अपर आयुक्त का कार्यालय, सीमा शुल्क
OFFICE OF THE ADDITIONAL COMMISSIONER OF CUSTOMS
आई. सी. डी. - तुम्ब
INLAND CONTAINER DEPOT (ICD) - TUMB
सर्वे. न.: ४४/१/पी.के.२,गाँव – तुम्ब,तालुका-उमरगाँव,जिला- वलसाड,गुजरात: -३९६१५०
(S. No. 44/1/P.K. 2, Village-Tumb, Tal.: Umbergaon, Dist.: Valsad, Gujarat-396150)e-mail: cusicd-tumb@gov.in

F.No. CUS/EPCG/REGN/1289/2025-ICD-UMGN-CUS-COMMRTE-AHMEDABAD

DIN: - 20260871MN0000B99B48

A	फ़ाइल संख्या/ File No.	:	CUS/EPCG/REGN/1289/2025-ICD-UMGN-CUS-COMMRTE-AHMEDABAD
B	कारण बताओ नोटिस संख्या–तारीख /Show Cause Notice No. and Date	:	F.No. CUS/EPCG/REGN/1289/2025-ICD-UMGN-CUS-COMMRTE-AHMEDABAD, dated 12.11.2025
C	मूल आदेश संख्या/ Order-In-Original No.	:	**10/SRV/ADC/TUMB/2026-27**
D	आदेश तिथि/ Date of Order-In-Original	:	**24.08.2026**
E	जारी करनेकी तारीख/ Date of Issue	:	**24.08.2026**
F	द्वारा पारित/ Passed By	:	**Shree Ram Vishnoi** Additional Commissioner, Customs Ahmedabad
G	आयातक का नाम और पता / Name and Address of Importer /Noticee	:	M/s. Balaji Creation, Shop No 618, 6th floor Millennium Textile Market-2 Central Road Anjana, Surat Gujarat-395002 Email: balajisareees@gmail.com M/s. Polar Shipping Services, Customs Broker firm (CHA No. AAKFP101HCH003), No. 502 TO 505, D R India Textile Hub, Opp. Amazia Water Park, Parvat Patiya, Surat, Gujarat-395010
(1)	**यह प्रति उन व्यक्तियों के उपयोग के लिए निःशुल्क प्रदान की जाती है जिन्हे यह जारी की गयी है।**		
(2)	**कोई भी व्यक्ति इस आदेश से स्वयं को असंतुष्ट पाता है तो वह इस आदेश के विरुद्ध अपील इस आदेश की प्राप्ति की तारीख के 60 दिनों के भीतर आयुक्त कार्यालय, सीमा शुल्क(अपील), चौथी मंज़िल, हुडको भवन, ईश्वर भुवन मार्ग, नवरंगपुरा, अहमदाबाद में कर सकता है।**		
(3)	**अपील के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए और इसके साथ होना चाहिए:**		
(i)	**अपील की एक प्रति और;**		
(ii)	**इस प्रति या इस आदेश की कोई प्रति के साथ केवल पांच (5.00) रुपये का न्यायालय शुल्क टिकिट लगा होना चाहिए।**		
(4)	**इस आदेश के विरुद्ध अपील करने इच्छुक व्यक्ति को 7.5% (अधिकतम 10 करोड़) शुल्क अदा करना होगा जहां शुल्क या ड्यूटी और जुर्माना विवाद में है या जुर्माना जहां इस तरह की दंड विवाद में है और अपील के साथ इस तरह के भुगतान का प्रमाण पेश करने में असफल रहने पर सीमा शुल्क अधिनियम, 1962 की धारा 129 के प्रावधानों का अनुपालन नहीं करने के लिए अपील को खारिज कर दिया जायेगा।**		

BRIEF FACTS OF THE CASE:

1. M/s. Balaji Creation, having its principal place of business at Shop No. 618, 6th Floor, Millennium Textile Market-2, Central Road, Anjana, Surat, Gujarat – 395002 (hereinafter referred to as "the Noticee"), is a proprietorship concern engaged in the import of capital goods under the Export Promotion Capital Goods (EPCG) Scheme by availing the benefit of exemption under Notification No. 16/2015-Cus. dated 01.04.2015. The Noticee is holding Import Export Code (IEC) No. AWZPZ6716E.

2. The Noticee had imported capital goods under EPCG Authorisation No. 5230025806 dated 19.01.2018 by availing exemption from payment of Customs duty under Notification No. 16/2015-Cus. dated 01.04.2015. The details of the imports are as under:

Bill of Entry No. & Date	Description of Goods	Quantity	Assessable Value (Rs.)	Duty Foregone (Rs.)	Bond No.
5034890 dated 01.02.2018 & 5260534 dated 17.02.2018	New Shuttleless Rapier Looms, Reed Width 300 CM, Model No. 747 with Standard Parts and Accessories	24 Sets	1,18,01,287/-	21,24,232/-	2001349845

3. M/s. Balaji Creation was granted Authorisation No. **5230025806 dated 19.01.2018** under Zero duty EPCG Scheme by the Director General of Foreign Trade (DGFT), Surat, for registration at ICD Tumb, Umbergaon (INSAJ6) (RUD-2). The Authorisation permitted duty-free import of 24 sets of New Shuttleless Rapier Looms, Reed Width 300 CM, Model No. 747 with Standard Parts and Accessories, with a duty saved value of Rs. 22,98,780/-, in terms of the provisions of the Foreign Trade Policy, 2015-20, read with Notification No. 16/2015-Cus. dated 01.04.2015. The Authorisation was subject to the conditions prescribed under Chapter 5 of the Foreign Trade Policy, 2015-20, the Handbook of Procedures, 2015-20, and the aforesaid Customs Notification, including the actual user condition and fulfilment of the stipulated export obligation. In terms of the said Authorisation, the Noticee was required to fulfil an export obligation equivalent to six times the duty saved on the imported capital goods within a period of six years from the date of issuance of the Authorisation. The export obligation was required to be fulfilled in two blocks, namely 50% during the first to fourth year and the remaining 50% during the fifth and sixth year, and documentary evidence of fulfilment was required to be furnished within 90 days of completion of each block period. Further,

the imported machinery was required to be installed at the declared factory premises, namely M/s. Balaji Creation, Plot No. F-1066, 1067 & 1068, Laxmi Textile Park, Sachin GIDC, Surat – 394230, and an Installation Certificate was required to be submitted before the Regional Authority within six months from the date of completion of imports.

