प्रधान आयुक्त का कार्यालय,सीमा शुल्क,अहमदाबाद

"सीमा शुल्क भवन", पहली मंजिल, पुराने हाई कोर्ट के सामने, नवरंगपुरा,अहमदाबाद –380 009.
दूरभाष: (079) 2754 4630 ई-मेल: cus-ahmd-guj@nic.in / technical-customs@gov.in

निबन्धितपावतीडाकद्वारा / By SPEED POST A.D. / E-mail
फा. सं./F. No.: GEN/TECH/Misc./527/2026-TECH
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आदेशकीतारीख/Date of Order : 14.09.2026
जारीकरनेकीतारीख/Date of Issue : 14.09.2026

द्वारापारित :- मनीष कुलहारी, आयुक्त
Passed by :- Manish Kulhary, Commissioner

मूलआदेशसंख्या **: / Order-In-Original No.: AHM-CUSTM-000-COMMR-12-2026-27 Dated 14.09.2026** in the case of M/s. Benchmark Shipping and Logistics, Customs Broker Licence– CHA/ABD/R/09/2016-17 (COSPM1345E), Shop No. 26, Aditya Complex, SAL Hospital Road, Surdhara Circle, Opp. St. Kabir School, Thaltej, Ahmedabad

1 जिसव्यक्ति(यों) को यह प्रति भेजी जातीहै, उसे व्यक्तिगतप्र योग केलिए निःशुल्क प्रदान कीजाती है।
1 This copy is granted free of charge for private use of the person(s) to whom it is sent.

2. इसआदेशसेअसंतुष्टकोईभी व्यक्ति इसआदेश की प्राप्ति से तीनमाह के भीतर सीमाशुल्क, उत्पादशुल्क एवं सेवाकर अपीलीय न्यायाधिकरण, अहमदाबाद पीठ को इस आदेश के विरुद्ध अपील कर सकताहै।अपील सहायक रजिस्ट्रार, सीमाशुल्क, उत्पाद शुल्क एवं सेवाकरअपीलीय न्यायाधिकरण, दुसरी मंज़िल, बहुमालीभवन, गिरिधर नगर पुलके बाजुमे, गिरिधरनगर, असारवा, अह्मदाबाद-380 004 को सम्बोधित होनीचाहिए।
2. Any person deeming himself aggrieved by this Order may appeal against this Order to the Customs, Excise and Service Tax Appellate Tribunal, Ahmedabad Bench within three months from the date of its communication. The appeal must be addressed to the Assistant Registrar, Customs, Excise and Service Tax Appellate Tribunal, 2nd Floor, Bahumali Bhavan, Nr. Girdhar Nagar Bridge, Girdhar Nagar, Asarwa, *Ahmedabad* – 380004.

3. उक्तअपीलप्रारुपसं. सी.ए.3 मेंदाखिलकीजानीचाहिए।उसपरसीमाशुल्क (अपील) नियमावली, 1982 केनियम 3 केउपनियम (2) में विनिर्दिष्ट व्यक्तियों द्वारा हस्ताक्षर किएजाएंगे। उक्त अपील को चार प्रतियोँ में दाखिल किया जाए तथा जिस आदेश के विरुद्ध अपील कीगई हो, उसकी भी उतनी ही प्रतियाँ संलग्नकी जाएँ (उनमें से कम से कम एक प्रति प्रमाणित होनी चाहिए)।अपील से सम्बंधित सभी दस्तावेज भी चार प्रतियोँ में अग्रेषित किएजाने चाहिए।
3. The Appeal should be filed in Form No. C.A.3. It shall be signed by the persons specified in sub-rule (2) of Rule 3 of the Customs (Appeals) Rules, 1982. It shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be certified copy). All supporting documents of the appeal should be forwarded in quadruplicate.

4. अपील जिसमें तथ्यों का विवरण एवं अपील के आधार शामिल हैं, चार प्रतियोंमें दाखिल की जाएगी तथा उसके साथ जिस आदेशके विरुद्ध अपील कीगई हो, उसकी भी उतनी ही प्रतियाँ संलगन कीजाएंगी (उनमें से कम से कम एक प्रमाणित प्रति होगी)।
4. The Appeal including the statement of facts and the grounds of appeal shall be filed in quadruplicate and shall be accompanied by an equal number of copies of the order appealed against (one of which at least shall be a certified copy.)

5. अपील का प्रपत्र अंग्रेजी अथवा हिन्दी में होगा एवं इसे संक्षिप्त एवं किसी तर्कअथवा विवरण के बिना अपील के कारणों केस्पष्ट शीर्षों के अंतर्गत तैयार करना चाहिए एवं ऐसे कारणों को क्रमानुसार क्रमांकित करना चाहिए।
5. The form of appeal shall be in English or Hindi and should be set forth concisely and under distinct heads of the grounds of appeals without any argument or narrative and such grounds should be numbered consecutively.

6. केंद्रिय सीमाशुल्क अधिनियम,1962 की धारा 129 ऐ के उपबन्धों के अंतर्गत निर्धारित फीस जिस स्थान पर पीठ स्थित है, वहां के किसी भी राष्ट्रीयकृत बैंक की शाखा से न्यायाधिकरण की पीठके सहायक रजिस्ट्रार के नाम पर रेखांकित माँग ड्राफ्टके जरिए अदा की जाएगी तथा यह माँग ड्राफ्ट अपीलके प्रपत्रकेसाथ संलग्न कियाजाएगा।
6. The prescribed fee under the provisions of Section 129A of the Customs Act,1962 shall be paid through a crossed demand draft, in favour of the Assistant Registrar of the Bench of the Tribunal, of a branch of any Nationalized Bank located at the place where the Bench is situated and the demand draft shall be attached to the form of appeal.

7. इस आदेश के विरुद्ध अपील न्यायाधिकरण के समक्ष की जा सकती है, बशर्ते कि विवादित शुल्क या शुल्क एवं जुर्माना, या केवल जुर्माना, विवादित होने पर मांगे गए शुल्क का 7.5% भुगतान किया जाए।
7. An appeal against this order shall lie before the Tribunal on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

8. न्यायालय शुल्क अधिनियम, 1870 के अंतर्गत निर्धारित किए अनुसार संलग्न किएगए आदेशकी प्रति पर उपयुक्त न्यायालय शुल्क टिकट लगा होना चाहिए।
8. The copy of this order attached therein should bear an appropriate court fee stamp as prescribed under the Court Fees Act, 1870.

