



भारत सरकार GOVERNMENT OF INDIA

सीमा शुल्क आयुक्त (निवारक) का कार्यालय

OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (PREVENTIVE) .

पश्चिम बंगाल WEST BENGAL

तीसरी मंजिल, सीमा शुल्क सदन, 15/1, स्ट्रैंड रोड, कोलकाता- 700001

3rd Floor, Custom House, 15/1, Strand Road, Kolkata - 700001

File No. GEN/CB/Misc/512/2022-Tech-O/o Commr-Cus-Prev-Kolkata

Order-in-Original No.: 01/CBLMS/KOL(Prev.)/2025

Date of Order : 08.12.2025

Date of issue : 08.12.2025

Passed by: Shri VinayakAzaad,
Principal Commissioner of Customs (Preventive),
West Bengal, 3rd Floor, Custom House,
15/1, Strand Road, Kolkata-700001

मूलआदेश

ORDER – IN – ORIGINAL

1. यहप्रतिउसव्यक्तिकेउपयोगहेतुनिःशुल्कजारीकियाजाताहैजिसकेलिएयहनिर्गतकियाजाताहै।This copy is granted free of charge for the private use of the person to whom it is issued.

2. इसआदेशसेअसंतुष्टकोईभीव्यक्ति,सीमाशुल्कअधिनियम, 1962 कीधारा 129 (ए)केअधीनइसआदेशक वरिद्धसीमाशुल्क,केंद्रीयउत्पादशुल्कएवंसेवाकरअपीलीयअधिकरण,पूर्वक्षेत्रीयशाखाबंबूविला,7 वांतल आच159आर्यजगदीशचंद्रबोसरोड, कोलकाता 700014मेंअपीलकरसकताहै।

Any person aggrieved by this order may, Under Section 129(A) of the Customs Act, 1962, file an Appeal against the order to(a) The Customs, Central Excise and Service Tax Appellate Tribunal, East Regional Branch, Bamboo Villa, 7th Floor, 159, A. J. C. Bose Road, Kolkata-700014.ऐसीअपीलइसआदेशकेजारीहोनेकीतिथिसेतीनमहीनेकेअंदरदर्जकीजाएगी।(b) Such appeal shall be filed within three (3) months from the date of communication of the order.

3.यहअपीलसीमाशुल्कएवंअपीलीयनियमावली 1982 केनियम 6 केउपबंधोंकेअनुसारइननियमोंकेसाथसंलग्नफॉर्मसी.ए.-3 मेंदर्जकीजातीहै।अपीलचारप्रतियोंमेंतथानिम्नांकितकेसाथहोनीचाहिए।The appeal is required to be filed as provided in Rule-6 of the Customs and Appeals Rules, 1982 in form C.A.-3 appended to these rules. The appeal should be in quadruplicate and shall be accompanied by:-

(a) उसआदेशकीचारप्रतियांजिसकेविरुद्धअपीलहो;four copies of the order appealed against;

(b) एक क्रॉस किया हुआ बैंक ड्राफ्ट जो अधिकरण के न्यायपीठ के सहायकर जस्टिस द्वारा या जहां अधिकरण स्थित हो वहां के किसी राष्ट्रीय कृत बैंक के पक्ष में निम्नांकित शुल्क के रूप में होगा : a crossed Bank Draft in favour of the Assistant Registrar of the Bench of the Tribunal or a branch of any Nationalised Bank located at a place where the Bench is situated as fee;-

(i)

जहां अपील से संबंधित मामले के किसी सीमा शुल्क अधिकारी द्वारा मांगे गए शुल्क एवं व्याज और लगाए गए अर्थदंड की राशि पांच लाख या उससे कम हो, तो एक हजार रुपए का : where the amount of duty and interest demanded and penalty levied by any Officer of Customs in the case to which the appeal relates, is five lakh rupees or less, one thousand rupees;

(ii)

जहां अपील से संबंधित मामले के किसी सीमा शुल्क अधिकारी द्वारा मांगे गए शुल्क एवं व्याज और लगाए गए अर्थदंड की राशि पांच लाख रुपए से अधिक हो पर पचास लाख रुपए से अधिक नहीं हो, तो पांच हजार रुपए का : where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees;

(iii)

जहां अपील से संबंधित मामले के किसी सीमा शुल्क अधिकारी द्वारा मांगे गए शुल्क एवं व्याज और लगाए गए अर्थदंड की राशि पचास लाख रुपए से अधिक हो, तो दस हजार रुपए का : where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees.

