in mind the applicable scale of depreciation. Valuation will differ depending on the YOM declared in registration documents. He further stated that, when the goods are imported they are generally in repainted condition. If the plate affixed on the body of the machine is changed/forged with incorrect details and other documents mentioning YOM are also shown incorrect YOM, then during inspection it is not possible to ascertain exact YOM.

14.2. Statement of Shri Rajendra S. Tambi, empanelled CE and valuer was recorded on 06.12.2023 under Section 108 of the Act (RUD-25) wherein he among other things inter-alia stated as under:

14.3 On being asked about the importance of YOM and Model in case of import of old and used Cranes and its impact on valuation he stated that year of manufacture affects the value of the machinery because the older the machinery lesser is the value. For calculation of depreciation in value, the YOM is a factor. If the YOM is relatively new, the depreciation will be minimal. Similarly, Model of the crane is also a deciding factor of value.

14.4 On a specific query regarding CE certificate No. CE5716 dated 19.08.2023 issued by him in which the YOM (YOM) is mentioned as 2014 whereas in corresponding RC particulars issued by RTO, East Kameng, Arunachal Pradesh it is totally different and mentioned as 04/2021. Also Model No. is mentioned as QY80K whereas in CE certificate it is QY70K, he categorically stated that he perused the CE Certificate No. CE5716 dated 19.08.2023 and RC copy of the vehicle No.AR05A0893. The CE certificate No. CE5716 dated 19.08.2023 belongs to the B/E No. 7367497 dated 16.08.2023. He has issued CE certificate on the basis of documents and machinery produced before him at the time of inspection. However, on perusal of the documents he opined that the specification plate affixed on the body of the crane and produced for examination might be tampered in the term of YOM and model number, because without tempering it is not possible. In such cases the importer is entitled for less depreciation benefit. The value of the concerned imported cranes may be ascertained again keeping in mind the applicable scale of depreciation in terms of the Actual YOM as shown in RTO documents.

14.5 On being asked about the correctness of his previous inspections and findings he stated that whatever documents were produced before him at the time of inspection, the certificate was issued on the basis of that. Now, on perusal of the RC copies of the same machine which was inspected by him under B/E No.7367497 dated 16.08.2023 and B/E No. 6443404 dated 16.06.2023, he can say that valuation will be differ depending on the

YOM declared in registration documents. Further, he added that when the goods are imported, they are generally in repainted condition. It is possible that repainting is a modus to show a new machine as old one. Also, if the plate affixed on the body of the machine is changed/forged with incorrect details and other documents mentioning YOM are also shown incorrect YOM then during inspection it is not possible to ascertain exact YOM.

14.6 He cannot deny the possibility that manipulated documents have not been provided to him. After seeing the different RC particulars, he can say that whatever valuation he had suggested is based on the documents produced before him. However, revaluation in all cases can be done.

15. Statements of RTO Agents:

15.1 Statement of Shri Raj Kumar Singh, an RTO Agent was recorded on 18.03.2024 under Section 108 of the Act wherein he among other things inter-alia stated as under:

15.2 On being asked if he had registered any crane for M/s Charanjit Transport Company, he replied that he has never registered any old and used cranes for M/s Charanjit Transport Company. He had filed Road Tax for them in 2022. He has provided his services to Sh. Jaspal Singh for registration of India made cranes like Escorts (Hydra), that was in 2016-17.

15.3 He looks after the registration work of vehicles (construction equipment) at Nagaland.

15.4 He has never done registration for old and used imported cranes. He only does registration of commercial vehicles and construction equipment such as JCB, Motor grader, Concrete pump, Ajax Fiori in RTOs of Delhi and Haryana through third parties.

15.5. Statement of Shri Mukesh Kumar, an RTO agent was recorded under section 108 of the Act on 10.04.2024 & 06.05.2024(RUD-27), wherein he among other things inter-alia stated as under:

15.6 On being asked about the documents required for registration, he stated that as per Motor Vehicles Act, 1988 for registration of imported cranes Customs Documents such as Bill of entry, Bill of Lading, CE Certificate, valid insurance copy and party's ID (Aadhar Card, Pan Card, GST registration), Form 20 etc. are required. Shri Jaspal Singh provided these documents to him in hardcopy. After preparing the whole docket, he submitted the docket to the RTO office for registration. Sh. Jaspal Singh has never given original Customs Documents to him, rather he provided colored Xerox copies.

15.7 On being asked how he got the documents from Shri Jaspal Singh Dhodi for registration, he stated that those documents were handed over to him by Shri Santosh who

works as office boy for Shri Jaspal Singh. They used to hand over the documents to him near their office in Naraina, Delhi.

15.8 Sh. Mukesh has stated that he further handed over documents to another agent (Sh. Atul Dave) for submission before RTO authority.

15.9 On being asked about year of manufacture mentioned in vehicle particulars issued by Gujarat RTO, he stated that YOM and capacity were changed in documents as per instructions of Shri Jaspal Singh.

16. Statement of Shri Atul M Dave, an RTO Agent was recorded on 17.05.2024 under Section 108 of the Act (RUD-28) wherein he among other things inter-alia stated as under:

16.1 On being asked about the YOM declared in vehicle particulars which are not matching with the YOM declared in import documents, he stated that he had submitted those set of documents only, which were received by him from Sh. Mukesh Kumar. Changes in YOM etc. have been made by Importer/owner. There is no involvement of him in forging of any document.

16.2 He further stated that he had never been in contact with Shri Jaspal Singh. He was only in contact with Shri Mukesh Singh because he handed over the document.

17. Statement of Shri Deepak Sharma, an RTO Agent was recorded on 17.05.2024 under Section 108 of the Act wherein he among other things inter-alia stated as under:

17.1 On being asked how did he receive the documents for registration of imported old and used cranes from Sh. Jaspal Singh Dhodi he stated that he personally used to go to the office of Shri Jaspal Singh for collecting documents.

17.2 On being specifically asked about the YOM and capacity declared in vehicle particulars which are not matching with YOM declared in import documents, he admitted that he has only done the submission work of documents to the RTO office. He has submitted those set of documents only, which were received by him from Sh. Jaspal Singh Dhodi. He acted on instruction of Sh. Jaspal Singh Dhodi for gain of regular work from him.

17.3 Statement of Shri Rajender Singh S/o Shri Desh Raj, residing at House No. E-103, Gali No. – 5, Adarsh Nagar, Ballabgarh, PO: Ballabgarh, Dist: Faridabad, Haryana - 121004, an RTO Agent was recorded on 14.06.2024 under Section 108 of the Act wherein he among other things inter-alia stated as under:

17.4 On being asked how many cranes were registered by him for Shri Jaspal Singh of M/s Charanjit Transport Company and in which RTO, he stated that he did registration related works of only 3 old and used imported cranes of Shri Jaspal Singh in 2019-2020.

The cranes were registered in Nurpur Authority of Himachal Pradesh. Thereafter, he did not get work from Shri Jaspal Singh.

17.5 On being asked about the documents required for registration of the cranes he described that as per Motor Vehicles Act, 1988 for registration of imported cranes Customs Documents such as Bill of entry, Bill of Lading, CE Certificate, valid insurance copy and party's ID (Aadhar Card, Pan Card, GST registration), etc. are required. Shri Jaspal Singh Dhodi provided these documents to him in hardcopy through courier. He submitted the same set of documents to the Registration Counter of RTO which were provided by Sh. Jaspal Singh Dhodi.

17.6 On specifically being asked about YOM declared in vehicle particulars or RC No. HP38F9288, HP979080 & HP38F8590 are not matching with YOM declared in import documents, he stated that he has only done the submission work of documents to the RTO office. He has submitted those set of documents only, which were received by him from Sh. Jaspal Singh Dhodi. On perusal of the RC copies and import documents, he confirmed that changes in YOM etc. have been made by Importer/owner.

17.7 On perusal of the statement dated 08.08.2023 of Sh. Jaspal Singh Dhodi in which Sh. Jaspal Singh had stated that documents might be forged with respect to YOM by registration agent, Sh. Rajender Singh has stated that the importer/owner might have forged the documents because he is the ultimate beneficiary. Being an agent he has no gain by making any forgery. The statement submitted by Sh. Jaspal is not correct.