4. For availing the benefit of duty exemption under the EPCG Scheme, the Noticee executed Bond No. 2001349845 for Rs. 70,00,000/- before the Assistant Commissioner of Customs, ICD Tumb, Umbergaon, supported by Bank Guarantee No. 0266IGFIN000218 dated 25.01.2018 for Rs. 5,80,000/-, issued by UCO Bank, Station Road Branch, Surat, as security for due compliance with the conditions of the Bond (RUD-3). At the time of registration of the EPCG Authorisation, the Noticee also furnished an undertaking to comply with all the conditions prescribed under Notification No. 16/2015-Cus. dated 01.04.2015, the EPCG Authorisation and the Foreign Trade Policy. Inter alia, the Noticee undertook to:

(i) comply with all the conditions of the aforesaid Customs Notification;

(ii) observe and fulfil all the terms and conditions stipulated in the EPCG Authorisation;

(iii) fulfil the prescribed export obligation and produce documentary evidence thereof to the satisfaction of the Government within 30 days from the expiry of the export obligation period;

(iv) pay, in the event of failure to fulfil the export obligation, the Customs duty foregone together with applicable interest at 18% per annum, without demur;

(v) comply with the provisions of the Foreign Trade Policy and the Handbook of Procedures, as amended from time to time; and

(vi) not change the constitution, name, style of business or location of the manufacturing premises without obtaining prior approval from the competent authority.

5. In terms of Notification No. 16/2015-Cus. dated 01.04.2015, read with the EPCG Authorisation, the Noticee was required to fulfil an export obligation, on FOB basis, equivalent to six times the duty saved on the imported capital goods within a period of six years from the date of issuance of the Authorisation and thereafter submit the prescribed documentary evidence to the jurisdictional Customs authorities.

6. **The export obligation period under EPCG Authorisation No. 5230025806 dated 19.01.2018 expired on 18.01.2024. Accordingly, in terms of the conditions of the Notification and the Bond executed by the Noticee, the Export Obligation Discharge Certificate (EODC)/Redemption Letter issued by the DGFT was required**

to be produced before the jurisdictional Customs authorities within 30 days, i.e., on or before 17.02.2024.

7. The Noticee has failed to submit the Export Obligation Discharge Certificate (EODC)/Redemption Letter issued by the DGFT in proof of fulfilment of the export obligation prescribed under the aforesaid EPCG Authorisation. Accordingly, jurisdictional Customs office issued letters dated 30.08.2024, 16.10.2024 and 11.03.2025, calling upon the Noticee to furnish the EODC/Redemption Letter or any documentary evidence indicating extension of the export obligation period granted by the DGFT. However, the Noticee neither responded to the said communications nor submitted the requisite EODC or any order evidencing extension of the export obligation period by the licensing authority.

8. Simultaneously, this office sought verification from the Regional Authority, DGFT, Surat, vide letters dated 16.10.2024, 13.11.2024 and 05.03.2025, regarding the status of the aforesaid EPCG Authorisation, including whether any extension of the export obligation period had been granted or any recovery proceedings had been initiated. In response, the Regional Authority, DGFT, Surat, vide e-mail dated 20.03.2025 (from surat-dgft@nic.in to cusicd-tumb@gov.in), furnished the status of the Authorisation, wherein the said EPCG Authorisation was reflected under the category "SCN is being issued." The communication further indicated that no amendment, including extension of the export obligation period, had been granted or was under consideration by the DGFT. Accordingly, it was noticed that the Noticee had failed to fulfil the export obligation prescribed under EPCG Authorisation No. 5230025806 dated 19.01.2018 and had also failed to comply with the conditions of Notification No. 16/2015-Cus. dated 01.04.2015, the EPCG Authorisation and the Bond executed before the Customs authorities.

9. The imports made by the Noticee during February, 2018 were governed by the provisions of the Foreign Trade Policy (FTP), 2015-20, the Handbook of Procedures (HBP), 2015-20, and Notification No.16/2015-Cus. dated 01.04.2015, as amended. The relevant statutory provisions applicable to the present proceedings are:

(a) Chapter 5 of the Foreign Trade Policy, 2015-20 relating to the Export Promotion Capital Goods (EPCG) Scheme;
(b) Chapter 5 of the Handbook of Procedures, 2015-20;
(c) Notification No.16/2015-Cus. dated 01.04.2015, as amended; and
(d) Sections 111(o), 112, 117, 124 and 143 of the Customs Act, 1962.

10. The imported capital goods were permitted clearance by the proper officer after execution of the prescribed Bond and Bank Guarantee in terms of Section 143 of the Customs Act, 1962 and the conditions of Notification No.16/2015-Cus. dated 01.04.2015. By executing the said Bond, the Noticee undertook to fulfil the prescribed export obligation within the stipulated period and, in the event of failure, to pay the Customs duty foregone together with applicable interest. Since the Noticee has failed to produce evidence of fulfilment of the export obligation within the prescribed period, the provisions of Section 143 of the Customs Act, 1962 became applicable, thereby entitling the Customs authorities to enforce the Bond and recover the Government dues in accordance with law.

11. Further, paragraph 7 of Notification No.16/2015-Cus. dated 01.04.2015 requires the noticee to produce, within 30 days from the expiry of each export obligation block or within such extended period as may be allowed by the jurisdictional Customs authority, documentary evidence demonstrating fulfilment of the prescribed export obligation. Where the export obligation for any block remains unfulfilled, the noticeeis required to pay the proportionate Customs duty foregone together with the applicable interest within the period prescribed under the Notification. The Noticee had also executed a Bond incorporating the aforesaid conditions at the time of registration of the EPCG Authorisation.

12. It is observed that despite repeated communications from this office, as referred to in the preceding paragraphs, the Noticee failed to furnish the Export Obligation Discharge Certificate (EODC)/Redemption Letter or any other documentary evidence establishing fulfilment of the export obligation under the aforesaid EPCG Authorisation. Verification obtained from the Regional Authority, DGFT, Surat also did not indicate that the export obligation had been discharged or that any extension of the export obligation period had been granted. Consequently, it is noticed that the Noticee had failed to comply with the conditions of the EPCG Authorisation, the Bond executed before Customs and Notification No.16/2015-Cus. dated 01.04.2015.

13. In view of the foregoing, it appeared that the Noticee had contravened the conditions of Chapter 5 of the Foreign Trade Policy, 2015-20, the EPCG Authorisation and Notification No.16/2015-Cus. dated 01.04.2015 by failing to establish fulfilment of the prescribed export obligation within the stipulated period.
Accordingly, the imported capital goods having an aggregate assessable value of Rs.1,18,01,287/- appeared to be liable to confiscation under Section 111(o) of the

Customs Act, 1962, being goods imported subject to conditions which, prima facie, had not been fulfilled.