Sub: Order under Regulation 17(7) of the Customs Brokers Licensing Regulations (CBLR),2018 in the case of M/s. Benchmark Shipping and Logistics, Customs Broker Licence– CHA/ABD/R/09/2016-17 (COSPM1345E), Shop No. 26, Aditya Complex, SAL Hospital Road, Surdhara Circle, Opp. St. Kabir School, Thaltej, Ahmedabad.

प्रधानआयुक्तकाकार्यालय,सीमाशुल्क,अहमदाबाद
"सीमाशुल्कभवन", पहलीमंजिल, पुरानेहाईकोर्टकेसामने, नवरंगपुरा,अहमदाबाद-380 009.
दूरभाष: (079) 2754 4630 फैक्स: (079) 2754 2343
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Order-In-Original

AHM-CUSTM-000-COMMR-12-2026-27 Dated: 14.09.2026

M/s. Benchmark Shipping and Logistics, Ahmedabad, having their office at Shop No. 26, Aditya Complex, SAL Hospital Road, Surdhara Circle, Opp. St. Kabir School, Thaltej, Ahmedabad (herein after referred to as the Noticee or Customs broker/CB) is holder of Customs Broker Licence No. CHA/ABD/R/09/2016-17 (COSPM1345E) issued by the Principal Commissioner of Customs, Ahmedabad under Regulation 7 of the Customs Brokers Licensing Regulations (CBLR),2013, [*Now, regulation 7 of the Customs Brokers Licensing Regulations (CBLR),2018*] and as such they are bound by the regulations and obligations/conditions stipulated therein.

2. An offence report in the form of Show Cause Notice No. 2112/2025-26/ADC/CEAC/NS-II/CAC/JNCH dated 04.03.2026 read with corrigendum dated 16.03.2026 issued vide F.No CUS/ASS/MISC/361/2024-CEAC against the said Noticee was received from the Office of Commissioner of Customs, NS-II, JNCH, Mumbai Zone-II, wherein role of the Noticee and their contravention of provisions of CBLR,2018 was been elaborated. In the said offence report it was informed that M/s. Kotak Bros. (IEC: 0388117451), having their registered office located at B-337, Oshiwara Industrial Centre, Goregaon (West), Mumbai, Maharashtra — 400104, (herein referred to as the Exporter) had filed Shipping Bill No. 7876017 dated 27.02.2024 through their authorised Customs Broker, M/s. Benchmark Shipping and Logistics i.e. the Noticee, for the export of product

described as “Hydrofluoric Acid”. The exporter, M/s. Kotak Bros. had submitted a Material Safety Data Sheet (MSDS) in support of the declaration made under Section 50 of the Customs Act, 1962, and in furtherance of the self-assessment process as prescribed under Section 17 of the said Act. Upon a detailed examination of the MSDS, it was observed that the product contained Hydrogen Fluoride (Chemical Abstracts Service CAS No. 7664-39-3) in concentration of 40%. Hydrogen Fluoride is a controlled chemical substance, specifically classified under Serial No. 09, Entry ID009 of Category ID of Appendix—3 to Schedule—2 of the ITC (HS) Classification of Export and Import Items. The said classification places the substance within the SCOMET List, as notified under the FTP issued pursuant to the Foreign Trade (Development and Regulation) Act, 1992.

2.1 As per the provisions of the Foreign Trade Policy and the Handbook of Procedures, the export of SCOMET-listed items, including those under Category 1D, is governed by a regulatory licensing regime. Exports of such goods are deemed "restricted" and are permitted only against a valid Export Authorisation issued by the Directorate General of Foreign Trade (DGFT). Further, it was seen that the said goods were attempted to be exported to Kenya, a destination that does not fall within the list of permitted countries specified under Table I of Category 1D of Appendix—3 to Schedule—2 of the ITC (HS) Classification of Export and Import Items, issued under the Foreign Trade Policy. Export of SCOMET listed items without authorisation constitutes a contravention of the provisions of the FT(D&R) Act, 1992, which prohibits export in violation of the conditions of the Foreign Trade Policy, Handbook of Procedures, and relevant provisions of the Customs Act, 1962, thereby attracting the prescribed penal and confiscatory consequences under the law. In the course of investigation, it was found that no application for obtaining the required Export Authorisation was submitted by the exporter to DGFT for the subject consignment. Additionally, when called upon to produce such authorization, the exporter failed to furnish any documentary evidence in support of having obtained a valid export license for the item in question. During the course of

investigation, it was also found that the Noticee had failed to fulfil the obligations cast upon them under the provisions of Regulation 10(d) & 10(e) of CBLR, 2018. Since Customs Commissionerate, Ahmedabad is the licence issuing authority i.e. Parent Policy Section of the said Customs Broker, the case was forwarded to Customs Commissionerate, Ahmedabad proposing action under provisions of the CBLR,2018.

2.2 In view of the foregoing, it prima facie appeared that the exporter had attempted to export a SCOMET-listed restricted item (Hydrogen Fluoride) to a non-permitted destination without obtaining the necessary Export Authorisation from DGFT. The subject goods are restricted for export and in the absence of authorization they become prohibited as the conditions subject to which the goods are permitted to be exported have not been complied with.

3. During the investigation the statement of Shri Mali Amit Naranbhai, F-Card Holder of Customs Broker, M/s. Benchmark Shipping and Logistics i.e. the Noticee was recorded under section 108 of the Custom Act, 1962 on 14.07.2025 wherein he inter-alia stated that:

- he is the F-Card holder of M/S. Benchmark Shipping and Logistics; he is responsible for overseeing the operations of the Custom Broker firm; his responsibilities includes conducting KYC of exporters, reviewing all the documents; verifying that the shipping bill check list is complete before submitting to customs authorities.

- On being asked to explain how they had come in contact with the exporter and how long they have been handling the exports of M/s. Kotak Bros, the F-Card holder replied that they have known the exporter for around 07 years and that the exporter has initially approached them for filing their Shipping Bills and that they have been filing the exporters Shipping Bills regularly.

- On being asked to explain about their role and responsibilities with regard to the filing of Shipping Bill, the F-Card holder replied that the Shipping Bill filing process encompasses several key responsibilities which include conducting KYC of exporters, reviewing all the documents; verifying that the Shipping Bill check list is complete before submitting to customs.