4. न्यायपीठ के जस्टिस द्वारा या उनके द्वारा इस संबंध में प्राधिकृत अधिकारी के समक्ष अपील स्वयं प्रस्तुत की जाएगी अथवा जस्टिस द्वारा या ऐसे अधिकारी के नाम पंजीकृत डाक से भेजी जाएगी। The appeal shall be presented in person to the Registrar of the Bench or an Officer authorized in this behalf by him or sent by Registered Post addressed to the Registrar or such officer.

5. इस निर्णय या आदेश के विरुद्ध अपील करने के इच्छुक व्यक्ति को अपील होने तक मांगी गई शुल्क या लगाया गया अर्थदंड जमा करना होगा और अपील के साथ ऐसे भुगतान का साक्ष्य प्रस्तुत करना होगा। ऐसी नहीं होने पर, सीमा शुल्क अधिनियम, 1962 की धारा 129 (ई) के उपबंधों का अनुपालन नहीं करने के लिए अपील अस्वीकार की जा सकती है। Any person desirous of appealing against this order or decision shall, pending the appeal, deposit this duty demanded or the fine, penalty levied therein and produce proof of such payment along with the appeal failing which the appeal is liable to be ejected for non-compliance with the provisions of Section 129E the Customs Act, 1962.

Sub: Proceedings under Regulation 17(7) of the Customs Broker Licensing Regulations, 2018 in respect of Customs Broker M/s PBN Logistics CB License No. CALC/01/2012

1. Background of the Customs Broker:

M/s. P.B.N. Logistics, 2, Church Lane, 2nd Floor, Room No. 201 H(T), Kolkata 700001 (hereinafter referred to as CB) is a Customs Broker having CB License CALC/01/2012 issued by the Commissioner of Customs (Preventive), West Bengal under Regulation 10(1) of the Customs House Broker Licensing Regulations, 2004 [now under Regulation 7(1) of the Customs House Broker Licensing Regulations, 2018] to transact Customs Clearance work within the jurisdiction of Kolkata Customs (Preventive) Commissionerate.

2. Receipt of Offence Report:

An offence report in the form of Order-in-Original No. 150/2024-25/Commissioner/NS-II/CAC/JNCH dated 17-09-2024 issued under F.No. S/10-12/2023-24/CC/NS-II/JNCH by the Commissioner of Customs (NS-II), JNCH, Nhava Sheva in respect of CB M/s. P.B.N. Logistics holding PAN AANFP6521A.

3. Findings in the Offence Report:

The offence report mentions that an investigation was initiated by the officers of SIIB(X), Jawaharlal Nehru Custom House, Nhava Sheva, Raigad, Maharashtra and observed that a non-existing company, M/s. Gravity Impex Pvt. Ltd., holding IEC No. 030900424 having registered address at Shop No. 3, Ground Floor, Aurus Chambers, S.S. Amrutw. Marg, Worli, Mumbai 400013, had exported non-sensitive items such as "rope" disguised under different descriptions under CTH 56079090 by grossly over-valuing for undue benefit of MEIS & drawback. The Shipping Bills were filed through Customs Brokers M/s. Shabari International, M/s. P.B.N. Logistics, M/s. Akanksha Enterprises, M/s. Repute Logistics and M/s. Sea-Rock Shipping and Cargo. On investigation, it was found that M/s. Gravity Impex Pvt. Ltd. had exported goods in such manner with the support of the abovementioned Customs Brokers by misdeclaring the description of the goods and declaring the FOB value of the total exported goods as Rs. 122,19,92,481/- (Rupees one hundred twenty-two crore nineteen lakhs ninety-two thousand four hundred and eighty-one only) instead of the actual value of goods Rs. 62,09,856/- (Rupees sixty-two lakh nine thousand eight hundred fifty-six only) with mala fide intentions of the exporter for undue enrichment with the export benefits.