17.8 From the above statement of the RTO agents it appears that documents for registration of these cranes were provided by the importer to the RTO agents. Further, the claim of the importer during the recording of his statement dated 08.08.2023 that these documents were forged by the RTO agents gets nullified with the above facts that these agents submitted only those documents before RTO which were provided to them by the importer and the ultimate beneficiary is the importer not these RTO agents.

18. Summary of the investigation:

- There is evidence of tampering of invoices and YOM which clearly indicates that importer deliberately suppressed actual information to evade applicable customs duty.
- There is evidence of physical tampering of specification plate found on the cranes.
- WhatsApp chat conversation between importer and customs broker M/s. Amba Shipping Agencies and conversation between importer and one of the employees of the customs broker M/s. Amba Shipping Agencies clearly indicates manipulation of import documents presented before customs.

- RC of the imported cranes clearly showing different YOM and lifting capacity compared to YOM and lifting capacity declared in the Bills of Entry.
- During the statement recorded on 16.11.2023 importer accepted that he has manipulated the invoice value of these old and used cranes and suppressed the details of the actual value with the intention to evade the customs duty. Further, he accepted his mistake and agreed to pay the differential duty.

18.1 It appeared that the importer has mis-declared the description of goods in as much as they did not declare the true and correct 'YOM' and resorted to undervaluation as the actual value of the said goods after applying applicable depreciation as per CBIC Circular No. 493/124/86-Cus.VI dated 19.11.1987 comes out to be Rs. 52,44,76,592/- (Rupees Fifty-two crore forty-four lakhs seventy-six thousand five hundred ninety-two only). The imported goods were mis-declared with respect to description and value, hence Invoice presented at the time of import do not reflect the correct credentials and value of the goods for collection of customs duty. It appears that the declared value of cranes and respective invoices are liable for rejection and re-determination of value can be done as per revised value provided by the empanelled CEs.

18.2 It was apparent that the Importer had intentionally and deliberately mis-declared the YOM to get undue benefit of depreciated value for the relevant year and evade the legitimate applicable duty. The past import of the importer was analysed and it is seen that the importer has filed 54 bills of entry and imported 55 old and used cranes and mis-declaration in YOM and capacity was found. The registration particulars of the imported cranes are obtained from various state RTO offices like Gujarat, Haryana, Himachal Pradesh, Nagaland, etc. It is established from the copies of Registration Particulars of the imported Cranes that the cranes are relatively newer as compared to the declarations made in import documents.

18.3 During the investigation, it is revealed that the importer has not only mis-declared the true and correct YOM of the imported cranes but also mis-declared capacity of the cranes. In import documents, they have declared lesser lifting capacity whereas the cranes registered with the State RTOs are having higher lifting capacities. This was done to show less value than actual value of the goods to evade Customs duty.

18.4 During investigation a parallel invoice in respect of one import consignment has been found. Evidence of manipulation of import invoices have also been found in WhatsApp chat messages of the importer.

18.5 Shri Jaspal Singh Dhodi, has accepted in the statement that he has forged documents. He has also accepted that chats with foreign supplier (Michael) have been deleted by him from his mobile.

18.6 Shri Jaspal Singh Dhodi had tried to divert the investigation by shifting the liability by making false allegations on RTO agents. In his first statement dated 08.08.2023 recorded under Section 108 of the Act, on being asked about the mis-match in the YOM declared in the bill of entry before customs and that of state RTO, he replied that RTO agent might have forged the documents. On further investigation and after confrontation of RTO agents it became clear that it is the importer who had made false declarations with respect to YOM and capacity of the imported cranes. He had conscious knowledge about the act of mis-declaration which was done by him in a calculated manner. The fact of mis-declarations in YOM and capacity of the imported cranes are also corroborated with the vehicle particulars obtained from different State RTOs.

18.7 The Power of Attorney holder Sh. Jaspal Singh Dhodi tried to divert the investigation at the initial stage by shifting his burden of proof to the shoulders of an RTO agent. In his statement dated 08.08.2023 he stated that RTO agent might have forged the documents to get the crane registered, however, no reason was elaborated as to how an RTO agent be benefitted by declaring wrong YOM. Investigation indicates that the importer is the ultimate beneficiary in this case, as by declaring older cranes before customs authority he has got the benefit of maximum depreciation and paid lesser duty and on the other hand, declaring the same crane newer before RTO authorities qualified for the benefit of longer residual life.

18.8 In his statement dated 16.11.2023, Sh. Jaspal Singh Dhodi has accepted the mis-declaration done by him before customs. During the initial stage of investigation, Sh. Jaspal Singh Dhodi tried to delay the investigation by abstaining from personal appearances before the department. He has, admittedly, deleted WhatsApp chat with supplier because of fear which construe his knowledge of wrongdoing exercised by him.

19. CE certificate on the basis of records produced by importer -as guidance in valuation

19.1 All imports of second-hand machinery/ old and used cranes should be ordinarily accompanied by an inspection report issued by an overseas CE prepared on examination of the goods at the place of sale. In the event of the importer failing to procure an overseas report of inspection of the goods, he may have the goods inspected by any one of the CEs empanelled locally by the respective Custom House. The value declared by the importer should be examined with respect to the depreciated value of the goods determined in terms of the circular No. 493/124/86-Cus.VI dated 19.11.1987. The depreciation is calculated on the original value of the machinery (old & used crane) under import. In respect of imports made by M/s Charanjit Transport Company, empanelled CEs have tendered their reports on the basis of documents provided to them by the importer and physical inspection of goods. In their reports, it is categorically mentioned that original invoices relating to the

subject machine were not provided by the importer. During investigation, it is found that the importer is indulged in tampering of specification plates and mis-declaration with respect to YOM. Also the modus adopted by him is accepted in his statements recorded under Section 108 of the Act. Further, vehicle particulars obtained from various State RTOs reflect the true and correct YOM declared by the importer himself and certified by the Regional Transport Officers.

20. Procedure followed for verification of details from the RTO:

20.1 Bills of Entry of the importer were analysed and Chassis Number of the cranes were obtained from the Bills of Entry filed by the importer. The details of these chassis numbers were sent to the RTO, office in Mumbai.

20.2 State RTO offices provided the RC copies of the cranes registered in their offices through email/registered post. During the analysis of the RCs copies received from these state RTO offices it was found that YOM (in all cranes) and capacity (in some) of the cranes shown before these RTO offices is different from the YOM and capacity declared in the CE report uploaded in the Bill of Entry at the time of import.

20.3 Further, investigation indicated that importer willfully mis-declared the YOM and capacity of these cranes with the target of decreasing the assessable value of these cranes and consequentially paying the less amount of duty. The nature of import duty on these goods is in the form of Ad-valorem type, which indicates that lesser the declared assessable value of these cranes lesser will be the applicable duty on these cranes.

20.4 From this appears that sole intention of the importer behind the above mis-declaration is to evade the applicable duty on these cranes and to increase his profit margin. The details of the crane wise YOM provided by these State RTOs were shown to the respective CE (CE) who have given the first valuation report during the examination of these goods at the time of their import.

20.5 These CEs inter-alia stated that proper documents such as original Invoice of manufacturer of the machine, etc. were not provided by the importer at the time they examined the goods for valuation and they provided the valuation report on the basis of specification plate attached to the crane. During the examination of the crane of the one live Bill of Entry, these specification plate was found to be tampered and it was observed that a tampered plate was affixed by removing the original plate from the crane.

20.6 Based on the newer (Actual) YOM, the CEs revised their earlier valuation and provided their re-valuation which is higher than the value declared by the importer at the time of clearance of the goods from the Mumbai Customs. A substantial increase in the value of these old and used cranes resulted in the demand of the substantial amount of differential duty from the importer.

20.7 To point out the modus operandi of mis-declaration of YOM in customs, the Form-20 of one application filed before the RTO, Nagaland for registration of the old and used imported crane., was scrutinized. As per the details of the Bill of Entry enclosed with the application this crane has been imported vide the Bill of Entry No. 6763950 dated 07.07.2023. On the enclosed CE report also the Bill of Entry No. 6763950 dated 07.07.2023 was mentioned. On perusal of the Form-20 it is observed that the YOM declared before the RTO is 09-2021 and also in the enclosed CE certificate with the application YOM is mentioned as 2021.