- On being asked about whether they verified the identity of exporter and functioning of their client at the declared address, the F-Card holder replied that before handling the customs related work of the exporter they had called for all the KYC related documents of viz. Copy of IEC, GST registration, Aadhaar and PAN of the proprietor, copy of Bank authorisation letter and copy of electricity Bill; he had submitted signed copies of the same; they have also verified that the Exporter is functioning from the address on the KYC documents.

- On being asked to state who holds the responsibility for ensuring the accuracy and correctness of all details furnished in the Shipping Bill at the time of filing, the F-Card holder replied that exporter provides them with the necessary details, including the invoice, packing list, and other relevant information required for the preparation of the shipping bill; Based on these inputs, they prepare a draft checklist and electronically share it with the exporter for their review and final approval; Only after receiving the exporter's confirmation and approval, they proceed to file the shipping bill in the customs system; While the primary responsibility for the accuracy of the data lies with the exporter, they ensure that all information is correctly entered and verified from their end to the best of their knowledge and as per the documents provided.

- On being asked to state who has filed the subject Shipping Bill 7876017 dated 27.02.2024, the F-Card holder replied that they have filed the subject SB 7876017 dated 27.02.2024 on behalf of the exporter, M/S. Kotak Bros. as per documents submitted by exporter.

- On being asked to inform what were the documents provided by the exporter before filing SB, the F-Card holder replied that they have been provided Invoice, Packing List, Haz Declaration, SCOMET declaration; he had submitted the signed copies of the same.

- On being asked to state whether they were aware that the exporter attempted to export "Hydrofluoric Acid", one of its Ingredients is Hydrogen Fluoride, which is listed at Serial No. 9(SCOMET Entry ID009) under the category ID of Appendix—3 to Schedule—2 of the ITC (HS) Classification, the F-Card holder replied that they were not aware; the docks officer has informed them that based on the MSDS (Material Safety Data Sheet) of the export item, one of the ingredients of export goods, Hydrogen Fluoride is listed at Serial No. 9 (SCOMET Entry ID009) under the category ID of Appendix—3 to Schedule—2 of the ITC (HS) Classification. Accordingly, they have informed the exporter about the issue.

- On being asked to state whether they are aware of the DGFTs guidelines relating to SCOMET items, including the requirement to obtain a valid SCOMET export authorization prior to export and further he was asked to elaborate on the internal procedures or mechanisms followed by their firm to ensure compliance with SCOMET regulations, the F-Card holder replied that they are aware of the SCOMET (Special Chemicals, Organisms, Materials, Equipment and Technologies) guidelines issued by the DGFT, including the requirement to obtain prior export authorization for items classified under the SCOMET list; As a standard compliance practice, they request exporters to provide a written self-declaration confirming whether the goods intended for export fall under the SCOMET category; they proceed with the filing of export documents only upon receipt of such declarations, along with any other necessary supporting documents; Since they are not technically equipped to

assess the strategic or sensitive nature of SCOMET items, they rely on the exporter's technical assessment and declarations; In the present case, for Shipping Bill No. 7876017 dated 27.02.2024, the exporter furnished a Haz and Non-SCOMET Declaration, based on which they had proceeded with the filing.

- On being asked to state whether they checked the policy restrictions and ensured fulfilment of SCOMET regulations before filing Shipping Bill, the F-Card holder replied that they have not checked the SCOMET applicability at the time of filing the Shipping Bill; It was an oversight on their side to not verify the validity of NON SCOMET declaration submitted by the exporter; The exporter has provided them the copies of the Haz Declaration, Non SCOMET declaration; Based on those declarations, they have filed the Shipping Bill.

- On being asked to state whether the exporter exported the same item before, the F-Card holder said No and further stated that the exporter generally exports Stationery items like books, maps etc...; this is the first and only shipment of Hydrofluoric Acid.

- On being informed about the Exporter's statement that the CHA has not informed them about the subject item falling under SCOMET list and asked to state his reply regarding the same, the F-Card holder replied that they did not provide any specific advice to the exporter regarding the applicability of SCOMET provisions, as the exporter had submitted a written self-declaration confirming that the goods did not fall under the SCOMET list; As stated by him before, they have filed the Shipping Bills based on the product description, invoice, packing list and other documents submitted by the exporter.

- On being asked to explain why it should not be inferred that they have failed to fulfil their obligations, the F-Card holder replied

that they have at all times acted in good faith, relying solely on the declarations and documentation provided by the exporter; there was no intention to misrepresent, withhold, or suppress any material facts; their firm remains fully committed to cooperating transparently with the authorities and ensuring strict compliance with all applicable laws and regulations.

- On being asked to explain whether he would want to add anything more, the F-Card holder replied that it was an oversight on their part to not verify the validity of the exporter's Non-SCOMET declaration; They accept full responsibility for this lapse and express their willingness to cooperate fully with the department; In light of this, they respectfully request that a lenient view be considered in this matter.

4. As per the provisions of Regulation 10(d) of the Customs Broker Licensing Regulations (CBLR), 2018, framed under Section 146 of the Customs Act, 1962, a Customs Broker is legally mandated to:

"Advise his client to comply with the provisions of the Act and the rules and regulations made there under, and in case of non-compliance, shall bring the matter to the notice of the Deputy or Assistant Commissioner of Customs, as the case may be. "

4.1 Further, Regulation 10(e) of the CBLR, 2018, imposes a positive obligation on the Customs Broker to:

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

4.2 The provisions of Regulation 10(d) obligate the Customs Broker to advise the importer/exporter to comply with the provisions of the Customs Act, 1962 and allied laws. In the present case the Noticee Broker while facilitating the clearance of goods covered under Shipping Bill No. 7876017

dated 27.02.2024, despite having access to the Material Safety Data Sheet (MSDS), which clearly disclosed the presence of Hydrogen Fluoride which is a restricted item as per SCOMET list, had failed to advise their client regarding the provisions of Customs Act and allied Acts and failed to bring the said facts to the notice of Customs Department. In view of the above and deposition made by the Customs Broker before the Customs authorities it appeared that the Customs Broker had failed to comply with provisions of Regulation 10(d) of CBLR, 2018.