14. Since the Noticee had executed the Bond and furnished the Bank Guarantee at the time of importation of the capital goods under the EPCG Scheme, the Bond became enforceable upon failure to comply with the conditions of the exemption notification. Accordingly, the Customs duty foregone, together with applicable interest, was recoverable from the Noticee in terms of Notification No.16/2015-Cus. dated 01.04.2015, read with the Bond executed under Section 143 of the Customs Act, 1962. The details of the Customs duty proposed to be recovered are as under:

Sl. No.	**EPCG Authorisation/ Licence No. and date**	**Relevant Bill of Entry No. & date**	**Amount of Customs Duty liable to be paid (Rs.)**
1	**5230025806 dated 19.01.2018**	5034890 dated 01.02.2018 5260534 dated 17.02.2018	Rs.21,24,232

15. Since the imported goods appeared liable to confiscation under Section 111(o) of the Customs Act, 1962, the Noticee also appeared liable to penalty under the provisions of Section 112(a) of the Customs Act, 1962. Further, for the alleged contravention of the conditions of the EPCG Scheme and Notification No.16/2015-Cus. dated 01.04.2015, the Noticee also appeared liable to penalty under Section 117 of the Customs Act, 1962, wherever applicable.

16. Since the Noticee had failed to comply with the conditions of Notification No.16/2015-Cus. dated 01.04.2015, it appeared that Bank Guarantee No.0266IGFIN000218 dated 25.01.2018 for Rs.5,80,000/-, issued by UCO Bank, Station Road Branch, Surat, was liable to be enforced towards recovery of the Government dues, in accordance with law and the terms of the Bond.

17. It is noticed that Noticee, had intentionally taken the undue benefits of EPCG Scheme and evaded payment of Customs Duty on imported goods tabulated herein above by reason of fraud. It thus, appears that she had knowingly committed acts which rendered the said goods in question liable for confiscation under Section 111(o) of the Customs Act, 1962 and has committed an offence of the nature as described under Section 112(a) of the Customs Act,1962 and thus, has rendered herself liable to penalty

under Section 112(a) of Customs Act, 1962.

18. It was further noticed that M/s. Polar Shipping Services, Customs Broker (Licence No. AAKFP101HCH003), acted on behalf of the Noticee for registration of the EPCG Authorisation and clearance of the imported consignments before Customs. Since the Customs Broker had handled the import documentation relating to the duty-free import under the EPCG Scheme, the Show Cause Notice proposed penal action against the Customs Broker under the relevant provisions of the Customs Act, 1962, on the ground that the imported goods had allegedly become liable to confiscation under Section 111(o) of the Act due to non-fulfilment of the conditions of the exemption notification.

19. It further noticed that M/s. Polar Shipping Services, a licensed Customs Broker, had acted on behalf of the Noticee for registration of the EPCG Authorisation as well as clearance of the imported capital goods before Customs. It was alleged that the Customs Broker failed to advise the noticeeto comply with the provisions of the Customs Act, 1962, the Foreign Trade Policy and the conditions of the EPCG Scheme. It was also alleged that the Customs Broker failed to bring the alleged non-compliance to the notice of the jurisdictional Deputy/Assistant Commissioner of Customs and did not exercise due diligence in discharging the obligations cast upon it under the Customs Brokers Licensing Regulations, 2018 (CBLR, 2018). Accordingly, the Customs Broker had failed to discharge its statutory obligations and had rendered itself liable to penal action under Section 112(a) of the Customs Act, 1962, for allegedly abetting the acts which rendered the imported goods liable to confiscation under Section 111(o) of the Customs Act, 1962.

20. It was further alleged that, in terms of Regulation 10(d) of the Customs Brokers Licensing Regulations, 2018, a Customs Broker is required to advise its client to comply with the provisions of the Customs Act, 1962, the allied laws and the rules and regulations made thereunder and, in the event of non-compliance, to bring the matter to the notice of the jurisdictional Deputy Commissioner or Assistant Commissioner of Customs. Further, under Regulation 10(o) of the CBLR, 2018, a Customs Broker is required to intimate any change in its address, telephone number, e-mail address or other particulars to the licensing authority and the jurisdictional Customs authorities within the prescribed time. Accordingly, it was observed that M/s. Polar Shipping Services had failed to discharge the obligations cast upon it under the aforesaid Regulations and, therefore, appeared liable for action under Regulation 14 of the Customs Brokers Licensing Regulations, 2018.

21. Accordingly, Show Cause Notice No. CUS/EPCG/REGN/1289/2025-ICD-UMGN-

CUS-COMMRTE-AHMEDABAD dated 26.12.2025 was issued to M/s. Balaji Creation, alongwith M/s. Polar Shipping Services, Customs Broker, as co-noticee, calling upon them to show cause before the Additional Commissioner/Joint Commissioner of Customs, ICD Tumb, as to why the following actions should not be taken:

(A) <u>In respect of M/s Shri Balaji Creation:</u>

(i) the benefit of exemption under Notification No.16/2015-Cus. dated 01.04.2015, availed in respect of imports made under EPCG Authorisation No.5230025806 dated 19.01.2018 vide Bill of Entry Nos.5034890 dated 01.02.2018 and 5260534 dated 17.02.2018, should not be denied;
(ii) the imported capital goods having an aggregate assessable value of Rs.1,18,01,287/- should not be held liable to confiscation under Section 111(o) of the Customs Act, 1962;
(iii) the Customs duty foregone amounting to Rs.21,24,232/- should not be demanded and recovered in terms of Notification No.16/2015-Cus. dated 01.04.2015, read with the Bond executed under Section 143 of the Customs Act, 1962;
(iv) applicable interest on the above duty amount should not be demanded and recovered in accordance with the provisions of the said Notification and the Bond;
(v) penalty should not be imposed under Section 112(a) and Section 112(b) of the Customs Act, 1962;
(vi) penalty should not be imposed under Section 117 of the Customs Act, 1962; and
(vii) Bank Guarantee No.0266IGFIN000218 dated 25.01.2018 for Rs.5,80,000/-, furnished by the Noticee, should not be invoked and appropriated towards recovery of Government dues.

(B) <u>In respect of M/s Polar:</u>

(i) penalty should not be imposed upon them under Section 112(a) of the Customs Act, 1962, for their alleged role in rendering the imported goods liable to confiscation under Section 111(o) of the Customs Act, 1962; and
(ii) action should not be initiated against them under Regulation 14 of the Customs Brokers Licensing Regulations, 2018, for the alleged contravention of the obligations prescribed under the said Regulations.

<u>23. WRITTEN REPLY OF THE NOTICEE</u>

The Show Cause Notice No. CUS/EPCG/REGN/1289/2025-ICD-UMGN-CUS-

COMMRTE-AHMEDABAD dated 26.12.2025 was duly served upon the Noticee at the available address. In response thereto, M/s. Balaji Creation submitted a written reply dated 02.03.2026, wherein they contended that they had fulfilled the export obligation prescribed under EPCG Authorisation No.5230025806 dated 19.01.2018. In support of their contention, they furnished copies of the Shipping Bills evidencing the exports effected under the said Authorisation.