20.8 It appeared that the YOM declared before the Customs Department is 2016 instead of the actual YOM i.e. 2021 which was declared before the RTO for registration of the vehicle/crane. The sole purpose of the importer behind the mis-declaration of the YOM before the customs department is to decrease the net Assessable Value (on which duty to be calculated on Ad-valorem basis) of these imported cranes. By declaring the YOM as 2016 importer is getting more depreciation in the net Assessable Value of the import goods and consequently paying the less amount of customs duty.

21. Retrieval of information and data from the seized electronic devices:

21.1 During the analysis of the data retrieved from the mobile phone i.e. iPhone 14 Plus, of Shri Jaspal Singh Dhodi, it was found that Sh. Jaspal Singh Dhodi, during his WhatsApp chat dated 03.04.2023 with the Sh. Hira Lal Dhaga, Customs Broker, M/s. Amba Shipping Agencies, is guiding his CB to not mention the YOM and other details in the Bill of Entry. Customs Broker instead of informing the customs department about the same, accepted the proposal of the importer and become a partner in the fraud.

21.2 Shri Jaspal Singh Dhodi and Shri Hira Lal Dhaga, Customs Broker, M/s. Amba Shipping Agencies. This chat started when the extra/ undeclared goods found during the examination of the goods. In this chat the Shri Hira Lal Dhaga, Customs Broker, is guiding the importer to obtain a letter from the supplier in china, regarding the breakup of the total value of the goods declared in the invoice and adjusting the already declared invoice value against the undeclared goods. Customs Broker is guiding the importer to modify the details of the invoice. This chat resulted in the generation of two parallel invoice as discussed and mentioned in the Para-6 above. From this chat it appears that Customs Broker, M/s. Amba Shipping Agencies, is involved in the alteration of the Invoice values and alteration of the details of the goods mentioned in the Invoice. From this chat it is observed that Customs Broker instead of guiding the importer to declare the true and correct value and quantity of the goods which is the duty of Customs Broker, the Customs Broker is guiding the importer to do mis-declaration of the goods in the Bill of Entry. When this mis-declaration of quantity was caught the officer of the Customs, the Customs Broker is guiding the importer in justifying the mis-declaration by modifying the value of the original

invoice and guiding importer to obtain the new invoice by bifurcating the original invoice value against the undeclared goods without altering the net value of the Original Invoice. Customs Broker shared a draft wherein the Customs Broker himself is providing the break-up of the invoice value. These act of Customs Broker shows that he is doing acts/things which is beyond the role allocated to the Customs Broker under the CBLR Rules 2018. This shows that the Customs Broker is willfully involved in mis-declaration of the invoice value and suppression of the facts related to the valuation of these old and used goods.)

21.3 These act of Customs Broker shows that he is doing acts/things which is beyond the role and responsibilities entrusted in the Customs Broker as per the CBLR Rules 2018. This shows that the Customs Broker is willfully involved in mis-declaration of the invoice value and suppression of the facts related to the valuation of these old and used goods. These acts of willful suppression of crucial information related to the YOM of the crane in the Bills of Entry and by splitting the value of the goods in the original invoice, and willful collusion of the Customs Broker with the importer makes Importer, and Customs Broker, M/s. Amba Shipping Agencies liable for the penal action under the relevant sections of the Act.

21.4 During the analysis of the data retrieved from the mobile phone of Shri Jaspal Singh Dhodi, it was found that Shri Jaspal Singh Dhodi, was also having WhatsApp chat with Sh. Rupesh Rajendra Narkar, the employee of the M/s. Amba Shipping Agencies. In the WhatsApp chat Importer, Shri Jaspal Singh Dhodi is sharing proforma invoice and some editable documents with the Sh. Rupesh Rajendra Narkar.

21.5 From the whats app chat between the Importer and Shri Rupesh Rajendra Narkar, it appears that importer Shri Jaspal Singh Dhodi in collusion with the Shri Rupesh Rajendra Narkar is not declaring the actual value in the Invoice and Shri Rupesh Rajendra Narkar is altering the details in the proforma invoices shared to him by the importer. Further, it also found that importer is also sharing the Draft BL with Sh. Rupesh, which indicates that they are declaring the selective information as per their convenience in the Bill of Lading. that importer Shri Jaspal Singh Dhodi in collusion with the Shri Rupesh Rajendra Narkar, is altering important informations in the Invoice and Bill of Lading which will be crucial for determining the YOM of these old and used machines and consequently altering the valuation of these old and used cranes. Shri Rupesh Rajendra Narkar is guiding importer in disobeying the summon issued by the officer of the SIIB(I) by providing the excuses to the importer.

21.6 These acts of willful suppression of crucial information by altering the contents of invoice and Bill of Lading and willful collusion with the Importer makes the importer and Shri Rupesh R. Narkar, employee of the Customs Broker, M/s. Amba Shipping Agencies liable for the penal action under the relevant sections of the Act.

22. Rejection of declared Assessable Value (transaction value) and Re-determination of assessable value of the 54 Bills of Entry having 55 old and used cranes:

22.1 In respect of the 55 imported used cranes, the customs duty has been recomputed based on the re-determined assessable values as established during the investigation. The total duty leviable on these imports amounts to **Rs. 14,54,63,583/-**. However, the importer had paid only **Rs. 8,65,48,706/-** at the time of clearance of the said cranes. Accordingly, there is a short payment of duty of **Rs. 5,89,14,877/-**, as shown in the table below:

Total No. of Bills of Entry	Declared Assessable Value (In Rs.)	Total Duty Paid (in Rs.)	Total Re-determined Assessable Value (in Rs.)	Duty Payable (in Rs.)	Total Differential Duty (in Rs.)
54	31,20,55,877/-	8,65,48,706/-	52,44,76,592/-	14,54,63,583/-	5,89,14,877/-

23. Investigation in respect of Bill of Entry No. 8464139 dated 25.10.2023:

23.1 Goods of the Bill of Entry No. 8464139 dated 25.10.2023 which was filed by the importer for clearance of one unit used Sany STC250H Mobile Truck Crane declaring chassis number LFCNLC5P8C2000830 was examined by the officers of SIIB(I) in presence of an empanelled CE on 31.10.2023 under panchanama.

23.2 During examination of the imported used Sany STC250H Mobile Truck Crane, it was observed that the manufacturer's specification plate had been tampered with. The plate bearing key identification details appeared to have been affixed later, with signs of earlier plate fastening marks painted over. This suggested a possible attempt to conceal or misrepresent the actual specifications of the crane.

23.3 The examination further revealed presence of undeclared goods, specifically one windscreen (7'11" x 3'7") and two tie-rods. These items were not listed in the Bill of Entry. The CE confirmed these were not part of standard accessories. The importer failed to provide satisfactory explanation for the same. Based on the findings, the consignment was seized under Seizure Memo No. 12/2023 dated 09.11.2023 under Section 110(1) of the Customs Act, 1962, being liable for confiscation under Sections 111(l) and 111(m) for misdeclaration and non-disclosure.

23.4 In view of the above, the declared value of Rs 49,67,800/- was found unacceptable under Rule 12 of the Customs Valuation Rules, 2007 read with Section 14 of the Customs Act. It was re-determined to Rs 50,39,191/- by including the value of undeclared goods.

23.5 The undeclared windscreen was classifiable under CTH 70071100 and the tie-rods under CTH 84313990. Duty was calculated using the higher of two proforma quotations

submitted by the importer, which were accepted as transaction values under Rule 3 of the CVR, 2007. The total duty liability on the undeclared goods was assessed as Rs. 24,765/-.

23.6 The deliberate non-disclosure of the full quantity and nature of goods at the time of filing the Bill of Entry amounts to wilful misstatement and suppression of facts, constituting evasion of customs duty. The importer violated Section 46(4) of the Customs Act and the Bill of Entry (Electronic Declaration) Regulations, 2011. Hence, the goods were rendered liable for confiscation under Sections 111(l) and 111(m), and the importer liable under Sections 112(a), 114A, and 114AA of the Act.