4.3 As per Regulation 10(e) of CBLR, 2018 it is obligatory on the part of Customs Broker to impart correct information to the importer/exporter with reference to the clearance of Customs Cargo. In the present case, Customs Broker has relied solely on the declaration and documentation provided by the exporter and failed to identify the export goods are restricted item as per SCOMET list. As per the deposition made by the Customs Broker, they had not checked the SCOMET applicability for export goods at the time of filing the Shipping Bill and thus it appeared that the Noticee had not exercised due diligence with regard to the information they had imparted to the exporter in respect of export goods. Thus, in view of this it appeared that the Noticee Broker had failed to comply with the provisions of Regulations 10(e) of CBLR, 2018.

4.4 It, therefore, appeared that the Noticee while facilitating the clearance of goods covered under Shipping Bill No. 7876017 dated 27.02.2024, failed to undertake appropriate diligence and scrutiny in relation to the chemical composition and export classification of the product "Hydrofluoric Acid Despite having access to the Material Safety Data Sheet (MSDS), which clearly disclosed the presence of Hydrogen Fluoride (CAS No. 7664-39-3) a controlled substance listed under Serial No. 09 (SCOMET Code 1D009) of Category 1D of Appendix—3 to Schedule—2 of the ITC (HS) Classification of Export and Import Items. The Noticee did not identify or inform the exporter or the jurisdictional Customs authority that the goods in question are "restricted" for export under the SCOMET regime, as per the Foreign Trade

Policy and the Foreign Trade (Development and Regulation) Act, 1992. This omission is a clear violation of both:

- **Regulation 10(d) —** for failing to advise the client/exporter to obtain the requisite Export Authorisation from the Directorate General of Foreign Trade (DGFT), and

- **Regulation 10(e) —** for failing to exercise due diligence in verifying the export classification and legal status of the item under the applicable rules.

4.5 In light of the foregoing the Noticee i.e. M/S Benchmark Shipping and Logistics, appeared to have failed in their statutory duties under Regulations 10(d) and 10(e) of the CBLR, 2018.

5. As per Regulation 14 of Customs Brokers Licensing Regulations,2018, the Principal Commissioner or Commissioner of Customs may, subject to the provisions of regulation 17, revoke the license of a Customs Broker and order for forfeiture of part or whole of security, on any of the following grounds, namely:

> *(a) failure to comply with any of the conditions of the bond executed by him under regulation 8;*
> *(b) failure to comply with any of the provisions of these regulations, within his jurisdiction or anywhere else;*
> *(c) commits any misconduct, whether within his jurisdiction or anywhere else which in the opinion of the Principal Commissioner or Commissioner of Customs renders him unfit to transact any business in the Customs Station;*
> *(d) adjudicated as an insolvent;*
> *(e) of unsound mind; and*
> *(f) convicted by a competent court for an offence involving moral turpitude or otherwise.*

6. As per Regulation 18 of CBLR,2018, the Principal Commissioner or Commissioner of Customs may impose penalty not exceeding fifty thousand rupees on a Customs Broker or F card holder who contravenes any provisions of these regulations or who fails to comply with any provision of these regulations.

7. Regulation 17 of CBLR, 2018 which prescribes the procedure for revoking license or imposing penalty, is as under:

Regulation 17. Procedure for revoking license or imposing penalty

(1)The Principal Commissioner or Commissioner of Customs shall issue a notice in writing to the Customs Broker within a period of ninety days from the date of receipt of an offence report, stating the grounds on which it is proposed to revoke the license or impose penalty requiring the said Customs Broker to submit within thirty days to the Deputy Commissioner of Customs or Assistant Commissioner of Customs nominated by him, a written statement of defense and also to specify in the said statement whether the Customs Broker desires to be heard in person by the said Deputy Commissioner of Customs or Assistant Commissioner of Customs.

(2) The Commissioner of Customs may, on receipt of the written statement from the Customs Broker, or where no such statement has been received within the time-limit specified in the notice referred to in sub-regulation (1), direct the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, to inquire into the grounds which are not admitted by the Customs Broker.

(3) The Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, shall, in the course of inquiry, consider such documentary evidence and take such oral evidence as may be

relevant or material to the inquiry in regard to the grounds forming the basis of the proceedings, and he may also put any question to any person tendering evidence for or against the Customs Broker, for the purpose of ascertaining the correct position.

(4) The Customs Broker shall be entitled to cross-examine the persons examined in support of the grounds forming the basis of the proceedings, and where the Deputy Commissioner of Customs or Assistant Commissioner of Customs declines permission to examine any person on the grounds that his evidence is not relevant or material, he shall record his reasons in writing for so doing.

(5) At the conclusion of the inquiry, the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, shall prepare a report of the inquiry and after recording his findings thereon submit the report within a period of ninety days from the date of issue of a notice under sub-regulation (1).

(6) The Principal Commissioner or Commissioner of Customs shall furnish to the Customs Broker a copy of the report of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, and shall require the Customs Broker to submit, within the specified period not being less than thirty days, any representation that he may wish to make against the said report.

(7) The Principal Commissioner or Commissioner of Customs shall, after considering the report of the inquiry and the representation thereon, if any, made by the Customs Broker, pass such orders as he deems fit either revoking the suspension of the license or revoking the license of the Customs Broker within ninety days from the date of submission of the report by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, under sub-regulation (5) :

Provided that no order for revoking the license shall be passed unless an opportunity is given to the Customs Broker to be heard in person by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be.

(8) Where in the proceedings under these regulations, the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, comes to a conclusion that the F card holder is guilty of grounds specified in regulation 14 or incapacitated in the meaning of the said regulation, then the Principal Commissioner of Customs or Commissioner of Customs may pass an order imposing penalty as provided in regulation 18:
Provided that where an order is passed against an F card holder, he shall surrender the photo identity card issued in Form F forthwith to the Deputy Commissioner of Customs or Assistant Commissioner of Customs.

(9) Where in an offence report, charges have been framed against an F card holder in addition to the Customs Broker who has been issued a license under regulation 7, then procedure prescribed in regulations 16 and 17 shall be followed mutatis mutandis in so far as the prescribed procedure is relevant to the F card holder:
Provided that where any action is contemplated against a G card holder alone under these regulations, then instead of authority referred to in sub-regulation (8), a Deputy Commissioner or Assistant Commissioner rank officer shall pass such order as mentioned in the said sub-regulation along with debarring such G card holder from transacting the business under these regulations for a period of six months from such order.

Provided further that where an order is passed against a G card holder, then he shall surrender the photo identity card issued in Form G forthwith to the Deputy Commissioner of Customs or Assistant

Commissioner of Customs. Explanation.-Offence report for the purposes of this regulation means a summary of investigation and prima facie framing of charges into the allegation of acts of commission or omission of the Customs Broker or a F card holder or a G card holder, as the case may be, under these regulations thereunder which would render him unfit to transact business under these regulations.