4. Alleged Violations by the Customs Broker:

The offence report further alleges that the CBs assisted a non-existent exporter in wrongful availment of ineligible Drawback and MEIS benefits,

thereby contravening Regulations 10(d), 10(e), 10(m), and 10(n) of the Customs Broker Licensing Regulations, 2018.

5. Initiation of Proceedings:

On receipt of the Offence Report, the Principal Commissioner of Customs (Preventive) immediately issued a Show Cause Notice to the said CB under Regulation 17(1) of the Customs House Broker Licensing Regulations, 2018 answerable to the Assistant Commissioner of Customs, Technical Section, Commissionerate of Customs (Preventive), WB, on 24-12-2024, as it appears that the said Noticee has not maintained his obligations as a Customs Broker in violation of Regulation 10(d), 10(e), 10(m) and 10(n) of CBLR-2018 and failed to comply with the conditions of the bond executed under the Regulations of CBLR-2018 by conniving in the unjust enrichment of a non-existent exporter M/s. Gravity Impex Pvt. Ltd. in availing the illegitimate benefit of MEIS and drawback, intentionally not discharging his obligation to ascertain the correctness of any information or to know the identity of his client exporter and the existence of the exporter at the declared address before filing the Shipping Bills. And, it appears from the non-cooperation with the investigation and adjudication of the case at Jawaharlal Nehru Custom House, Nhava Sheva, Raigad, Maharashtra, the Noticee has got direct involvement in the fraudulent activity for the unjust enrichment of the exporter in availing undue benefits for which the exporter was not eligible. Thus, it appears the Customs Broker M/s PBN Logistics, by their acts of misconduct and by contravention of the provisions of the Regulations under CBLR-2018 mentioned hereinabove, aided and abetted the said fraudulent export and thereby appears to have rendered themselves liable for revocation of their Customs Broker licence and imposition of penalty under Regulation 14 of CBLR-2018.

6. Submission of Written Reply:

In reply to the Show Cause Notice, they submitted a written reply dated 24-01-2025 and stated that there is no merit in the subject S-C-N for revocation of the CB License on the following grounds;

(i) The Noticee was authorised to transact the impugned consignments on behalf of the exporter and accordingly they had transacted those consignments without any complaint either from the exporter or from any Customs Officials. All those Shipping Bills of exporters were filed under MEIS & drawback scheme. It is pertinent to mention that the Noticee was engaged only for processing the documents before Customs Authorities and the same were placed before the Customs Authorities. After due examination of the impugned goods, being satisfied with the export consignment, the Let Export Order (LEO) was allowed. Further, the MEIS & drawback claim from the concerned Departments on behalf of the exporter was not the duty of the Noticee and was also not processed by the

Noticee.

(ii) The Noticee has not received any 'Offence Report' from the investigating authority. On the contrary, on completion of investigation, the Show Cause Notice under Section 124 of the Customs Act, 1962 was issued for the consignments covered under the Shipping Bills and the SCN has been adjudicated vide O-I-O dated 17.09.2024 and as such, there were neither any prima facie charges nor any summary of investigation from the investigating authority against the CB and hence, invocation of Regulation 14 of CBLR, 2018 against the CB in the present case is void ab initio.

(iii) The Shipping Bills were filed under MEIS and Drawback scheme. The proper officer, considering all aspects, viz., the pattern of Shipping Bills, description, and value, allowed LEO. Therefore, under no stretch of imagination was the Noticee responsible for over-valuation of the goods declared by the exporter. To avail the claim of MEIS and Drawback is the responsibility of the exporter on a post-export basis. Therefore, the availment of export incentives on post-export conditions was in no way the responsibility of the Noticee as CB, when the same was vested upon the exporter.