The details of the Shipping Bills furnished by the Noticee are as under:

Sr No.	SB NO.	date	LEO date	EGM No.	Amount	Invoice, date	Port
1	6122511	26.10.2020	29-Oct-20	205843, 04-Nov-2020	9158296	OEP/065,24-10-2020	INNSAI
2	6311725	03.11.2020	05-Nov-20	206766, 11-Nov-2020	7113507	OEP/070, 02-Nov-2020	INNSAI
3	6310930	03.11.2026	05-Nov-20	206766,11-11-2020	6670852	OEP/071, 02-Nov-2020	INNSAI
4	7121572	23.09.2019	27-Sep-19	179810,04-10-2019	15752223	OEP/143, 22-Sep-2019	INNSAI
Total					**Rs. 38694878/-**		

The Noticee further submitted that the total FOB value of exports effected under the aforesaid Shipping Bills amounted to Rs.3,86,94,878/-. The Noticee also stated that although exports had been completed, **the Bank Realisation Certificates (BRCs) in respect of three Shipping Bills were still pending**. They submitted that the BRC pertaining to Shipping Bill No.7121572 dated 23.09.2019 had already been received, whereas the BRCs relating to the remaining three Shipping Bills were awaited. It was further submitted that the application for issuance of the Export Obligation Discharge Certificate (EODC) would be filed before the DGFT immediately upon receipt of the pending BRCs. Subsequently, vide letter dated 04.08.2026, the Noticee reiterated that the BRCs relating to the aforesaid three Shipping Bills were still awaited.

23.1 **WRITTEN REPLY OF THE CO-NOTICEE (M/S. POLAR SHIPPING SERVICES)**:-

M/s. Polar Shipping Services, the co-noticee and licensed Customs Broker, submitted their written reply dated 03.03.2026, denying the allegations levelled against them in the Show Cause Notice. The co-noticee submitted that they had duly advised the noticeeto comply with the provisions of the Customs Act, 1962, the allied laws and the applicable Rules and Regulations at the time of importation of the capital goods under the EPCG Scheme. However, according to them, the obligations relating to fulfilment of export obligation, submission of documentary evidence before the DGFT and compliance with the conditions of the EPCG Authorisation arise after clearance of the imported goods

and are the sole responsibility of the importer. It was further submitted that the authorisation issued in favour of the Customs Broker was confined to registration of the EPCG Authorisation and clearance of the imported consignments covered under the Bills of Entry. Upon completion of Customs clearance and delivery of the imported goods to the importer, the role and responsibility of the Customs Broker came to an end. Therefore, they contended that no obligation could be fastened upon them for monitoring subsequent compliance with the export obligation prescribed under the EPCG Scheme. The co-noticee further contended that the allegation regarding violation of Regulation 10(d) of the Customs Brokers Licensing Regulations, 2018, was misconceived inasmuch as there was no material on record to establish that they had prior knowledge of any alleged non-compliance on the part of the importer. It was submitted that the import documents were processed only after due verification of the Know Your Customer (KYC) documents furnished by the noticeeand there was no allegation that the Customs Broker had derived any undue monetary benefit from the transaction or had actively participated in any alleged contravention. With regard to the proposal for imposition of penalty under Section 112 of the Customs Act, 1962, the co-noticee submitted that the said provision relates to improper importation of goods. According to them, the present proceedings relate solely to the alleged non-fulfilment of export obligation by the noticeeafter importation of the goods and, therefore, the ingredients necessary for invocation of Section 112 of the Customs Act, 1962, were absent.
In support of their submissions, the co-noticee relied upon Order-in-Original No. OIO-KND-CUSTM-000-COM-03-2020-21 dated 17.06.2021, passed by the Commissioner of Customs, Kandla, wherein proceedings initiated against the Customs Broker in similar circumstances were dropped. Accordingly, the co-noticee requested that the proceedings proposed against them under the Customs Act, 1962 and the Customs Brokers Licensing Regulations, 2018 be dropped.

24. PERSONAL HEARING

In compliance with the principles of natural justice, personal hearings were afforded to the Noticees on 19.02.2026 and 20.07.2026. During the personal hearing held on 20.07.2026, Shri Harsh Manojkumar Agarwal, Proprietor of M/s. Balaji Creation, appeared and reiterated the submissions made in the written reply dated 02.03.2026. He submitted that the Bank Realisation Certificates (BRCs) relating to three Shipping Bills had not yet been received from the authorised bank. He further requested three days' time to submit the details of the pending BRCs and to file the application for issuance of the Export Obligation Discharge Certificate (EODC) before the DGFT.

On the same day, Shri Haresh Gadhiya, representing M/s. Polar Shipping

Services, also appeared for personal hearing. He reiterated the submissions contained in the written reply dated 03.03.2026 and requested that the same be taken on record while adjudicating the matter. He further submitted that the Customs Broker had merely acted as an intermediary for Customs clearance of the imported goods and, therefore, no penalty was warranted under the provisions of the Customs Act, 1962 or the Customs Brokers Licensing Regulations, 2018.

25. DISCUSSION AND FINDINGS:

25.1 I have carefully gone through the Show Cause Notice No. CUS/EPCG/REGN/1289/2025-ICD-UMGN-CUS-COMMRTE-AHMEDABAD dated 26.12.2025, the written replies filed by M/s. Balaji Creation and M/s. Polar Shipping Services, the documents relied upon during adjudication, the submissions advanced during the personal hearings and the records available in the case file. I have also examined the provisions of the Customs Act, 1962, the Foreign Trade Policy, 2015-20, the Handbook of Procedures 2015-20, the conditions of EPCG Authorisation No.5230025806 dated 19.01.2018 and Notification No.16/2015-Cus. dated 01.04.2015.

25.2 The present proceedings arise out of the alleged failure of the noticee to fulfil the export obligation prescribed under the EPCG Scheme and the consequential proposal for denial of exemption, recovery of duty foregone together with applicable interest, confiscation of the imported capital goods, enforcement of the Bond and Bank Guarantee and imposition of penalties under the Customs Act, 1962.

25.3 Upon consideration of the records and submissions, the following issues arise for determination:

(i) Whether the noticee fulfilled the export obligation prescribed under EPCG Authorisation No.5230025806 dated 19.01.2018?

(ii) Whether the noticee complied with the conditions of Notification No.16/2015-Cus. dated 01.04.2015?

(iii) Whether exemption from Customs duty is liable to be denied?

(iv) Whether the duty foregone along with interest is recoverable?

(v) Whether the imported capital goods are liable to confiscation under Section 111(o)?

(vi) Whether penalty under Sections 112 and 117 is imposable upon the importer?

(vii) Whether penalty and action against the Customs Broker are sustainable?

26. Whether the benefit of Notification No.16/2015-Cus. dated 01.04.2015 is admissible?

26.1 Notification No.16/2015-Cus. dated 01.04.2015 grants exemption from payment of Customs duty on capital goods imported under a valid EPCG Authorisation issued under Chapter 5 of the Foreign Trade Policy. The exemption is not absolute but is conditional and is available only upon strict compliance with the conditions prescribed in the Notification, the Foreign Trade Policy, the Handbook of Procedures and the terms and conditions of the EPCG Authorisation.