8. In view of the above, as per Regulation 17(1) of CBLR, 2018, the Noticee i.e. M/s. Benchmark Shipping and Logistics having CB Licence No. CHA/ABD/R/09/2016-17 (COSPM1345E), were issued a Notice bearing No.01/2026-27 dated 08.04.2026 from F.No. GEN/TECH/Misc/527/2026-TECH calling upon them to show cause to the Commissioner of Customs, Ahmedabad, as to why:

(i) The Customs Broker license bearing No. CHA/ABD/R/09/2016-17 (COSPM1345E) issued to them should not be revoked under regulation 14 read with regulation 17 of the CBLR, 2018;

(ii) Security deposit should not be forfeited under regulation 14 read with regulation 17 of the CBLR, 2018;

(iii) Penalty should not be imposed upon them under regulation 18 read with regulations 17 of the CBLR, 2018;

9. In terms of Regulation 17 of the Customs Brokers Licensing Regulations,2018, Shri Ashok H Dodia, Assistant Commissioner, Preventive Section, Customs Ahmedabad was nominated as Inquiry Officer in this case and he was required to submit his inquiry report, within the time period prescribed under Regulation 17 of the CBLR, 2018, to the Principal Commissioner of Customs, Custom Commissionerate, Ahmedabad.

10. The Inquiry Officer Shri Ashok H. Dodia, Assistant Commissioner, Preventive Section, Customs Ahmedabad had conducted inquiry against the above Customs Broker in terms of provisions of Regulation 17 of CBLR,

2018 and the Inquiry Officer had submitted his report dated 16.06.2026 to the Principal Commissioner of Customs, Customs Commissionerate, Ahmedabad.

Inquiry Report

11. The Article of Charge-wise report of the Inquiry officer is summarised as below:

11.1 Preliminary contention regarding non-supply of documents – The Customs Broker had contended in their written submission dated 18.05.2026 that two documents, viz. (i) copy of the Exporter's statement recorded under Section 108 of the Customs Act, 1962 and relied upon in the SCN dated 16.03.2026, and (ii) copy of the written declaration of the exporter confirming that the goods did not fall under the SCOMET List, had not been supplied to them, and that conducting the inquiry without supply of the said documents would violate the principles of natural justice and render the report invalid and void.

Findings of the Inquiry Officer – (a) The Inquiry Officer has observed that the written declaration of the exporter confirming that the goods did not fall under the SCOMET List was itself submitted by the Customs Broker before the Customs Authorities at the time of filing of the Shipping Bill, and is therefore already in the possession of the Customs Broker; the said document was in fact placed on record by the Customs Broker along with their defence submission dated 18.05.2026 and has been considered in the inquiry. (b) With regard to the Exporter's statement recorded under Section 108, it has been observed that the Customs Broker is a co-noticee in the Show Cause Notice dated 16.03.2026 issued by the Commissioner of Customs, CEAC, NS-II, JNCH, and the copies of the Relied Upon Documents mentioned therein have already been supplied to the Customs Broker, who has the liberty to file the said documents as evidence in rebuttal during the ongoing inquiry. Therefore, the Inquiry Officer has found that there is no

violation of the principles of natural justice and the contention of the Customs Broker is not tenable.

11.2 Article of Charge (i) – As per Regulation 10(d) of the Customs Brokers Licensing Regulations, 2018, a Customs Broker is mandated to advise his client to comply with the provisions of the Act and the rules and regulations made thereunder, and in case of non-compliance, to bring the matter to the notice of the Deputy or Assistant Commissioner of Customs. In the instant case, M/s. Benchmark Shipping and Logistics filed Shipping Bill No. 7876017 dated 27.02.2024 on behalf of M/s. Kotak Bros. for export of goods declared as "Hydrofluoric Acid" to Kenya, despite having access to the Material Safety Data Sheet which clearly disclosed the presence of Hydrogen Fluoride, a controlled substance listed at Serial No. 09 (SCOMET Code 1D009) of Category 1D of Appendix-3 to Schedule-2 of the ITC (HS) Classification of Export and Import Items. The Customs Broker failed to advise their client to obtain the requisite Export Authorisation from the Directorate General of Foreign Trade and failed to bring the said non-compliance to the notice of the Customs Authorities, thereby failing to comply with the obligations cast upon them under Regulation 10(d) of the CBLR, 2018.

Findings of the Inquiry Officer on Article of Charge (i) – (a) On going through the case records and the written submission dated 18.05.2026 filed by the Customs Broker, the personal hearings fixed on 19.05.2026, 02.06.2026 and 05.06.2026 having remained unattended and the inquiry having accordingly been decided ex-parte, the Inquiry Officer has observed that as per the Export Invoice No. 18A/2023-24 dated 24.02.2024 and the Material Safety Data Sheet submitted by the Customs Broker before the Customs Authorities, it was clear that the export goods were Hydrofluoric Acid (Hydrogen Fluoride) and that the same were covered under the restricted SCOMET List. The Customs Broker, without proper verification as to whether the said goods could be exported outside India, filed the Shipping Bill and did not advise their client regarding the applicable provisions in respect of goods covered under the SCOMET List. Further, the Customs

Broker was required to bring to the notice of the Customs Authorities the non-compliance of the provisions of the Customs Act on the part of the exporter, but the Customs Broker remained oblivious to the contraventions in the present case and failed to report the same to the Customs Authorities, the contravention having come to light only upon scrutiny by the Docks Officers. The contention of the Customs Broker that they had acted under a bona fide belief on the strength of the exporter's declaration has been found untenable, inasmuch as licensed Customs Brokers are granted licence under the CBLR after thorough examination and are expected to work as an arm of the Customs Department, and are further expected to be well conversant with the provisions of the Customs Act and its allied Acts and to guide their client accordingly. This act of omission on the part of the Customs Broker has resulted in non-adherence to the provisions of Regulation 10(d) of the CBLR, 2018. Therefore, the Inquiry Officer has found this Article of Charge proved.

11.3 Article of Charge (ii) – As per Regulation 10(e) of the Customs Brokers Licensing Regulations, 2018, it is obligatory on the part of a Customs Broker to exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage. In the present case, the Customs Broker relied solely on the declaration and documentation furnished by the exporter, did not check the SCOMET applicability of the export goods at the time of filing of the Shipping Bill, and failed to identify that the goods were a restricted item as per the SCOMET List, thereby failing to fulfil the obligation cast upon them under Regulation 10(e) of the CBLR, 2018.