23.7 The investigation also revealed active collusion between Shri Jaspal Singh Dhodi (power of attorney holder of the importer), the Customs Broker M/s. Amba Shipping Agencies, and their employee Shri Rupesh R. Narkar. WhatsApp chats confirmed manipulation of invoice values and creation of parallel invoices. Accordingly, the Customs Broker and their employee were found liable under Sections 112(b) and 114AA of the Customs Act, 1962.

24. Role of the Importer: Shri. Jaspal Singh Dhodi, Power of Attorney holder of M/s. Charanjit Transport Company, has devised a modus-operandi for evading the Customs Duty on the import of the Old and Used second hand cranes being imported at the Mumbai Sea Port. These Modus operandi works by mis-declaring the actual YOM of the machine before the Customs Department by showing the new machine as relatively old by mis-declaring the YOM compared to the original/actual YOM and consequently declared the lower assessable value of the machine before the customs and accordingly paid the less amount of customs duty instead of the applicable higher amount of duty paid.

24.1 To succeed in his target of mis-declaration of the YOM of the cranes, importer colluded with the foreign supplier and convinced the foreign supplier not to declare actual YOM on the Invoice and Bill of Lading. To hide his modus-operandi from Customs Department, Shri Jaspal Singh Dhodi, deleted the WhatsApp chat with the foreign supplier from his mobile phone and he has accepted this fact during the recording of the statement. Based on this modus operandi, Importer started filing of Bills of Entry without mentioning the actual YOM in the description column of the Bills of Entry and declaring relatively less assessable value for these old and used cranes before the Customs Department. By declaring the less assessable value of the old and used cranes before the customs, importer is paying the less amount of Customs Duty instead of the applicable Duty. By following this modus operandi importer is also guiding his Customs Broker to not mention the actual YOM in the Bill of Entry while filing in the ICES system.

24.2 The fact that the importer is altering the details of the Invoice and Bill of lading as per his convenience, is proven when the WhatsApp chat of Shri Jaspal Singh Dhodi, Power of Attorney holder of M/s. Charanjit Transport Company with the Shri Hiralal Dhaga,

Proprietor of Customs Broker, M/s. Amba Shipping Agencies importer and Shri Rupesh Rajendra Narkar, employee of the M/s. Amba Shipping Agencies, extracted from his mobile phone were examined. This proves that Shri Jaspal Singh Dhodi (Power of Attorney holder of M/s. Charanjit Transport Company) in collusion with Customs Broker and his employee, was altering the crucial details in BL and Invoice, which amounts to the willful mis-statement and suppression of facts as per the Act.

24.3 The above acts of omission and commission on the part of Shri Jaspal Singh Dhodi done on behalf of Smt. Charan Jit Kaur, Proprietor of M/s. Charanjit Transport Company, proves their willful mis-statement and suppression of the facts while declaring the details of the goods in the impugned Bills of Entry under section 46 of the Act. Accordingly, Shri Jaspal Singh Dhodi, having power of attorney of the M/s. Charanjit Transport Company and Smt. Charan Jit Kaur, Proprietor of M/s. Charanjit Transport Company is liable to penalty under section 112(a)/112(b), 114A and 114AA of the Act, in relation to the fraudulent import of the aforesaid 55 used cranes imported vide the Bill of Entry as mentioned in the Annexure-I.

25. Role of Customs Broker M/s. Amba Shipping Agencies and Role of Shri Rupesh R. Narkar, an employee of the Customs Broker M/s. Amba Shipping Agencies:

25.1 The acts of Shri Hiralal H. Dagha revealed that he has acted as a proxy of the importer firm whereas it is the duty of the broker to bring any discrepancy in the notice of the department so that corrective measures may be taken to arrive at correct assessable value of the goods. The Customs Broker has not worked diligently and did not verify the antecedents of the importer appropriately. Also, regarding misconduct played on the part of his staff Shri Rupesh Narker, he affirmed his unknowingness about the same. Further, he instigated the importer to not participate in the investigation by suggesting draft reply for deferment in participation of importer in the investigation.

25.2 Total 37 Bills of Entry from serial no. 20 to 56 as mentioned in Table no. 6 above were filed and cleared by the Customs Broker M/s. Amba Shipping Agencies on behalf of the importer M/s. Charanjit Transport Company.

25.3 During the recording of his statement on 29.11.2023 and on 04.12.2023 Shri Hiralal H. Dagha inter alia stated and accepted that he had not done the KYC properly. When the team of SIIB(I) went to search the premises of the importer on the address as mentioned in KYC documents submitted by the importer, that address was found to be fake. Customs Broker has accepted his mistake during the recording of the statement and further accepted that he has not verified the address of the importer by doing physical verification. This mistake of the Customs Broker makes him liable for action under the Customs Broker Licensing Regulation, 2018.

25.4 Further, in the statement dated 04.12.2023 Customs Broker accepted his fault in accepting the advice of the importer to not mention the YOM in the item description of the Bill of Entry. Proper mentioning of the YOM in the description of the Bill of Entry is helpful in deciding about the age of old and used machinery and further determination of their assessable value. By accepting the advice of the importer and not mentioning the YOM in the description of the Bills of Entry, the Customs Broker has proven his collusion in hiding the important information from the Customs.

25.5 These acts of Customs Broker shows that he is doing acts/things which are beyond the role and responsibilities entrusted in the Customs Broker as per the CBLR Rules 2018. This shows that the Customs Broker is willfully involved in mis-declaration of the invoice value and suppression of the facts related to the valuation of these old and used goods.

25.6 These acts of willful suppression of crucial information related to the YOM of the crane in the Bills of Entry and by splitting the value of the goods in the original invoice, and willful collusion of the Customs Broker with the importer makes the Customs Broker, M/s. Amba Shipping Agencies liable for the penal action section 112(a)/(b) and section 114AA of the Act and also under the CBLR, 2018.

25.7 WhatsApp chat between the Shri Rupesh Rajendra Narkar, employee of the Customs Broker M/s. Amba Shipping Agencies and Importer, Shri Jaspal Singh Dodhi prove that Rupesh R. Narakar is editing the commercial invoices and Bill of Lading which were shared with him by the importer in editable formats. In the WhatsApp Chat importer is also advising the Rupesh to edit on their own ("In the Chat importer written the msg "App hi karlo" question No. 17 in the statement dated 29.11.2023.), which proves that Customs Broker is editing the Invoices and Bill of Lading details.

25.8 From the WhatsApp chat between Shri Jaspal Singh Dhodi and Shri Rupesh Rajendra Narkar appears that importer Shri Jaspal Singh Dhodi in collusion with the Shri Rupesh Rajendra Narkar is not declaring the actual value in the Invoice and Shri Rupesh Rajendra Narkar is altering the details in the proforma invoices shared to him by the importer.

25.9 Further, it was also found that importer is also sharing the Draft BL with Sh. Rupesh, which indicates that they are declaring the selective information as per their convenience in the Bill of Lading.

25.10 All the above facts indicate that importer Shri Jaspal Singh Dhodi in collusion with the Shri Rupesh Rajendra Narkar, is altering important informations in the Invoice and Bill of Lading which will be crucial for determining the YOM of these old and used machines and consequently altering the valuation of these old and used cranes.

26. Action under the CBLR, 2018.

26.1 From the facts in the above-mentioned case, it appeared that Customs Broker M/s Amba Shipping Agencies (11/939) didn't adhere to the Regulations 10(d), 10(e), 10(n) and 13(12) of the Customs Broker Licensing Regulations, 2018.

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

"advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of 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;

26.1.1 The importer, with respect to shifting from one custom broker M/s Classic Clearing & forwarding to M/s Amba Shipping Agencies, submitted that former CB did not agree to clear his cranes below Rs.1,10,000/- per ton. Due to competitiveness, he shifted to M/s Amba Shipping Agencies as they assured us for lower valuation and clearance. This clearly shows manipulation of the declared value by the Importer, which he did by collaborating with CB M/s Amba Shipping Agency.

26.1.2 Shri Hiralal H. Dagha, proprietor of M/s Amba Shipping Agency, instigated the importer to not participate in the investigation by suggesting draft reply for deferment in participation of importer in the investigation.