26.2 One of the essential conditions of the Notification requires the noticee to execute a Bond undertaking to fulfil the prescribed export obligation on Free on Board (FOB) basis equivalent to six times the duty saved on the imported capital goods within the stipulated period of six years. The Notification further requires the noticee to produce documentary evidence of fulfilment of such export obligation before the jurisdictional Customs authority within the prescribed period. In the event of failure to fulfil the export obligation, the noticee becomes liable to pay the Customs duty foregone together with applicable interest in terms of the Notification and the Bond executed under Section 143 of the Customs Act, 1962.

26.3 Thus, fulfilment of the export obligation and production of documentary evidence thereof are not procedural formalities but constitute substantive conditions governing the availability of the exemption. It is a well-settled principle of law, affirmed consistently by the superior judiciary, that an exemption notification issued under Section 25(1) of the Customs Act, 1962, must be construed strictly according to its plain language. The benefit of such a notification can only be extended if the importer meets every pre-import and post-import condition completely. To support my view, I put reliance on judgment of Hon'ble Supreme Court in case of **Commissioner of Customs (Import), Mumbai v. M/s Dilip Kumar and Company & Ors. (2018) 9 SCC 1 (FB)**. The 5-Judge Constitution Bench explicitly ruled that:

> *(1) An exemption notification must be interpreted strictly; the burden of proving its applicability rests entirely on the assessee to demonstrate that their case falls squarely within the specific parameters of the exemption clause.*
> *(2) When there is any ambiguity or failure to meet a strict threshold condition in an exemption notification, the benefit cannot be claimed by the assessee and the provision must be interpreted in favour of the Revenue.*

26.4 A review of the notification shows that condition number (5) explicitly links the zero-duty exemption to the strict fulfillment of the specified Export Obligation (EO) and requires the importer to produce the Export Obligation Discharge Certificate (EODC) issued by the DGFT within the prescribed time window as proof that this obligation was met. In the instant case, I find that Noticee did not realize the foreign exchange proceeds from their 03 export shipments out of total 04 export shipment and therefore, failed to achieve the mandatory Export Obligation. Consequently, the importer was unable to secure the EODC from the DGFT on or before the deadline of 17.02.2024, or at any point thereafter. By failing to meet these post-import requirements, the Noticee broke the conditional bond executed under Section 143 of the Act and accordingly, the concession of zero duty against the import is no longer applicable or admissible to the Noticee under Notification No. 16/2015-Cus dated 01.04.2015.

27. Whether the notice has fulfilled the export obligation?

27.1 I find that M/s. Balaji Creation imported 24 Sets of New Shuttleless Rapier Looms, Model No.747, under EPCG Authorisation No.5230025806 dated 19.01.2018, by availing exemption under Notification No.16/2015-Cus. The total duty foregone at the time of import was Rs.21,24,232/-, against which the notice executed Bond No.2001349845 together with Bank Guarantee No.0266IGFIN000218 dated 25.01.2018 for due compliance with the conditions of the exemption notification.

27.2 Under the said Authorisation, the notice was required to fulfil export obligation equivalent to six times the duty saved within six years from the date of issue of the Authorisation. Consequently, the export obligation period expired on 18.01.2024, and the noticeewas required to produce the Export Obligation Discharge Certificate (EODC) or other prescribed evidence before the jurisdictional Customs authority within the period stipulated under the Notification.

27.3 The records reveal that this office issued letters dated 30.08.2024, 16.10.2024 and 11.03.2025 requesting the noticee to furnish the Export Obligation Discharge Certificate or documentary evidence establishing fulfilment of the export obligation. However, no reply was received from the noticee at that stage.

27.4 Simultaneously, verification was sought from the Regional Authority, DGFT, Surat, regarding the status of the Authorisation. The DGFT, vide e-mail dated 20.03.2025, informed that the Authorisation was categorised as "SCN is being issued" and did not indicate that any Export Obligation Discharge Certificate had been issued or that any extension of the export obligation period had been granted.

27.5 During adjudication, however, the notice submitted a written reply dated 02.03.2026 along with copies of four Shipping Bills and contended that exports had in fact been affected under the said EPCG Authorisation. It was further submitted that Bank Realisation Certificates in respect of three Shipping Bills were still awaited and, therefore, the application for issuance of the Export Obligation Discharge Certificate could not yet be filed before the DGFT.

27.6 I have carefully considered the above defence. Mere production of Shipping Bills undoubtedly establishes that exports have been effected. However, under the EPCG Scheme, the obligation cast upon the noticee is not merely to effect exports but to establish fulfilment of the prescribed export obligation in the manner contemplated under the Foreign Trade Policy and Notification No.16/2015-Cus. The statutory mechanism for determination of fulfilment of export obligation rests with the Directorate General of Foreign Trade, which, upon verification of the prescribed documents including realisation of export proceeds wherever required, issues the **Export Obligation Discharge Certificate (EODC).** Paragraphs 5.10 and 5.11 of the Handbook of Procedures (2015-20), read with Paragraph 5.04 of the Foreign Trade Policy (FTP), govern the fulfillment of Export Obligations and the subsequent realization of foreign exchange. These provisions explicitly mandate that export proceeds must be realized in freely convertible currency or in Indian Rupees as per Paragraph 2.53 of the FTP, except for Deemed Export supplies under Chapter 7. Furthermore, the Foreign Exchange Management Act (FEMA) Regulations, 2015, mandate a nine-month window or any period specified by the Reserve Bank of India (RBI) in consultation with the Government from the date of export to receive the full export value of goods. Additionally, Paragraph 2.54 of the FTP 2023 deals with the non-realization of export proceeds.

A conjoint reading of these conditions prescribed across the FTP and FEMA Regulations makes it amply clear that every export made by the noticee must be backed by a valid realization of foreign convertible exchange. However, in the present case, while the noticee executed four (04) export shipments, actual realization was achieved for only one (01) shipments. Merely physical exportation of goods out of India, absent the requisite financial realization, does not constitute a completed export transaction under the law and, therefore, cannot be counted toward the fulfillment of their mandatory Export Obligation.

27.7 In the present case, admittedly, no Export Obligation Discharge Certificate had been issued by the DGFT on the date of issuance of the Show Cause Notice. Even on the date of personal hearing, the notice candidly admitted that the application for issuance of the EODC could not be filed because the Bank Realisation Certificates relating to three Shipping Bills were still pending.

27.8 The contention of the notice that exports have already been effected cannot, by itself, be accepted as conclusive proof of fulfilment of the export obligation. The exemption under Notification No.16/2015-Cus. is conditional in nature and the burden of establishing compliance with every condition of the exemption lies upon the noticee claiming its benefit. In the absence of an Export Obligation Discharge Certificate issued by the competent licensing authority or any order extending the export obligation period, I am unable to hold that the noticee has established fulfilment of the mandatory conditions of the exemption notification.