Findings of the Inquiry Officer on Article of Charge (ii) – (a) On going through the case records and the written submission dated 18.05.2026 filed by the Customs Broker, the Inquiry Officer has observed that it is an undisputed fact that the export goods in the present case fall under the list of restricted goods and that the same had been attempted to be exported out of India without proper authorisation from the competent authority; thus it cannot

be considered that the Customs Broker had shown due diligence with respect to clearance of cargo. The Customs Broker has failed to scrutinise the documents produced by the exporter with utmost care and responsibility and has simply relied on the declaration submitted by the exporter and filed the Shipping Bill on a bona fide belief. (b) The contention that there is no evidence to prove prior knowledge on the part of the Customs Broker is not sustainable, inasmuch as the Material Safety Data Sheet available with the Customs Broker declared the goods to be poisonous material and clearly mentioned the presence of Hydrogen Fluoride in the export goods, and the Customs Broker failed to acknowledge the said presence. (c) The contention that Entry Sr. No. 1D009 of Appendix-3 covers only Hydrogen Fluoride and not Hydrofluoric Acid, and that only pure chemicals and not their mixtures or compounds are covered, has been found untenable, inasmuch as the Export Invoice itself classifies the goods under HSN 28111100, the corresponding Customs Tariff Head 2811 11 00 reading "Hydrogen fluoride (hydrofluoric acid)"; both substances bear the single CAS Registry Number 7664-39-3; as per the CAS Registration Criteria a single CAS RN is assigned to a substance having the same principal chemical element regardless of varying physical forms and is not normally assigned to an intentional mixture; and as per the Technical Note to Category 1 of the SCOMET List, chemicals of the same structural formula (e.g. hydrates) are controlled regardless of name or CAS number. Accordingly, Hydrofluoric Acid (Hydrogen Fluoride) is covered under the SCOMET List and is restricted for export outside India. (d) The contention that the Customs Broker had not drawn any undue benefit or charged more than normal clearance charges has been found to be pleading in nature and devoid of merit, the case at hand being related not to monetary benefit but to the export of restricted goods and the failure of the Customs Broker to comply with the provisions of the CBLR, 2018. This act of omission on the part of the Customs Broker has resulted in non-adherence to the provisions of Regulation 10(e) of the CBLR, 2018. Therefore, the Inquiry Officer has found this Article of Charge proved.

11.4. Conclusion of the Inquiry Officer: In light of the above, the Inquiry Officer has concluded that the Customs Broker, M/s. Benchmark Shipping and Logistics, have failed to discharge the statutory obligations under Regulations 10(d) and 10(e) of the Customs Brokers Licensing Regulations, 2018, and thus, appropriate action under the Customs Brokers Licensing Regulations, 2018, is warranted.

11.5. In terms of the provisions under Regulation 17(6), a copy of the Inquiry Report dated 16.06.2026, submitted by the Inquiry Officer, was shared with the above Customs Broker, requiring them to submit their comments/representation, if any, within 30 days of the communication.

Personal hearing and the defence submissions made before the Adjudicating Authority

12. Personal hearing was held on 17.08.2026 wherein Shri A.S. Sahota, the authorized representative of M/s. Benchmark Shipping and Logistics had attended the hearing on behalf of the Customs Broker. During the Personal hearing the learned counsel for the Customs Broker had re-iterated the written submission dated 16.07.2026.

13. The Customs Broker vide letter dated 16.07.2026 have submitted detailed reply against findings of the inquiry report in connection with the Show Cause Notice No. 01/2026-27 dated 08.04.2026 wherein the Customs Broker has inter-alia submitted that:

- They have denied all the allegations levelled in the SCN dated 08.04.2026 vide a letter dated 04.05.2026 and they had requested for a Copy of the Written Declaration, which is part of the statement of Shri Amit Mali and copy of statement of the exporter but they have been informed that that the said documents have not been relied upon in the SCN and thus cannot be furnished.

- They received the business of clearance of the Goods for export from a regular exporter M/s Kotak Bros, who has never come to any adverse Notice and they have been filing export documents on their behalf after taking due authorisation and after verification of their credentials.
- It is not the case of the department either in the SCN issued under section 124 of the Customs Act, 1962 or in the present SCN that the exporter is not in existence or his credentials are lacking in any manner. There is no allegation that they filed the shipping Bill without his authorisation or did not take the authorisation or have not verified their credentials and thus they have taken due precautions and have carried due diligence before filing the Shipping Bill and thus there is complete and full compliance with the CBLR.
- As per the instructions of the M/s Kotak Bros and as per written declaration of the Exporter that the goods are not covered under SCOMET List, they filed the Shipping Bill No. 7876017 dated 27.02.2024 strictly as per the documents made available by the Exporter.
- The fact that the technical details of the goods were filed in the form of Material Safety Data Sheet [MSDS], before the Customs, though not required as mandatory document, proves that they filed all documents before the proper officer.
- The goods were described as Hydrofluoric Acid in the Shipping Bill No. 7876017 dated 27.02.2024 and the FOB value was nominal i.e. 54,035/- for 152 Kgs and they had verified the description of the goods in the SCOMET List but the same was not found appearing in the said List and the Exporter had also given written declaration that the same are not covered under any SCOMET Entry and thus they under bona fide belief filed the said Shipping Bill on behalf of the Exporter without having any knowledge that the same are covered under the SCOMET List.
- There is no allegation in the entire SCN that they were having any knowledge that the goods are covered under the SCOMET List and

they had filed the Shipping Bill knowingly. They had come to know, about the alleged restriction, only at the time of examination of the goods by the Docks officer and thereafter they have fully cooperated with the department and ensured that the goods were taken back to town and thus they ensured that the goods alleged to be restricted are not exported.