26.1.3 In the statement dated 04.12.2023 Customs Broker accepted his fault in accepting the advice of the importer to not mention the YOM in the item description of the Bill of Entry. Proper mentioning of the YOM in the description of the Bill of Entry is helpful in deciding about the age of old and used machinery and further determination of their assessable value. By accepting the advice of the importer and not mentioning the YOM in the description of the Bills of Entry, the Customs Broker has proven his collusion in hiding the important information from the Customs. This shows that the Customs Broker is willfully involved in mis-declaration of the invoice value and suppression of the facts related to the valuation of these old and used goods.

26.1.4 WhatsApp chat between the Shri Rupesh Rajendra Narkar, employee of the Customs Broker M/s. Amba Shipping Agencies and Importer, Shri Jaspal Singh Dodhi prove that Rupesh R. Narakar is editing the commercial invoices and Bill of Lading which were shared with him by the importer in editable formats. In the WhatsApp Chat importer is also advising the Rupesh to edit on their own("In the Chat importer written the msg "App hi karlo" question No. 17 in the statement dated 29.11.2023.), which proves that Customs Broker is editing the Invoices and Bill of Lading details.

26.1.5 From the WhatsApp chat between Shri Jaspal Singh Dhodi and Shri Rupesh Rajendra Narkar appears that importer Shri Jaspal Singh Dhodi in collusion with the Shri Rupesh Rajendra Narkar is not declaring the actual value in the Invoice and Shri Rupesh

Rajendra Narkar is altering the details in the proforma invoices shared to him by the importer.

26.1.6 Further, it was also found that importer is also sharing the Draft BL with Sh. Rupesh, which indicates that they are declaring the selective information as per their convenience in the Bill of Lading.

26.1.7 All the above facts indicate that importer Shri Jaspal Singh Dhodi in collusion with the Shri Rupesh Rajendra Narkar, is altering important informations in the Invoice and Bill of Lading which will be crucial for determining the YOM of these old and used machines and consequently altering the valuation of these old and used cranes.

26.1.8 Further, Shri Hiralal H Dhaga, proprietor, of CB firm, has seen page no 32 of whats app chat and, in his statement dated- 04.12.2023, admitted that Shri Rupesh acted with his knowledge, suggesting change in invoices to the importer, including addition of painting cost and changes in invoice number.

26.1.9 This shows the CB not only failed to advise the importer to comply with customs rules but intentionally participated in wrongful declarations and forging of invoices, Bill of Lading, Proforma invoices, and failed to inform the Customs Authorities regarding the same.

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

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

26.2.1 During the search at the CB's premises on 29.11.2023, officers recovered two invoices (same number, different values) for the same consignment.

26.2.2 Further, whatsapp chat between the Shri Rupesh Rajendra Narkar, employee of the Customs Broker M/s. Amba Shipping Agencies and Importer, Shri Jaspal Singh Dodhi prove that Rupesh R. Narakar is editing the commercial invoices and Bill of Lading which were shared with him by the importer in editable formats. In the WhatsApp Chat importer is also advising the Rupesh to edit on their own (“In the Chat importer written the msg “App hi karlo” question No. 17 in the statement dated 29.11.2023.), which proves that Customs Broker is editing the Invoices and Bill of Lading details., were recovered.

26.2.3 All the above facts indicate that importer Shri Jaspal Singh Dhodi in collusion with the Shri Rupesh Rajendra Narkar, is altering important informations in the Invoice and Bill of Lading which will be crucial for determining the YOM of these old and used machines and consequently altering the valuation of these old and used cranes.

26.2.4 Further, Shri Hiralal H Dhaga, proprietor, of CB firm, has seen page no 32 of whats app chat and, in his statement dated- 04.12.2023, admitted that Shri Rupesh acted with his knowledge, suggesting change in invoices to the importer, including addition of painting cost and changes in invoice number.

26.2.5 The CB in statement dated- 29.11.2023, in reply to q-20 and 21 accepted that they have accepted acsh payment on one or two occasions and admitted that they are aware that transaction in cash is unfair trade practice and punishable.

26.2.6 Therefore, the CB has failed to act diligently in the matter and thus appears to have violated Regulation 10 (e) of the CBLR, 2018.

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

“verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information;”

26.3.1 On perusal of the Offence Report it is observed that in his statement dated 04.12.2023 and 29.11.2023, Mr. Hiralal Dagha, Proprietor of M/s. Amba Shipping Agencies, admitted that the KYC of the importer was done only through online on ICEGATE and the GST portal. No physical verification was carried out. During the search of the CB's premises on 29.11.2023, no proper KYC documents were found on record. This clearly shows that the CB failed to verify the identity and genuineness of the importer

26.3.2 This shows the CB actively helped the importer in fraudulent activity, violating Regulation 10(n).

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

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

26.4.1 The CB in his statement dated 04.12.2023, admitted that he had shared a draft reply to the summons to the Importer, wherein the reply was suggested in a manner to delay, which indirectly facilitated delay in investigation. The CB here has failed to co-operte with customs authorities by indirectly facilitating such delay in the investigation.

(v) Regulation 13 (12) of the CBLR, 2018, which reads as :

“13 (12) “The Customs Broker shall exercise such supervision as may be necessary to ensure proper conduct of his employees in the transaction of business and he

shall be held responsible for all acts or omissions of his employees during their employment."

26.5.1 WhatsApp chat between the Shri Rupesh Rajendra Narkar, employee of the Customs Broker M/s. Amba Shipping Agencies and Importer, Shri Jaspal Singh Dodhi prove that Rupesh R. Narakar is editing the commercial invoices and Bill of Lading which were shared with him by the importer in editable formats. In the WhatsApp Chat importer is also advising the Rupesh to edit on their own ("In the Chat importer written the msg "App hi karlo" question No. 17 in the statement dated 29.11.2023.), which proves that Customs Broker is editing the Invoices and Bill of Lading details.

26.5.2 From the WhatsApp chat between Shri Jaspal Singh Dhodi and Shri Rupesh Rajendra Narkar appears that importer Shri Jaspal Singh Dhodi in collusion with the Shri Rupesh Rajendra Narkar is not declaring the actual value in the Invoice and Shri Rupesh Rajendra Narkar is altering the details in the proforma invoices shared with him by the importer.

26.5.3 Further, it was also found that the importer is also sharing the Draft BL with Sh. Rupesh, which indicates that they are declaring the selective information as per their convenience in the Bill of Lading.

26.5.4 From the above, it appears that the CB has failed to exercise such supervision as necessary to ensure proper conduct of the employees and thus appears to have violated the provisions of Regulation 13 (12) of the CBLR, 2018.

27. In view of the above and considering the gross violation, it appears that the CB has knowingly and actively participated in fraudulent activity with importer for monetary benefit, which resulted in a huge loss of Govt. revenue. Such negligence and carelessness towards his duties as a Customs Broker might be harmful for the Indian Economy on a larger scale.

28. In view of the foregoing and considering the grave violations and deliberate active participation in fraudulent activity with the importer, it is evident that the Customs Broker knowingly participated in fraudulent activity for monetary gain. This conduct has resulted in a substantial loss to government revenue. Such actions not only compromise the integrity of the import control framework but also constitute an offence of smuggling as defined under Section 2(39) of the Customs Act, 1962.

29. I observe that the CB has a very important role in customs clearances and a lot of trust has been placed by the Department in the CB. In a regime of trade facilitation and with more and more goods being facilitated by the Risk Management Systems without examination by the Customs, the role of CB has further increased so that the economic frontiers of the country are well guarded.

30. Accordingly, the Customs Broker M/s. Amba Shipping Agencies, (CB No.- 11/939) (PAN- AABPD7063P) licence was suspended vide Order No. 11/2025-26 dated 04.11.2025 and the opportunity of personal hearing was granted to the CB on 19.11.2025 at 01:00 PM.