(iv) Further, on examining the provisions under the Customs House Broker Licensing Regulations, 2018 and the argument of the Noticee:

(a) **10(d)** - advise his client to comply with the provisions of the Act 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;

This regulation is not applicable to the Noticee, as the proper officer of Customs did not raise any question regarding any defect in the Shipping Bills. The proper officer, considering all aspects, viz. the pattern of Shipping Bills, description, and value, allowed LEO. Therefore, it was not required to bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs for non-compliance of any provision.

(b) **10(e)** - exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;

On filing Shipping Bills, the goods were examined by the proper officer in accordance with the Shipping Bills, which were found correct and that is why LEO was granted. Therefore, the Noticee had no liability to comply with Regulation 10(e) of CBLR, 2018.

(c) **10(m)** - discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay;

CHA was well aware of O-I-O No. 150/2024-25/Commr/NS-II/CAC/JNCH dated 17-09-2024 and the SCN dated 27-12-2024, and this conduct indicates fraudulent intention to delay the proceedings and mislead the department.

19. The CB did not respond to the Investigation Report dated 25-04-2025, despite being given an opportunity on 09-07-2025 for personal hearing under Regulation 17(7) of CBLR, 2018. On behalf of the CB, Shri Rathindra Nath Bandyopadhyay appeared and submitted orally that they were not aware of O-I-O No. 150/2024-25/Commr/NS-II/CAC/JNCH dated 17-09-2024 referred to in the SCN dated 27-12-2024, and that they had instead received O-I-O No. 155/2024-25/Commr/NS-II/CAC/JNCH dated 19-09-2024, which caused confusion as to whether it was a clerical error. He added that they had already submitted a letter in this regard on 21-02-2025 along with a copy of O-I-O No. 155/2024-25/Commr/NS-II/CAC/JNCH dated 19-09-2024. He further prayed for a copy of O-I-O No. 150/2024-25/Commr/NS-II/CAC/JNCH dated 17-09-2024 and for 3 weeks' time to prepare before passing of an order.

20. From the findings discussed in paras 18 and 19 above, I find that the CHA intentionally delayed the proceedings and misled the department wilfully to suppress their contraventions of the Regulations. They directly indulged with the exporters by mis-declaring description and overvaluing goods in the shipping bills and suppressed the facts from the Customs officers to enrich the exporters and themselves by obtaining undue benefits of Drawback and MEIS schemes.

21. I find that the CB has contravened similar provisions in O-I-O No. 155/2024-25/Commr/NS-II/CAC/JNCH dated 19-09-2024, wherein a penalty of Rs. 2 crores was imposed on the CB for omissions and commissions and contravention of provisions of CBLR, 2013 (now CBLR, 2018). In that order, it was recorded that on behalf of M/s Collabrative Inc., the CHA M/s P.B.N. Logistics had filed a total of 124 shipping bills. During investigation, Shri Rajesh Kumar Upadhyay, Manager of the CHA, admitted that they allowed an unauthorised person, Shri Ramesh Singh, to unofficially carry out Customs work and sign documents on behalf of M/s P.B.N. Logistics against payment of Rs. 5,000 per shipping bill, and that the CHA received Rs. 7-8 lakhs for the said consignments. The adjudicating authority concluded that the CHA did not act efficiently but acted in a callous and irresponsible manner in discharging their duties, being aware of the overvaluation of exported goods and intentionally preparing and signing false declarations and statements for inadmissible export benefits. Accordingly, penalty was imposed under Sections 114(iii) and 114AA of the Customs Act, 1962.

22. I find that Order-in-Original 150/2024-25/Commr/NS-II/CAC/JNCH dated 17-09-2024 issued by the Commissioner of Customs (NS-II), JNCH, Nhava Sheva, in respect of CB M/s P.B.N. Logistics,

constitutes the Offence Report in the instant case. In this order, it is discussed that on behalf of M/s Gravity Impex Pvt. Ltd., the CHA M/s P.B.N. Logistics failed to verify the antecedents and genuineness of the exporter as well as the identity and functioning at the declared address using reliable, independent, and authentic documents/data/information. Further, the CHA did not co-operate with the investigation as well as in adjudication proceedings despite being given ample opportunities, which evidences that the CHA was directly involved in the fraud and acted hand-in-glove with the exporter in availing undue and ineligible export benefits, thereby defrauding the Government exchequer by making false declarations in a callous manner and irresponsibly discharging their duties. In view of these facts, the adjudicating authority imposed penalty under Sections 114(iii) and 114AA of the Customs Act, 1962.