- They rely upon the judgment of the Hon'ble Tribunal New Delhi in the case of Sun Impex Clearing and Shipping Agency wherein it was held that when the goods as described in the documents were not covered in the SCOMET List but the same were found covered due to technical characteristics and the said fact was realised only after exportation no penalty or any action under the CBLR is justified.
- In view of the above, the SCN invoking the provisions of Regulation 10(d) and (e) is erroneously issued as it is a matter of record that the Goods as declared in the Invoice, and the SCOMET Declaration by the Exporter i.e. Hydraulic Acid and there is no such Entry in the SCOMET List and the SCN attempts to cover it under of Hydrogen Fluoride and thus both the Entries are distinct and different and thus the CB not being any Chemical Expert cannot be expected to know the Salts or different compounds of any Chemical product.
- Regulation (d) says that the CB will advise the exporter to comply with the provisions and non-compliance will be reported but there is no allegation or evidence that the CB did not advise the exporter to comply with the provisions and in fact the Exporter has given a declaration that the Goods do not fall under SCOMET list.
- As regards the allegation of violation of provisions under Regulation 10(e) of the CBLR, 2018, they submit that they have obtained authorization as well as requisite KYC documents of the exporter and verified the KYC and authenticity of the said exporter on the Government website viz. DGFT and ICEGATE, which constitute as independent and reliable source. The exporter was already registered with Central excise and the under the Rules for claim of Notification.

- There is no evidence in the form of statement of any of the exporter, or any corroborative evidence to prove that they, as the Customs Broker, were having prior knowledge of that the goods fall under the restricted category. Nothing incriminating found against them during the course of the investigations establishing their role directly or indirectly in abetment of alleged attempted export of allegedly restricted goods. They have not violated any of the provisions of Regulation 10(e) of the CBLR, 2018.
- They rely upon the judgments in the case of: M/s. Anax Air Services Pvt. Limited versus Commissioner of Customs, New Delhi. DATE OF DECISION: 03.01.2022 FINAL ORDER NO. 50002/2022 and Commissioner of Customs, New Delhi (Airport and General) Versus M/s CRM Logistics Private Limited. DATE OF DECISION: 03.12.2021 FINAL ORDER NO. 52053 52054/2021
- From the above judgments, it is clear that the mandate is on the authorities to check and verify the claims of the exporter and merely because there are provisions facilitating clearances in a simplified manner such as self-assessment etc., the same cannot be the reason to find fault with the Custom broker as the CB files the Checklist on the basis of documents received from the exporter and whether the Shipping Bill is self-assessed the CB has no role to play and thus merely because any self-assessment has taken place the same cannot be the cause for taking any action against the CB more so when in the present case the consignment was presented and when the restriction was pointed out the same were taken back to town and thus no adverse inference should not be drawn against the CB.
- Violation of the CBLR (d) , (e) and (f) cannot be held to be proved as the impugned SCN has failed to adduce evidence separately in support of each of the Regulation i.e. (d) and , (e) and SCN is totally unspecific, vague and thus none of the Charges including violation of any of the Regulations can be held to be proved. They rely upon the judgment of the Hon'ble High Curt of Madras. 2000 (125) E.L.T. 94

(Mad.) in the case of VAIRAVAN THANDAL Versus APPELLATE COLLECTOR OF CUSTOMS, MADRAS.

- In the matter of inquiries each article of Charge with individual allegations and individual evidence in support of each of the Articles of Charges with Ground of Imputations' is required to be adduced so that Charged CB can defend each of the charges separately. In the present case no individual Charge or evidence in respect of each charge or grounds of imputations have been given and merely a statement clubbing all Regulations together is issued in the form of a SCN, which is totally erroneous as the SCN is to be issued after the completion of the Inquiry on the basis of Articles of Charges and grounds of Imputations supported with Relied upon documents / prosecution witnesses.
- There is no violation of any of the sub-Regulations of Regulation 10 and there is no specific justification for invocation of any of the Regulations and the critical analysis of the evidences ,which have come on record during the investigation , clearly establishes that none of charges can be held to be proved and thus the SCN is required to be quashed and there are no valid grounds to either revoke the License and /or to forfeit the security deposit or levy any penalty and thus the proceedings arising out of SCN are required to be quashed and it is prayed accordingly.
- Neither the present Charge Sheet nor the SCN's even allege that the they had drawn any undue benefits and/or charged more than the normal clearance charges and thus the Company has not gained in any manner. The facts of the case clearly establish that the total value of the goods was about Rs, 50,000/- FOB and the same was being handled on normal clearing charges along with other shipment of Stationery and other miscellaneous goods of the exporter as an add on service.
- The proceedings are being held in haste as the SCN issued under section 124 of the Customs Act, 1962 has not been adjudicated so far and thus the allegation that the goods entered for export were covered

by the SCOMET LIST or not is yet to be adjudicated as the exporter is assuring us again that the same do not fall under the SCOMET LIST.

- Before the finalisation of the above charges, it is essential to determine whether the goods are restricted as claimed by the department or allowed being not covered by the SCOMET List as claimed by the Exporter. Entry at Sr. No. 1D009 of Appendix 3 covers only Hydrogen Fluoride and not Hydrofluoric Acid.
- They have filed the Shipping Bill on behalf of the Exporter for export of a very negligible quantity of negligible value of Hydrofluoric Acid under a bonafide and reasonable belief that the item under export is not restricted in any manner and is nor covered under the SCOMET List.
- The exporter is merchant exporter who was also not aware of the technical characteristic or the active ingredient of the goods as the same were entered for export with the normal trade understanding that the same find use only in glass industry and the goods were not entered for export so as to deliberately circumvent any restriction and thus any lapse which might have happened inadvertently is required to be condoned in the interest of justice.
- Hydrofluoric Acid is regularly used in etching of glass and the same contains water to the extent of 60% as per the MSDS relied upon and the Hydrogen Fluoride is only 40% and thus the goods are not pure chemical.
- Only the Pure chemical list in the SCOMET List is covered and not their mixtures or compounds and, in this regard, attention is invited to General Notes of SCOMET LIST from which it is clear that if the principal element i.e. controlled component or components of the goods can feasibly be removed or used for other purposes, then it is necessary to weigh the factors of quantity, value and technological know-how involved and other special circumstances which might establish the controlled component or components as the principal element of the goods being procured
- In the present case the total quantity under export is 152 kgs and considering that the same contains 40% of controlled component, only

about 60 kgs of controlled components can be separated, subject to technical and economically viability. In the present case the value of the goods is Rs. 54,000/- and thus the value of the controlled component will be about Rs, 21,000/- and thus the goods have wrongly been alleged to be covered by the SCOMET List ignoring the General Notes.