RECORD OF PERSONAL HEARING & WRITTEN SUBMISSION OF THE CB

31. Pursuant to the issuance of Suspension Order No. 11/2025-26 dated 04.11.2025, Advocate Shri Sanjay Singhal, Shri Hiralal Dagha, Proprietor of M/s. Amba Shipping Agencies, and Shri Rupesh Narkar, Employee of M/s. Amba Shipping Agencies appeared for a personal hearing on 19.11.2025 at 01:00 PM. During Personal Hearing, the Representative of CB and CB reiterated their written submission dated 19.11.2025, key facts of which are mentioned below:-

The CB inter alia submitted:

- (i) that the Appointing Authority has suspended the Customs Broking Licence of the Customs Broker under Regulation 16 of the Customs Broker Licensing Regulations 2018, which reads as follows –

***Suspension of license.**-(1) Notwithstanding anything contained in regulation 14, the Principal Commissioner or Commissioner of Customs may, in appropriate cases where immediate action is necessary, suspend the license of a Customs Broker where an enquiry against such Customs Broker is pending or contemplated:*

Provided that, where the Principal Commissioner or Commissioner of Customs may deem fit for reasons to be recorded in writing, he may suspend the license for a specified number of Customs Stations.

(2) Where a license is suspended under sub-regulation (1), the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, shall, within fifteen days from the date of such suspension, give an opportunity of hearing to the Customs Broker whose license is suspended and may pass such order as he deems fit either revoking the suspension or continuing it, as the case may be, within fifteen days from the date of hearing granted to the Customs Broker:

Provided that in case the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, passes an order for continuing the suspension, further procedure thereafter shall be as provided in regulation 17.

- ii. As seen from the above, the power of suspension is to be exercised in the following conditionalities, where immediate action is necessary. In the present instance, the investigation were going on **since 2023** and the statements of all the persons involved in

the matter were recorded in 2023 itself especially those of the importer, CB and the employee of the CB, who is stated to have connived with the importer.

iii. Further, the final Show Cause Notice in the matter was issued on 07.02.2025 wherein the importer, CB and the employee have already been asked to show cause as to why penal proceedings under the main Customs Act, 1962 should not be invoked against them. The replies of the SCN have already been submitted by the undersigned on 28.04.2025 (received by adjudicating authority on 29.04.2025) but the proceedings are yet to be concluded to bring out the liability of the CB in terms of the Customs Act, 1962. A copy of the reply submitted to the notice on behalf of the CB and the employee are attached for reference.

iv. Finally, the facts mentioned in the Suspension Order reveal that the investigating unit even while issuing the Show Cause Notice on 07.02.2025, reported to the Custom Broker Section (hereinafter referred to as CB Section) only after more than two months vide letter dated 26.04.2025, which itself was finally received by the CB Section on 30.06.2025 vide email.

v. The above narrative can be summarized as follow –

Investigations & Recording of Statements	– 2023
Issue of SCN	- 07.02.2025
Offence Report letter	- 26.04.2025
Final receipt of email of Offence Report	- 30.06.2025

vi. In view of the above schedule of dates, it may be seen that the offence report itself was made, a goods two months after the Show Cause Notice was issued in the matter and even that was actually conveyed to the CB Section only after another two months, clearly demonstrating the lack of urgency in taking suspension action against the CB since immediate action was not necessitated.

vii. Therefore, it is prayed that on this technical ground, of lack of urgency of taking immediate action, the suspension of the Customs Broker, may be lifted and the normal proceedings as envisaged in Regulation 17 of the Customs broker Licensing Regulations 2018 for imposing of penalty or revocation of licence.

viii. Additionally, the CB has more than 12 employees working in the office and such suspension will render them without any employment all of a sudden. It is therefore, prayed that the suspension may be lifted on humanitarian grounds.

ix. it may be stated that the CB licence has been in operation since 1989 but this is the first time that such an eventuality has occurred. Keeping the past record of the CB, it is prayed that the suspension may be lifted.

x. The Suspension Order holds that the CB has violated Regulation 10(d), 10(e), 10(n), 10(q) and 13(12) of the CBLR 2018. It is submitted that these are the allegations made in the Offence Report, which are yet to be investigated by an Inquiry Officer under Regulation 17 of the CBLR 2018.

xi. In brief, the above provisions have been alleged to be violated only on the following grounds

- i. That the CB has assured clearance of the goods on payment of less than Rs. 1,10,000/- per tonne and accordingly, the importer had changed the CB.

It may be noted that there is nothing to suggest the exact pricing at which the CB had invoiced the Importer. Unless it is demonstrated that there is some material to show that the less price was taken by the CB to influence the clearance of the goods, such allegation remains what it is, an allegation. It is a commercial terms between two competing Customs Broker and cannot be held to be a violation of the CBLR 2018

- ii. That the YOM was not mentioned in the Bill of Entry as per directions of the importer

The Year of Manufacture is something which is to be ascertained either from the importer documents and the actual manufacturing plate found on the Machine. What the importer/CB declares on the Bill of Entry is not something that is etched in stone or taken at face value. In the case of used machinery, the YOM is most important criteria for granting depreciation and therefore, it is well examined by the Docks Staff as per Group Instructions and the CCR as well. Therefore, such allegation cannot hold water to be considered a violation of the CBLR 2018.

- iii. An WhatsApp conversation between the importer and the employee of the CB wherein the Importer had told the employee to change the Invoice and BL himself (Khud hi kar lo). The Suspension Order is silent as to whether the employee had actually made the changes himself and after approval of the CB.

If an Importer says something illegal and the employee/CB did not act upon it, then it cannot be said that the CB has violated the CBLR 2018. There is nothing in the Suspension Order to demonstrate that the employee or the CB acted upon such loose instruction of the Importer. Even in that case, the issue was that upon examination, some additional goods were found and when brought to the notice of the Importer that he has to submit proper invoice to cover those goods as well, and therefore, such an allegation to be held against the CB cannot be countenanced.

- iv. That the CB had on one or two occasions accepted cash payments from the importer. It may be seen from the Statement of the CB that what he stated was, on one or two occasions, we asked the agency charges to be paid in Cash as the labour was to be paid. Therefore, it was a purely commercial transaction between the importer and the CB which is not part of the CBLR 2018. As such, it may be stated that the CBLR 2018 is completely silent on the payment terms to be adopted by a CB from his client. Therefore, this cannot be held as a violation of the CBLR 2018.
- v. That the importer had shared a draft Bill of Lading with the employee of the CB. The importer had allegedly shared a draft Bill of Lading with the employee of the CB. It is submitted that the suspension order is silent as to the exact Bill of lading which was submitted to the Customs. In any case, a Bill of Lading is a Shipping Line document which the importer has nothing to do with it. It is a carriage document of the shipping line and therefore, it does not form part of the CBLR 2018. The violation of the Customs Act, 1962 which this draft Bill of Lading has exacted on the revenue also does not come out in the Suspension Order. Therefore, such an allegation cannot be deemed to be a violation of the CBLR 2018.
- vi. That the CB had drafted a letter seeking adjournment of appearance before the investigating agency.
The factual position is that the importer was not in a position to attend to the summons and had requested the CB to make a draft letter seeking adjournment. The CB had made a draft letter to the best of his ability. The letter nowhere stated that the importer refuses to join the investigation and besides, the facts clearly demonstrate that the Importer joined the investigation and also gave his statements as and when required. Therefore, the allegation that such letter has delayed the investigation is clearly not borne by the factual matrix obtaining in the matter.
- vii. That the CB has not physically verified the premises of the importer but verified the same from GSTIN and ICEGATE.
There is nothing in the CBLR 2018 that the CB has to necessarily physically verify the address of the importer/exporter. It would be too much of a burden for a CB to go all over India, every time a new client is sought. The Tribunal also in myriad number of cases held that if the documents indicate the address of the importer/exporter, such documents verification is enough for the Customs Broker. The CB has verified the address from two government websites viz., GSTIN and ICEGATE and therefore, it cannot be held that the non-physical verification of place of business of the importer has been a violation of the CBLR 2018.

31.1 In view of the above, the CB prayed that since there is prima-facie no violation of the CBLR 2018, the suspension may kindly be lifted and the proceedings be initiated under Regulation 17 of the CBLR 2018, if deemed fit.