23. The CHA occupies a very important position in the Custom House. 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 interests of both the importers and the Customs. A lot of trust is kept in the CHA by the importers/exporters as well as by the Government Agencies. To ensure appropriate discharge of such trust, the relevant regulations are framed. CHA Licensing Regulations list 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. There is no denying that the CHA, M/s P.B.N. Logistics, has a history of being an offender and is thus a chronic offender; his continuation in the business world would be detrimental to national security and Government Revenue. It is manifest from the aforesaid orders that the CHA, M/s P.B.N. Logistics, is a habitual offender. It had further come to notice that the CHA, M/s P.B.N. Logistics, had allowed its licence to be used by certain unauthorised persons for monetary consideration. This violation was serious in nature and it did tantamount to involvement in fraudulent activity affecting the revenue. On a perusal of the orders passed by the Commissioner, it is clearly perceptible that there have been a number of violations by the CHA, M/s P.B.N. Logistics, and immense financial loss has been caused to the revenue.

24. Coming to specific charges, in so far as Regulation 10(d), 10(e), 10(m) and 10(n) of CBLR-2018 – I find that no new facts have been brought forth by the CB in their written submission dated 27-08-2025 and further, the chain of events strongly indicates involvement of the CB in the alleged malfeasance and consequent failure to comply with the Regulations under CBLR. As the factual matrix would exposit, it is a serious violation and the CB has acted in Customs work in an irresponsible and callous manner which has continuously resulted in damaging the Government exchequer, and thereby such misconduct has to be seriously viewed.

25. In view of the findings recorded in the foregoing paragraphs and in exercise of the powers conferred upon me under Regulation 14 read with Regulation 17 of the Customs Brokers Licensing Regulations, 2018, I pass the following orders as follows:

ORDER

(a) The Custom House Agents License No. CALC/01/2012 (PAN-AANFP6521A) held by M/s. P.B.N. Logistics, 2, Church Lane, 2nd Floor, Room No.201 H(T), Kolkata 700001, issued by the Commissioner of Customs (Preventive), West Bengal under Regulation 9(1) of CHALR, 2004, now under Regulation 7(1) of CBLR, 2018, to transact Customs clearance business, is hereby revoked under Regulation 17(7) of CBLR, 2018. The entire Security Deposit furnished by the Customs Broker at the time of issuance/renewal of the licence is hereby ordered to be forfeited to the exchequer in terms of Regulation 14 read with Regulation 17(7) of CBLR, 2018.

(b) I impose a penalty of Rs.5,000/- upon the CHA M/s PBN Logistics under Regulation 18(1) of CBLR, 2018.

Vinayak Azaad

Principal Commissioner of Customs

CC(P), West Bengal

Copy forwarded to:

- 1) PBN Logistics, 2, Church Lane, 2nd Floor, Room No. 201 H(T), Kolkata 700001.
- 2) The Chief Commissioner of Customs, Custom House, 15/1 Strand Road, Kolkata -700001.
- 3) The Principal Commissioner of Customs(AP & ACC), 15/1 Strand Road, Kolkata -700001.
- 4) The Commissioner of Customs(Port), 15/1 Strand Road, Kolkata -700001.
- 5) Commissioner of Customs, NS-II, Jawaharlal Nehru Custom House, Nhava Sheva, Raigad, Maharashtra 400707.
- 6) The Additional Director General, Directorate of Revenue Intelligence, Kolkata Zonal Unit, CBD 93, International Financial Hub, Action Area-CBD, New Town, Kolkata -700161.
- 7) The Dy./Asstt. Commissioner of Customs (CBS), Custom House, 15/1, Strand Road, Kolkata-700 001 for information and necessary action please.