27.9 I also find that no documentary evidence has been produced to show that the DGFT has accepted the exports now relied upon by the noticee towards discharge of the export obligation under the aforesaid EPCG Authorisation. On the contrary, the verification received from the DGFT indicates that no such discharge had been recognised as on the relevant date.

27.10 The *suo motu* legislative intent and sole core objective behind the grant of duty-free import concessions via Advance Authorisations or EPCG licenses is to stimulate the national economy by accelerating physical exports, thereby securing a steady, tangible inflow of convertible foreign exchange into the country's reserves. The concession for not paying duty at the time of import is not an unconditional exemption, rather, it is a conditional relaxation. The mere outward movement of cargo across the geographical frontiers of India without any actual realization in convertible foreign exchange represents a hollow transaction which fails to satisfy the sole purpose of the Scheme. In the absence of inward remittance, the national exchequer suffers a double jeopardy, a direct loss of eligible customs revenue at the port of import, coupled with a total failure to enrich the country's foreign exchange reserves as no foreign exchange received against the said export. Therefore, mere physical export without realization does not suffice to discharge the statutory export obligation. Further, the record reveals that the Noticee has completely failed to produce the mandatory EODC/Redemption Letter within the stipulated deadline, or at any subsequent period. By failing to bring the export proceeds into the banking channels of India, the Noticee has violated the core post-import conditions of the exemption notification under which their capital goods were cleared.

27.11 In view of the foregoing discussion, I hold that the noticee failed to establish fulfilment of the export obligation prescribed under EPCG Authorisation No.5230025806 dated 19.01.2018 within the period stipulated under Notification No.16/2015-Cus. Consequently, the noticee failed to satisfy the conditions governing the exemption availed under the said Notification. Accordingly, I hold that the benefit of exemption under

Notification No.16/2015-Cus. dated 01.04.2015 is not available to the noticee in respect of the subject imports.

28. Whether the Customs Duty foregone amounting to Rs.21,24,232/- is liable to be recovered along with applicable interest by enforcement of the Bond and encashment of the Bank Guarantee?

28.1 Having held in the foregoing paragraphs that the Noticee has failed to establish fulfilment of the export obligation prescribed under EPCG Authorisation No.5230025806 dated 19.01.2018 and consequently failed to satisfy the conditions of Notification No.16/2015-Cus. dated 01.04.2015, the next issue requiring determination is whether the Customs duty foregone at the time of import is recoverable from the importer. I find that the exemption under Notification No.16/2015-Cus. is conditional in nature. The exemption is available only so long as the noticee complies with all the conditions stipulated in the Notification, the EPCG Authorisation and the Foreign Trade Policy. One of the essential conditions is fulfilment of the prescribed export obligation within the stipulated period. Failure to comply with any of these conditions renders the noticee liable to pay the Customs duty which stood exempted at the time of import together with applicable interest.

28.2 The records reveal that before clearance of the imported capital goods, the noticee executed Bond No.2001349845 dated 25.01.2018 for Rs.70,00,000/- under Section 143 of the Customs Act, 1962 and furnished Bank Guarantee No.0266IGFIN000218 dated 25.01.2018 issued by UCO Bank, Station Road Branch, Surat, as security for due compliance with the conditions of the Notification and the EPCG Authorisation. Under the terms of the Bond, the noticee unequivocally undertook to fulfil the export obligation and, in the event of failure, to pay the Customs duty foregone together with applicable interest without demur. The Bond further authorised the Department to recover the Government dues in accordance with Section 142 of the Customs Act, 1962.

28.3 As discussed in Paragraphs 27 to 27.11 above, the noticee has failed to produce an Export Obligation Discharge Certificate (EODC) issued by the DGFT or any documentary evidence establishing that the export obligation has been discharged or validly extended. Consequently, the noticee has failed to fulfil the conditions governing the exemption. Once the conditions of the exemption notification are violated, the exemption ceases to operate and the duty foregone at the time of import becomes recoverable in accordance with the Notification and the Bond executed by the importer.

28.4 I also find that although the EPCG Authorisation indicates a duty saved value of

Rs.22,98,780/-, the actual Customs duty foregone at the time of clearance of the imported capital goods, as reflected in the Bills of Entry and the EDI records, is Rs.21,24,232/-. It is this amount which was actually debited against the Authorisation and consequently represents the duty liable to be recovered. The higher figure mentioned in the Authorisation merely represents the maximum permissible duty saved value and cannot override the actual duty foregone at the time of import. Accordingly, the recoverable amount is correctly determined as Rs.21,24,232/-.

28.5 I further observe that the Department repeatedly afforded the noticee adequate opportunity to establish fulfilment of the export obligation. Letters dated 30.08.2024, 16.10.2024 and 11.03.2025 were issued calling upon the noticee to produce the EODC or any order extending the export obligation period. No satisfactory response was received. Simultaneously, verification was sought from the Regional Authority, DGFT, Surat. The DGFT, vide e-mail dated 20.03.2025, informed that the status of the subject Authorisation was "SCN is being issued", thereby confirming that no Export Obligation Discharge Certificate had been issued in respect of the said Authorisation.

28.6 The contention of the Noticee that exports have been effected and that Bank Realisation Certificates in respect of three Shipping Bills are still awaited does not alter the legal position. The exemption notification requires fulfilment of the prescribed conditions within the stipulated period. Mere production of Shipping Bills cannot substitute the statutory requirement of establishing fulfilment of the export obligation before the competent licensing authority. Until the DGFT recognises fulfilment of the export obligation and issues the Export Obligation Discharge Certificate, the noticee cannot claim continued entitlement to the exemption.

28.7 The legal position is well settled. The Hon'ble Supreme Court in Daewoo Motors India Ltd. v. Union of India, reported in 2003 (153) E.L.T. 17 (S.C.), held that where it becomes evident that the noticee has failed to fulfil the export obligation, invocation of the Bank Guarantee by the Department is legally justified and cannot be considered premature or arbitrary. Likewise, the Hon'ble Delhi High Court in Rai Agro Industries Ltd. v. DGFT, reported in 2006 (206) E.L.T. 123 (Del.), as affirmed by the Hon'ble Supreme Court, held that an noticee who has availed the benefit of concessional duty under the EPCG Scheme is under a binding contractual and statutory obligation to pay the duty foregone together with interest upon failure to fulfil the export obligation. The Tribunal in Sanghi Industries Ltd. v. Commissioner of Customs (Export Promotion), Mumbai, reported in 2012 (277) E.L.T. 190 (Tri.-Mumbai), has also reiterated that recovery of duty together with interest under the EPCG Scheme is legally sustainable where the export obligation remains unfulfilled. Similarly, in Shrimandhar Fabrics Pvt. Ltd. v. Commissioner of Customs, Ahmedabad, reported in 2008 (231) E.L.T. 641 (Tri.-Ahmd.), it was held that upon failure to fulfil the export obligation, Customs is justified in recovering the duty foregone, enforcing the Bond and encashing the Bank Guarantee.