DISCUSSION AND FINDINGS

32. I have carefully gone through the records of the case, the written submissions made by Advocate Shri Amit Singhal, Shri Hiralal Dagha, Proprietor and Rupesh Narkar, Employee of M/s Amba Shipping. The facts of the case and findings of the investigation have been mentioned in the above paragraphs and are not being repeated for brevity.

33. The issue before me at present is limited to determining whether the continuation of suspension of the CB license, under Regulation 16(2) of CBLR, 2018, is warranted or otherwise in the instant case in the light of the material on record.

33.1 I find that the license of Customs Broker M/s. Amba Shipping Agencies (CB No.- 11/939) (PAN- AABPD7063P) was suspended vide Order No. 11/2025-26 dated 04.11.2025 based on offence report received from SIIB (Import-I), New Custom House, Mumbai that the CB has failed to fulfil their obligations laid down under Regulation 10 of CBLR, 2018.

34. The power under Regulation 16(1) of the CBLR, 2018, confers power to the Principal Commissioner of Customs or Commissioner of Customs to suspend the license of the Customs Broker where an inquiry against such Customs Broker is pending or contemplated. In the instant case, since an inquiry was contemplated against the said CB as intimated by the investigating agency i.e. SIIB (Import-I), New Custom House, Mumbai, hence, I found it an appropriate case for suspension where immediate action was necessary in order to stop all customs clearance-related work to safeguard the revenue. In terms of Regulation 16(2) of CBLR, 2018, an opportunity of hearing was granted to the CB on 19.11.2025 at 01.00 PM and the same has been availed by the said Customs Broker, his employee and his Advocate. Further, orders issued under Regulations 16(1) and 16(2) of the CBLR, 2018 are interim measures, and a final order will be issued under Regulation 17 of the CBLR, 2018 after issuance of a Show Cause Notice and completion of inquiry proceedings as prescribed under the said regulation.

35. From the records of the case, it is observed that this case is related to importer M/s. Charanjit Transport Company, a proprietorship firm (IEC No. 0516997050), proprietor name Smt. Charan Jit Kaur, having registered office at A1/139, A-Block, Inderpuri, New Delhi – 110012, who had filed 55 Bills of Entry during the period May 2020 to October 2023, through two Custom Brokers, including M/s. Amba Shipping Agencies, Customs Broker Licence No. - AABPD7063P (11/939) having registered office at 7, Ashok Chamber, Bharuch Street, Masjid Bunder (E), Mumbai-400009. Old and used cranes are classifiable under Custom Tariff Head 8426 4100 as per the Customs Tariff Act, 1975 and applicable duty structure for assessment is Basic Customs Duty @7.5%, Cess@10% and IGST@18%.

36. During the course of investigation, it was revealed that the custom broker M/s. Amba Shipping Agencies, Customs Broker Licence No.- AABPD7063P (11/939) had actively participated in fraudulent activity; that the CB has assured clearance of the goods on payment of less than Rs. 1,10,000/- per tonne and accordingly the importer had changed the CB; that the YOM was not mentioned in the Bill of Entry as per directions of the importer to manipulate the value of the old and used crane; that on WhatsApp conversation between the importer and the employee of the CB wherein the Importer had told the employee to change the Invoice and BL himself which indicates the physical involvement of the CB; that the CB had on one or two occasions accepted cash payments from the importer; that the CB has not physically verified the premises of the importer but verified the same from GSTIN and ICEGATE; that it appears that the CB has not followed KYC norms.

37. Having taken into cognizance of the defence submission of the CB, I find that with respect to the allegation that *'the CB has assured clearance of the goods on payment of less than Rs. 1,10,000/- per tonne and accordingly, the importer had changed the CB'* the Advocate Shri Sanjay Singhal has argued that *'there is nothing to suggest the exact pricing at which the CB had invoiced the Importer; that unless it is demonstrated that there is some material to show that the lower price was taken by the CB to influence the clearance of the goods, such allegation remains what it is, an allegation; that it is a commercial term between two competing Customs Brokers and cannot be held to be a violation of the CBLR 2018'*.

37.1 However, having perused the statement of the importer recorded under Section 108 of Customs Act, 1962, I find that there is a clear indication that the importer has shifted his clearance work from one custom broker M/s Classic Clearing and forwarding to M/s Amba Shipping Agencies as former CB was not agree to clear his cranes below Rs. 1,10,000/- per ton and M/s Amba Shipping Agencies have assured him for lower valuation and clearance.

38 Further with regard to the allegation that *'the YOM was not mentioned in the Bill of Entry as per directions of the importer'* the CB has argued that *'the Year of Manufacture is something which is to be ascertained either from the importer documents and the actual manufacturing plate found on the Machine; that what the importer/CB declares on the Bill of Entry is not something that is etched in stone or taken at face value; that in the case of used machinery, the YOM is most important criteria for granting depreciation and therefore, it is well examined by the Docks Staff as per Group Instructions and the CCR as well; that such allegation cannot hold water to be considered a violation of the CBLR 2018'*.

38.1 Having perused the statements, recorded under Section 108 of Customs Act, 1962, of Shri Jaspal Singh Dhodi, Power of Attorney holder of the importer; Shri Hiralal H.

Dagha, the proprietor of the CB firm and Shri Rupesh Rajendra Narker, employee of CB, I find that there is reasonable substance to allege that the CB has failed to perform his duty as he had not mentioned the YOM in the bill of entry, which is mandatory for the clearance of Old and Used Cranes to evade customs duty and it prima facie appears that they willfully indulged with the importer in the suppression of the actual YOM of the cranes to evade applicable customs duty on these imported cranes.

39. I find that with regard to the allegation that *'as per the WhatsApp conversation between the importer and the employee of the CB, the Importer had told the employee of the CB to change the Invoice and BL himself (Khud hi kar lo)'*, the CB has contended that *'the Suspension Order is silent as to whether the employee had actually made the changes himself and after approval of the CB; that if an Importer says something illegal and the employee/CB did not act upon it, then it cannot be said that the CB has violated the CBLR 2018; that there is nothing in the Suspension Order to demonstrate that the employee or the CB acted upon such loose instruction of the Importer; that even in that case, the issue was that upon examination, some additional goods were found and when brought to the notice of the Importer to submit a proper invoice to cover those goods as well, and therefore, such an allegation to be held against the CB cannot be countenanced'*.

39.1 In this regard, having thoroughly perused the facts of the case, I find that during the search of the office premises of CB, the investigation agency found whatsapp chats between Importer and Shri Rupesh Rajendra Narker, employee of M/s Amba Shipping Agencies discussing about draft B/L, proforma invoice and also communicated to the importer about the issuance of summon w.r.t. investigation regarding importer of old and used cranes and also forwarded draft reply to the summon, in addition to this two parallel invoices w.r.t. Bill of Entry no. 8464139 Dated 25.10.2023 with the bifurcation of values found during the search of premises of the office of the CB which clearly indicate that the CB and his employee were indulged in the modus operandi of forging the invoices of these old and used cranes and is willingly doing the undervaluation of these cranes to evade applicable Customs duty.

40. I find that with regard to the allegation that *'the CB had on one or two occasions accepted cash payments from the importer'*, the CB has argued that *'it may be seen from the statement of the CB that what he stated was, on one or two occasions the CB asked the agency charges to be paid in Cash as the labour was to be paid; that therefore, it was a purely commercial transaction between the importer and the CB which is not part of the CBLR 2018; that as such, it may be stated that the CBLR 2018 is completely silent on the payment terms to be adopted by a CB from his client; that this cannot be held as a violation of the CBLR 2018'*.

40.1 In this regard, I find that the CB in his statement dated- 29.11.2023, in reply to q-20 and 21 accepted that they have accepted cash payment on one or two occasions and admitted that they are aware that transaction in cash is unfair trade practice and punishable. Under the facts and circumstances of the case, there appears a prima facie mens-rea on the part of the CB in accepting the cash payments from the importer who is involved in fraudulent import of goods by suppression of information and evasion of applicable customs duty.