Digitally signed by
Vinayak Azaad
Date: 08-12-2025
16:28:14

As the Noticee has discharged their duty with utmost speed and efficiency without any delay and that is why the export took place, therefore, the Noticee complied with Regulation 10(m) of CBLR, 2018.

(d) **10(n)** - verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information;

The S-C-N issuing Authority alleged that M/s Gravity Impex Pvt. Ltd. was a dummy company used for fraud and availing ineligible Drawback and MEIS. It may be a fact, but how could the Noticee ascertain that it was a dummy company, when the exporter provided all required documents as specified under Regulation 10(n) of CBLR, 2018 and also the Noticee verified those documents and found them correct through proper channels.

7. Opportunity of Personal Hearing:

Further, ensuring natural justice to the Noticee, the Assistant Commissioner has given an opportunity for personal hearing on 11-03-2025 and Advocate Rathindra Nath Bandyopadhyay appeared with a Vakalatnama on behalf of the Noticee and submitted a prayer for providing a copy of the SCN issued under Regulation 17 of the CBLR, 2018 as the same was not readily available with them and to allow a three (03) weeks' period to prepare for defense. Accordingly, a copy of the SCN was instantly given to the legal representative with proper receipt. But, further, no one appeared for the subsequent personal hearing dates on 2nd April, 2025 and 11-04-2025 despite providing sufficient time as prayed.

8. Issue of Investigation Report:

In view of the facts on record, under Regulation 17(5) of the CBLR, 2018, an Investigation Report has been issued by the Assistant Commissioner of Customs (Technical), Kolkata Customs (Preventive), proposing revocation of the CB License, as the said Noticee was found, despite being provided ample opportunities to give evidence and produce documents by the investigating authority of Customs in the issue of wilful mis-statements in the Shipping Bills filed for M/s Gravity Impex, adjudicating authority of the SCN issued by the Commissioner of Customs (NS-II), JNCH, Nhava Sheva and the inquiry initiated on receipt of the Offence Report against the CHA in respect of their involvement by Kolkata Customs (Preventive), West Bengal, the Noticee had never co-operated promptly with the Customs authorities and at the same time tried to mislead the inquiry by tendering misleading submissions wilfully and extending the time of enquiry. Thus, it is evident that the Noticee himself is involved with the fraudulent acts with the said exporter and well aware of his obligations and responsibilities being a CHA.

The Noticee was further directed to submit within a specified period any representation that the Noticee may wish to make against the Investigation Report.

9. Personal Hearing under Regulation 17(7):

The Noticee has not made any representation against the above Investigation Report, hence the Principal Commissioner of Customs (Preventive), West Bengal has given an opportunity for personal hearing in terms of Regulation 17(7) of the CBLR, 2018 on 09-07-2025.

10. Advocate Rathindra Nath Bandyopadhyay appeared with a Vakalatnama on behalf of the Noticee on that day and pleaded that his client was not aware of the O-I-O No. 150/2024-25/Commr/NS-II/CAC/JNCH dated 17-09-2024 referred to in the SCN. They had received an O-I-O bearing No. 155/2024-25/Commr/NS-II/CAC/JNCH dated 19-09-2024. Being confused with the reference to O-I-O No. 150/2024-25/Commr/NS-II/CAC/JNCH dated 17-09-2024 in the SCN, they submitted a representation on 21-02-2025 along with a copy of O-I-O No. 155/2024-25/Commr/NS-II/CAC/JNCH dated 19-09-2024 and their submission dated 21-02-2025. Although, as prayed, a copy of O-I-O No. 150/2024-25/Commr/NS-II/CAC/JNCH dated 17-09-2024 was provided and a further personal hearing was fixed for 30-07-2025, neither the Noticee nor their legal representative appeared on that date.

The statement of the legal representative of the Noticee was verified from the Office of the Commissioner of Customs, NS-II, JNCH, Nhava Sheva, and it was confirmed that Order-in-Original No. 150/2024-25/Commr/NS-II/CAC/JNCH dated 17.09.2024 was dispatched by the Centralized Adjudication Cell, JNCH, to the Customs Broker M/s PBN Logistics at their office address: M/s P.B.N. Logistics (AANFP6521ACH003), Plot No. 232, TPS-III, R.B. Mehta Marg, Jaya Apt., Ghatkopar (E), Mumbai-400077 through Speed Post vide No. EM956791260IN.