28.8 In view of the foregoing discussion, I hold that M/s. Balaji Creation has violated the conditions of Notification No.16/2015-Cus. dated 01.04.2015 as well as the terms of the Bond executed under Section 143 of the Customs Act, 1962. Consequently, the Customs duty foregone amounting to Rs.21,24,232/- (Rupees Twenty One Lakh Twenty Four Thousand Two Hundred Thirty Two only) is liable to be recovered from the Noticee together with applicable interest at the rate prescribed under the Notification from the respective dates of clearance of the imported capital goods till the date of actual payment. The Department is also entitled to enforce Bond No.2001349845 dated 25.01.2018 and to encash and appropriate Bank Guarantee No.0266IGFIN000218 dated 25.01.2018 (please verify whether the amount is Rs.5,80,000/- or Rs.5,30,000/- and maintain one consistent figure throughout the Order) towards recovery of the Government dues in accordance with Sections 142 and 143 of the Customs Act, 1962.

29. Whether the imported capital goods are liable to confiscation under Section 111(o) of the Customs Act, 1962 and whether redemption fine is imposable?

29.1 The Show Cause Notice proposes confiscation of the imported capital goods under Section 111(o) of the Customs Act, 1962 on the ground that the noticee failed to comply with the conditions subject to which exemption under Notification No.16/2015-Cus. dated 01.04.2015 was availed. The issue, therefore, is whether such non-compliance renders the imported goods liable to confiscation. Section 111(o) of the Customs Act, 1962 provides that any goods exempted from duty subject to any condition shall be liable to confiscation if such condition is not observed, unless the non-observance has been sanctioned by the proper officer. Thus, confiscation under Section 111(o) is a statutory consequence flowing from the breach of a condition attached to a conditional exemption notification.

29.2 As discussed in detail in Paragraphs 27 to 28 above, I have already held that the noticee has failed to establish fulfilment of the export obligation prescribed under EPCG Authorisation No.5230025806 dated 19.01.2018. The noticee has neither produced the Export Obligation Discharge Certificate (EODC) issued by the Directorate General of Foreign Trade nor any order granting extension of the export obligation period. Consequently, the noticee has failed to comply with the substantive conditions of Notification No.16/2015-Cus. dated 01.04.2015 under which duty exemption was granted. The imported capital goods, namely 24 Sets of "New Shuttleless Rapier Looms, Model No.747 with Standard Parts and Accessories", having an assessable value of Rs.1,18,01,287/-, were cleared without payment of applicable Customs duty solely by virtue of the aforesaid exemption notification. Since the conditions governing such exemption have not been fulfilled, I hold that the imported goods have rendered themselves liable to confiscation under Section 111(o) of the Customs Act, 1962.

29.3 The legal position on this issue is well settled. The Hon'ble CESTAT, Mumbai, in Sanghi Industries Ltd. v. Commissioner of Customs (Export Promotion), Mumbai, reported in 2012 (277) E.L.T. 190 (Tri.-Mumbai), has categorically held that recovery of duty and confiscation under Section 111(o) operate in different fields. While recovery of duty arises because the noticee loses the benefit of the exemption notification upon violation of its conditions, confiscation arises independently because the goods were imported subject to specified conditions which have subsequently been violated. The Tribunal further held that once the conditions of a conditional exemption notification are breached, the imported goods become liable to confiscation under Section 111(o), notwithstanding the simultaneous recovery of the duty foregone. I respectfully rely upon the aforesaid ratio, which squarely applies to the facts of the present case.

29.4 Having held that the imported goods are liable to confiscation, the next question is whether redemption fine under Section 125 of the Customs Act, 1962 is imposable. I observe that the capital goods were released to the noticee at the time of import upon execution of the statutory Bond under Section 143 of the Customs Act, 1962 and have since remained in the possession and use of the importer. The fact that the goods are no longer physically available for seizure does not extinguish the statutory power to impose redemption fine where confiscation is otherwise legally sustainable.

The Hon'ble Supreme Court in Weston Components Ltd. v. Commissioner of Customs, reported in 2000 (115) E.L.T. 278 (S.C.), has held that where goods are released provisionally against execution of a Bond and are subsequently found liable to confiscation, the adjudicating authority retains the power to impose redemption fine in lieu of confiscation notwithstanding that the goods are no longer in the physical custody of the Department.

29.5 In the present case, the noticee consciously availed the benefit of duty exemption under the EPCG Scheme by executing a statutory Bond undertaking to fulfil the prescribed export obligation. Having failed to comply with the essential conditions of the exemption notification, the noticee cannot retain the benefit of duty exemption without suffering the statutory consequences flowing from such breach. Accordingly, I hold that the imported capital goods are rightly liable to confiscation under Section 111(o) of the

Customs Act, 1962.

However, since the goods are not physically available for confiscation, I consider it appropriate to extend to the noticee the statutory option of redemption under Section 125 of the Customs Act, 1962 upon payment of an appropriate redemption fine in lieu of confiscation. The quantum of redemption fine shall be determined having regard to the nature of the goods, the extent of the violation, the value of the imported capital goods, the duty foregone, and the overall facts and circumstances of the case.

30. Whether penalty is liable to be imposed upon M/s. Balaji Creation under Section 112(a) of the Customs Act, 1962?

30.1 I find that the noticee imported the subject capital goods by availing exemption under Notification No.16/2015-Cus dated 01.04.2015 against EPCG Authorisation No.5230025806 dated 19.01.2018, subject to fulfilment of the prescribed export obligation. As discussed in the foregoing paragraphs, the noticee failed to fulfil the export obligation within the stipulated period and has also failed to produce the Export Obligation Discharge Certificate (EODC) issued by the DGFT.

The non-fulfilment of the conditions of the exemption notification has rendered the imported capital goods liable to confiscation under Section 111(o) of the Customs Act, 1962. Consequently, the importer, by omission to fulfil the statutory conditions attached to the exemption, has rendered itself liable to penalty under Section 112(a)(ii) of the Customs Act, 1962.

I also find support from the decision of the Hon'ble CESTAT, Mumbai in Sanghi Industries Ltd. v. Commissioner of Customs (Export Promotion), Mumbai reported in 2012 (277) ELT 190 (Tri.-Mumbai), wherein it has been held that failure to fulfil export obligation under the EPCG Scheme renders the goods liable to confiscation under Section 111(o) and consequently attracts penalty under Section 112(a).

Accordingly, I hold that M/s. Balaji Creation is liable to penalty under Section 112(a)(ii) of the Customs Act, 1962.