41. I find further find that against the allegation '*that the importer had shared a draft Bill of Lading with the employee of the CB*' the CB has countered that '*the suspension order is silent as to the exact Bill of lading which was submitted to the Customs; that in any case, a Bill of Lading is a Shipping Line document which the importer has nothing to do with it; that it is a carriage document of the shipping line and therefore, it does not form part of the CBLR 2018; that the violation of the Customs Act, 1962 which this draft Bill of Lading has exacted on the revenue also does not come out in the Suspension Order; that such an allegation cannot be deemed to be a violation of the CBLR 2018*'.

41.1 In this regard, I find that the whatsapp chat between the Shri Rupesh Rajendra Narkar, employee of the Customs Broker M/s. Amba Shipping Agencies and Shri Jaspal Singh Dodhi, Power of Attorney holder of the Importer, proves that Rupesh R. Narakar was actively indulged in editing the commercial invoices and Bill of Lading which were shared with him by the importer in editable formats. In the WhatsApp Chat importer is also advising the Rupesh to edit on their own ("In the Chat importer written the msg "khud hi karlo" question No. 17 in the statement dated 29.11.2023.), which substantiate the allegation that the Customs Broker was involved in editing the Invoices and Bill of Lading details.

42. Further, I find that with respect to the allegation that '*the CB had drafted a letter seeking adjournment of appearance before the investigating agency*', the CB has submitted that '*the factual position is that the importer was not in a position to attend to the summons and had requested the CB to make a draft letter seeking adjournment; that the CB had made a draft letter to the best of his ability; that the letter nowhere stated that the importer refuses to join the investigation and besides, the facts clearly demonstrate that the Importer joined the investigation and also gave his statements as and when required; that allegation that such letter has delayed the investigation is clearly not borne by the factual matrix obtaining in the matter*'.

42.1 In this regard, I find that the CB in his statement dated 04.12.2023, admitted that he had shared a draft reply to the summons to the Importer, wherein the reply was suggested in a manner to delay, which indirectly facilitated delay in the investigation. The CB here has failed to cooperate with customs authorities by indirectly facilitating such delay in the

investigation. Also, such action on the part of the CB also points towards an apparent connivance between the importer and the CB.

43. With regard to the allegation that *'the CB has not physically verified the premises of the importer but verified the same from GSTIN and ICEGATE'*, I find that the CB has argued that *'there is nothing in the CBLR 2018 that the CB has to necessarily physically verify the address of the importer/exporter; that it would be too much of a burden for a CB to go all over India, every time a new client is sought; that the Tribunal also in myriad number of cases held that if the documents indicate the address of the importer/exporter, such documents verification is enough for the Customs Broker; that the CB has verified the address from two government websites viz., GSTIN and ICEGATE and therefore, it cannot be held that the non-physical verification of place of business of the importer has been a violation of the CBLR 2018'*.

43.1 In this regard, having perused the offence report and records & findings of the investigation agency I find that it is a matter of the fact that the importer was indulged in a fraudulent activity of import of goods (i.e. old and used cranes) in violation of statutory rules and laws to evade applicable customs duty. Hence, the genuineness and authenticity of the importer is suspicious and the CB appears to have failed to appropriately verify the KYC of the said importer, under Regulation 10(n) of CBLR, 2018, which is mandatory before filing the Bill of Entry.

44. I find that the Advocate Shri Sanjay Singhal has stated that the facts mentioned in the Suspension Order reveal that the investigating unit even while issuing the Show Cause Notice on 07.02.2025, reported to the Custom Broker Section (hereinafter referred to as CB Section) only after more than two months vide letter dated 26.04.2025, which itself was finally received by the CB Section on 30.06.2025 vide email. It may be seen that the offence report itself was made, a good two months after the Show Cause Notice was issued in the matter and even that was actually conveyed to the CB Section only after another two months, clearly demonstrating the lack of urgency in taking suspension action against the CB since immediate action was not necessitated. Therefore, the CB prayed that on this technical ground, of lack of urgency of taking immediate action, the suspension of the Customs Broker, may be lifted and the normal proceedings as envisaged in Regulation 17 of the Customs Broker Licensing Regulations 2018 for imposing of penalty or revocation of licence may be initiated. However, I find that the delay was occurred due to a valid rationale that this office had not received a proper offence report with RUDs and in absence of such proper report action under CBLR 2018 could not be initiated and again the correspondence has to be made to the concerned section as a reminder to send proper documents which are required to initiate the proceedings under CBLR 2018. To avoid such delay guidelines have already been issued vide F.No. GEN/CB/139/2021 CBS dated 03.05.2023. Also, it is pertinent to mention here that if the delay occurred due to some

justifiable reasons, it does not mean that the authority overlooks the gravity of the case and the impugned suspension order is bad in law.

45. I find that the CB denied the allegations in respect of violation of Regulation 10(b) of the CBLR 2018; the violation in respect of Regulation 10(d) of the CBLR, 2018, Regulation 10 (e) of the CBLR, 2018, 10(n) of the CBLR, 2018, 10(q) of the CBLR and 13(12) of CBLR, 2018. However, under the factual matrix of the case, I find that all the charges levelled against the CB under CBLR, 2018 are valid as the CB while recording the statement by the SIIB (Import), New Custom House, Mumbai accepted all the allegations and it was indicated that the CB was involved in the fraudulent activity hence therefore, the charges levelled against the CB under CBLR, 2018 are precise and sustainable.

46. Considering the observations made above, it is important to mention that a CB has a very important role in customs clearances and a lot of trust has been placed by the Department in the CB. In the context of trade facilitation, where an increasing number of goods are processed through Risk Management Systems without customs examination, the role of the Customs Broker (CB) has become even more critical in ensuring that the country's economic borders are effectively protected. But in the instant case, by their acts of omission and commission, it appears that the CB was actively involved in the fraudulent activity with the consent of the importer. Thus, it appears that CB have violated provisions of the CBLR, 2018 and thus rendered themselves for penal action under CBLR, 2018. In this regard, I rely on the following judgement/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."

47. In view of the discussion held above, I have no doubt that the suspension of the CB licence vide Order No. 11/2025-26 dated 04.11.2025 under regulation 16 of the CBLR, 2018 was just and proper. The said regulation reads as: -

"16. Suspension of license. (1) Notwithstanding anything contained in regulation 14, the Principal Commissioner or Commissioner of Customs may, in appropriate cases where immediate action is necessary, suspend the license of a Customs Broker where an enquiry against such Customs Broker is pending or contemplated."

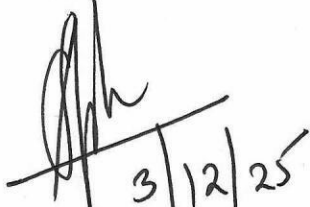
48. From the above facts, prima facie, the Customs Broker M/s. Amba Shipping Agencies, (CB No.- 11/939) (PAN-AABPD7063P) appeared to have failed to fulfil their obligations under Regulation 10 of CBLR, 2018 and contravened the same. Therefore, for their acts of omission and commission as discussed above, CB M/s. Amba Shipping Agencies (CB No.- 11/939) (PAN-AABPD7063P) appears to be liable and guilty. From the above facts, it appears that, prima facie, Customs Broker CB M/s. Amba Shipping Agencies, (CB No.- 11/939) (PAN-AABPD7063P) had violated Regulation 10(d), 10(e), 10(n), 10 (q) and 13(12) CBLR, 2018. It is apprehended that the Custom Broker may adopt similar modus operandi in future consignments and department cannot remain oblivious to the danger posed by such an eventuality. Accordingly, I pass the following Order:

ORDER

49. I, Commissioner of Customs (General), in exercise of powers conferred upon me under the provisions of Regulation 16(2) of CBLR, 2018, hereby order that the suspension of the Customs Broker Licence of M/s. Amba Shipping Agencies, (CB No.- 11/939)

(PAN-AABPD7063P) ordered vide Order no. 11/2025-26 dated 04.11.2025 shall continue pending inquiry proceedings under Regulation 17 of CBLR, 2018.

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


(SHRADDHA JOSHI SHARMA)
Commissioner of Customs (G)
NCH, Mumbai-I

To,

M/s. Amba Shipping Agencies, (CB No.- 11/939) (PAN-AABPD7063P)
Address: - No 7, 1st Floor, Ashok Chambers,
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Mumbai-400009
Email- ambashipage@gmail.com

Copy to:

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