11. On examining the submission dated 21-02-2025, it is stated therein that with reference to the Show Cause Notice issued under Regulation 17(1) of the CBLR, 2018, they had already submitted a reply on 22-01-2025 (due to typographical error it was mentioned in the letter as 22-01-2024). It was further stated that the SCN had been issued on the basis of O-I-O No. 150/2024-25/Commr/NS-II/CAC/JNCH dated 17-09-2024, wherein a penalty of Rs. 25 lakhs had been imposed for omissions and commissions by the adjudicating authority. The Noticee had not received such O-I-O; instead, they had received O-I-O No. 155/2024-25/Commr/NS-II/CAC/JNCH dated 19-09-2024, wherein a penalty of Rs. 2 crores had been imposed by the same adjudicating authority. Hence, the Noticee became confused whether it was a typographical error or whether there existed another O-I-O bearing No. 150/2024-25/Commr/NS-

II/CAC/JNCH dated 17-09-2024.

12. On examining the copy of O-I-O No. 155/2024-25/Commr/NS-II/CAC/JNCH dated 19-09-2024 submitted by the legal representative of the Noticee, it transpires that the same had also been issued by the Commissioner of Customs (NS-II), JNCH, Nhava Sheva, on the outcome of an investigation initiated by the Special Investigation Branch (Export) into export of grossly over-valued goods "High Twisted Cotton Ropes Hawser" and "High Twisted String Ropes" under 43 Shipping Bills filed by the exporter M/s Collabrative Inc. [IEC No. 1013009215], having address at Door No. XXXII/1309-A, Gilead Apartment, Vankarath Lane, Palarivattom, Kerala-682024, through CHA M/s Sea Rock Shipping and Cargo [CB Licence No. 11/916], having address at 26 IDA Mansion, 2nd Floor, 18, Vaju Kotak Marg, Ballard Estate, Mumbai-400001.

The market value of the goods brought for export was ascertained with samples drawn from the consignments in presence of the authorised representative of the Customs Broker, and the declared value was found to be overvalued 3 to 4 times the market value. During the course of investigation, the details of past exports made by the said exporter were verified from the ICES system, wherein it was revealed that the exporter had exported similar goods in the past under 200 Shipping Bills. Out of these, 124 Shipping Bills had been filed by the Customs Broker M/s PBN Logistics—the Noticee.

A written statement was obtained from Shri Rajesh Kumar Upadhyay, Manager of M/s PBN Logistics, under Section 108 of the Customs Act, 1962, wherein he stated and admitted that with mutual consent, the CB firm had unofficially allowed an unauthorised person, Shri Ramesh Singh, to carry out all Customs clearance work in Mumbai in the name of M/s PBN Logistics against payment of Rs. 5,000 per Shipping Bill. He further admitted that he had allowed an unauthorised person to sign documents on behalf of the CHA firm and that the impugned goods were grossly overvalued. He admitted receiving Rs. 7-8 lakhs from Shri Ramesh Singh for the subject consignments through his firm. He was arrested and placed in judicial custody. For these acts of omission and commission and contraventions of the provisions of CBLR, a penalty of Rs. 2 crores was imposed on the CB and Rs. 2 crores on Shri Rajesh Kumar Upadhyay.

13. To ensure natural justice to the Noticee, a further opportunity of personal hearing was granted on 27-08-2025, and Advocate Rathindra Nath Bandyopadhyay appeared on that day and submitted a defence reply as below:

(a) Facts and Background:

The Noticee was duly authorised by M/s Gravity Impex Pvt. Ltd. to process certain export consignments. Accordingly, the Noticee filed the requisite shipping bills, invoices, and packing lists under the MEIS and

Drawback schemes. The Customs authorities, after examination and assessment of goods, granted the Let Export Order (LEO) for shipment. It is most pertinent to note that:

- The Noticee's role was limited to document facilitation and submission as per the instructions of the exporter.
- The Noticee had no involvement in valuation of goods nor any post-export activity, including claim or processing of MEIS/Drawback benefits.
- No objection or adverse report was received from any Customs official during the clearance process.