31. Whether penalty under Section 117 of the Customs Act, 1962 is imposable?

31.1 The Show Cause Notice also proposes imposition of penalty under Section 117 of the Customs Act, 1962. I find that Section 117 is a residuary penal provision applicable only where no specific penalty is provided elsewhere under the Act. In the present case, the contravention committed by the importer, namely failure to comply with the conditions of Notification No.16/2015-Cus dated 01.04.2015 resulting in confiscability of the goods under Section 111(o), is specifically covered by Section 112(a) of the Customs

Act, 1962. Since a specific penal provision exists and penalty under Section 112(a) has already been held to be imposable, separate penalty under Section 117 for the same set of facts would amount to duplication of penalty. Accordingly, I hold that no separate penalty under Section 117 of the Customs Act, 1962 is warranted and the proposal in the Show Cause Notice to impose penalty under Section 117 is liable to be dropped.

32. Findings regarding M/s. Polar Shipping Services (Customs Broker)

32.1 The Show Cause Notice proposes imposition of penalty upon M/s. Polar Shipping Services, Customs Broker, under Section 112(a) of the Customs Act, 1962 and initiation of action under Regulation 14 of the Customs Brokers Licensing Regulations, 2018.

32.2 I have carefully examined the allegations made in the Show Cause Notice, the written submissions filed by the Customs Broker and the records available on file. The Customs Broker acted as an authorised Customs Broker for registration of the EPCG Authorisation and filing of the Bills of Entry for clearance of the imported capital goods. The records reveal that the subject Bills of Entry were duly assessed and Out of Charge was granted after examination. There is no allegation of any misdeclaration, suppression of facts, forged documents or improper importation at the time of clearance.

32.3 The default alleged in the present proceedings pertains solely to the subsequent non-fulfilment of export obligation by the noticee after clearance of the capital goods. Regulation 10(d) of the Customs Brokers Licensing Regulations, 2018 casts an obligation upon the Customs Broker to advise the client to comply with the provisions of the Customs Act and allied laws during customs clearance. However, the responsibility to fulfil export obligation under the EPCG Scheme, obtain the Export Obligation Discharge Certificate (EODC) from DGFT and produce the same before Customs rests exclusively upon the EPCG Authorisation holder. The Customs Broker cannot reasonably be expected to monitor the post-import manufacturing operations or export performance of the noticee for several years after clearance of the imported goods.

32.4 I further find that there is no evidence on record establishing that the Customs Broker had prior knowledge that the noticee would subsequently fail to fulfil the export obligation or that the Customs Broker had derived any undue benefit from the transaction. In the absence of any evidence of active involvement, deliberate omission, fraud, collusion or abetment, penalty under Section 112(a) of the Customs Act, 1962 is not sustainable.

32.5 The Customs Broker has also relied upon Order-in-Original No. OIO-KND-CUSTM-000-COM-03-2020-21 dated 17.06.2021 passed by the Commissioner of Customs, Kandla, wherein under similar circumstances proceedings against the Customs Broker were dropped.
The facts of the present case are substantially similar.

32.6 Accordingly, I hold that no case is made out for imposition of penalty upon M/s. Polar Shipping Services under Section 112(a) of the Customs Act, 1962. Further, I also hold that no grounds exist for initiating action under Regulation 14 of the Customs Brokers Licensing Regulations, 2018. Accordingly, the proceedings proposed against M/s. Polar Shipping Services are liable to be dropped.

33. In view of the foregoing findings, I pass the following order:

ORDER

(i) I deny the benefit of exemption under Notification No.16/2015-Cus dated 01.04.2015 in respect of the capital goods imported by M/s. Balaji Creation under EPCG Authorisation No.5230025806 dated 19.01.2018.
(ii) I order confiscation under Section 111(o) of the Customs Act, 1962 of the imported capital goods having assessable value of Rs.1,18,01,287/-. However, in terms of Section 125 of the Customs Act, 1962, I allow redemption of the goods on payment of redemption fine of Rs.10,00,000/-(Rupees Ten Lakh Only).
(iii) I confirm demand of Customs duty amounting to Rs.21,24,232/- under Notification No.16/2015-Cus dated 01.04.2015 read with the Bond executed under Section 143 of the Customs Act, 1962 and order recovery thereof from M/s. Balaji Creation in accordance with Sections 142 and 143(3) of the Customs Act, 1962.
(iv) I order recovery of interest at the rate prescribed under Notification No.16/2015-Cus dated 01.04.2015 on the aforesaid duty from the date of clearance of the imported capital goods till the date of payment.
(v) I order enforcement and appropriation of Bank Guarantee No.0266IGFIN000218 dated 25.01.2018 for Rs.5,30,000/- furnished by M/s. Balaji Creation towards the duty, interest, redemption fine and penalty confirmed under this Order.
(vi) I impose a penalty of Rs.2,00,000/- upon M/s. Balaji Creation under Section 112(a)(ii) of the Customs Act, 1962.
(vii) I drop the proposal for imposition of penalty under Section 117 of the Customs Act, 1962.
(viii) I drop the proceedings proposed against M/s. Polar Shipping Services under Section

112(a) of the Customs Act, 1962.

(ix) I also drop the proposal for initiation of action against M/s. Polar Shipping Services under Regulation 14 of the Customs Brokers Licensing Regulations, 2018.

34. Accordingly, Show Cause Notice No. CUS/EPCG/REGN/1289/2025-ICD-UMGN-CUS-COMMRTE-AHMEDABAD dated 26.12.2025 is disposed of in the above terms.

Digitally signed by
SHREE RAM VISHNOI
Date: 24-08-2026
16:02:29

(Shree Ram Vishnoi)
Additional Commissioner
Customs, Ahmedabad

F.No. CUS/EPCG/REGN/1289/2025-ICD-UMGN-CUS-COMMRTE-AHMEDABAD

DIN: **20260871MN0000B99B48** **Date 24.08.2026**

By Speed Post/E-Mail/By Hand/Notice Board

To:

1. M/s. Balaji Creation, (IEC- AWZPA6716E) Shop No 618, 6th floor Millennium Textile Market-2 Central Road Anjana, Surat Gujarat-395002.
2. M/s. Polar Shipping Services, No. 502 TO 505, D R India Textile Hub, Opp. Amazia Water Park, Parvat Patiya, Surat, Gujarat-395010

Copy to:

(1) The Commissioner, Customs Ahmedabad Commissionerate, Ahmedabad (Kind Attention to RRA);

(2) The Dy. Commissioner, ICD, Tumb, Customs Ahmedabad Commissionerate;

(3) The Deputy Commissioner of Customs (Task Force), Ahmedabad.

(4) The System In-Charge, Customs, HQ., Ahmedabad for uploading on the official web-site i.e. http://www.ahmedabadcustoms.gov.in.

(5) Guard File.