(b) Legal Submissions:

i) Issuance of SCN and O-I-O is illegal:

- The instant Shipping Bill was finally assessed, which is to be treated as a final order. Against a final order, under Section 129D of the Customs Act, 1962, only an appeal before the proper authority is permissible; hence, issuance of SCN is not tenable.
- When issuance of SCN is void, the question of O-I-O does not arise.
- The subject SCN was issued with reference to the O-I-O. When the O-I-O is void, the SCN is not legal or proper.

ii) Absence of 'Offence Report' under Regulation 17 of CBLR, 2018:

The Explanation to Regulation 17 clearly states that an 'Offence Report' must constitute a summary of investigation and prima facie findings of violations committed by the CB or authorised persons under CBLR.

- In the instant case, no 'Offence Report' was issued by the investigating authority to the licensing Commissionerate in terms of Regulation 17.
- Instead, an SCN under Section 124 of the Customs Act, 1962, was issued for the underlying export transactions, which culminated in an adjudication order dated 17-09-2024.
- Hence, invoking Regulation 14 for revocation of the CB licence without the foundational 'Offence Report' renders the entire proceedings void ab initio and ultra vires the CBLR framework.

iii) No lapse or misconduct in filing of Shipping Bills:

- The Noticee submitted export documents (shipping bills, invoices, packing lists) as mandated under the Customs Act, 1962.
- The proper officers of Customs appraised, examined, and allowed LEO based on their satisfaction with the goods and documentation.
- There is no evidence of suppression, misdeclaration, or connivance by the Noticee in overvaluation of goods.
- Determination of value and verification of goods is squarely the responsibility of Customs officers. The Noticee has no statutory authority or mechanism to determine market value of export goods.

iv) No involvement in MEIS/Drawback Claims:

- Export incentives like MEIS and Drawback are post-export entitlements

claimed by the exporter directly from DGFT or Customs.

- The Noticee neither filed nor processed these claims and therefore cannot be held responsible for post-export misuse or overvaluation aimed at incentive maximisation.

(c) Response to Specific Allegations under Regulation 10 of CBLR, 2018:

(i) Regulation 10(d): Advice client to comply with law and report non-compliance

- No irregularity or non-compliance was apparent at the time of filing shipping bills.
- The goods were appraised, examined, and allowed LEO by Customs; hence, there was no legal requirement or cause to report to higher Customs authorities.
- Therefore, no violation of Regulation 10(d) occurred.

(ii) Regulation 10(e): Exercise due diligence in information imparted to client

- The Noticee provided services based on exporter-provided documents which were verified and accepted by the Customs officers.
- The goods matched the description in the shipping bills during examination.
- Due diligence was exercised and Regulation 10(e) was complied with.

(iii) Regulation 10(m): Discharge duties with speed and efficiency

- The Noticee facilitated timely processing and clearance of consignments, contributing to seamless export without delay.
- Thus, compliance with Regulation 10(m) is established.

(iv) Regulation 10(n): Verify IEC, GSTIN, identity and functioning of client

- All documents provided by the exporter, including IEC, GSTIN, address proof and KYC, were verified using authentic, independent sources (e.g., DGFT, GST portal).
- If M/s Gravity Impex Pvt. Ltd. was later found to be a dummy firm, the same could not reasonably have been foreseen by the Noticee, especially when all documents appeared genuine and were verified through official channels.
- Hence, Regulation 10(n) was duly complied with.

(d) Conclusion and Prayer:

- The allegations of aiding fraudulent exports or connivance are unsupported by documentary evidence or direct involvement.
- The Noticee's role was administrative and in accordance with the Customs Act and CBLR provisions.
- In absence of an "Offence Report", and considering the due diligence exercised, the SCN invoking Regulation 14 for revocation/suspension is not legally sustainable.