- The SCN does not bring on record any technical feasibility or economic viability of separating the controlled component from the mixture and thus the allegation has been made mechanically and thus is required to be dropped.
- As per the General Notes the goods containing a controlled component of negligible quantity which is primarily for use in industrial application in glass industry has wrongly been alleged to be covered under SCOMET List ignoring the general note specifically allowing leverage for export of mixtures having controlled components by referring to the quantity and viability of separating controlled components. In view of the above, the goods have been wrongly alleged to be covered under the SCOMET List and thus are wrongly proposed to be confiscated u/s 113 of the Act and consequently no penalty u/s 114 is imposable.
- Thus, there is no violation of any of the sub-Regulations of Regulation 10 and there is no specific justification for invocation of any of the Regulations and the critical analysis of the evidences, which have come on record during the investigation, clearly establishes that none of charges can be held to be proved and thus the SCN is required to be quashed and there are no valid grounds to either revoke the License and /or to forfeit the security deposit or levy any penalty.
- They have received a copy of the IR dated 15.06.2026/16.06.2026 on 19.06.2026 holding that they have violated the provisions of Regulation 10 (d) and (e) of the CBLR. The report cannot be at all termed as the IR as the same has been given without critical analysis of the submissions made by them and without giving independent fair and just findings.

- The IO failed to give any findings in respect of the following submissions:- i) Copy of statement of the exporter is not made available despite admitting it as Défense document ; ii) That when the goods as described in the documents were not covered in the SCOMET List but the same were found covered due to technical characteristics and there was no knowledge that main constituent was in that list; iii) Judgement of Hon'ble Tribunal New Delhi in the case of Sun Impex Clearing and Shipping Agency [2024) 19 Centax 158 (Tri. Del)] squarely covered the present case; iv) Only the Pure chemicals in the SCOMET List are covered and not their mixtures or compounds; v) Adjournments were sought on valid grounds.
- None of the judgments, specifically relied upon in reply dated 18.05.2026, are dealt with in the IR and there are no findings that the same are not applicable.
- The IR merits rejection in view of the settled law in the following cases which squarely applies to the IR given by the IO. Kranti Associates Pvt. Ltd. - 2011 (273) E.L.T. 345 (S.C.); Prabhat Zarda Factory Co. 2018 (362) E.L.T. 248 (Del.)
- The IR has been issued without complying with the principles of natural justice, the crucial document, such as the statement of the exporter extensively relied upon in the offense report and allowed as Défense document have not been provided to them and the same was not even available with the IO. It is necessary for the IO to call for the relevant documents, even when the charged CB does not ask for it, so as to conduct the Inquiry in a fair and just manner. The assumption made by the IO that the same has been provided with the SCN issued under section 124 is incorrect as the said statement has not been provided. Even otherwise, the inquiry proceedings are independent and mutually exclusive and thus the evidence in the inquiry is required to be adduced independently.
- The IO failed to appreciate that obtaining of the Declaration in writing from the exporter and filing of MSDS shows their bona fide and

carrying out due diligence in the matter and thus the IR wrongly observes that there was lack of due diligence on their part.

- The IO wrongly observes that they failed to carry out scrutiny of documents with utmost care ignoring the fact that the issue involved is highly technical and thus has to be viewed in that perspective. It is not the case of the department that the goods as described in the Shipping documents are covered in the SCOMET list but the fact remains that the entry at Sr. No. 1D009 of Appendix 3 covered only Hydrogen Fluoride and not Hydrofluoric Acid.
- In view of the judgment in the case of M.s Sun Impex, which deals with a situation where the exportation was permitted by the officers as the Entry was not directly covering the goods under export. Thus, the IR holding that they failed to carryout utmost care is required to be rejected.
- The IR wrongly holds that their contention that they were not aware that the goods as described in the shipping documents are covered in the List, is not acceptable as they have themselves filed MSDS showing the presence of Hydrogen Fluoride. The IO ought to have appreciated that the shipping documents were describing the goods as Hydrofluoride Acid and hydrogen fluoride was a component shown in the MSDS, which was filed solely for shipping/transport purposes for inflammatory, explosive or hazardous nature of the goods and thus was not scrutinized for the purpose of any compliance or requirement under the Act.
- They had verified the documents with the SCOMET LIST, which covered only Hydrogen Fluoride and not Hydrofluoric Acid and thus there was no reasons to believe that the same are covered under the SCOMET List and thus the Shipping bill was filed in a bona fide manner without having any prior knowledge.
- The IO wrongly brought in the issue of classification of the goods under CTH 2811 which was not the part of the SCN and thus acted beyond jurisdiction or in excess of jurisdiction to somehow hold that the CB violated the CBLR. Fact remains that the SCN did not involve

the issue of classification of the goods under the Customs Tariff and thus the IR has not been given by applying judicial mind and is arbitrary and in excess of jurisdiction and is thus required to be rejected.

- The IO has also referred to the CAS number extensively to hold that Hydrogen Fluoride and Hydrofluoric Acid are one and the same but failed to appreciate or give any findings that the entry at Sr. No. 1D009 of Appendix 3 covered only Hydrogen Fluoride and not Hydrofluoric Acid and only the Pure chemicals listed in the SCOMET List are covered and not their mixtures or compounds.
- The IR holding that there is violation of the provisions of Regulation 10(d) and (e) is erroneous as it is a matter of record that the Goods as declared in the Invoice, and the SCOMET Declaration by the Exporter i.e. Hydrofluoric Acid and there is no such Entry in the SCOMET List and the SCN attempts to cover it under Hydrogen Fluoride. Both the Entries are distinct and different and thus they not being any Chemical Expert cannot be expected to know the Salts or different compounds of any Chemical product. No occasion arose to advise the exporter and it is not the case in the SCN that the exporter sought any advice about the same but the same was not furnished. Thus, the allegation of not advising the exporter is wrongly levelled and there is no admissible evidence to prove the said allegation and thus the same was required to held as UNPROVED.
- Regulation (d) stipulates that the CB will advise the exporter to comply with the provisions and non-compliance will be reported but there is no allegation or evidence that they did not advise the exporter to comply with the provisions and in fact the Exporter has given a declaration that the Goods do not fall under SCOMET list.
- Their conduct proves that there was no violation of Regulation 10 (d) and the same was required to be held as unproved more so in view of the binding judgments and thus IR wrongly holds that the charge is proved and thus IR merits to be rejected.

- As far as rendering advice to the exporter and the allegation of violation of Regulation 10(d) is concerned, the law laid down in the following judgments is applicable to the fact of the case and the Charge of violation of Regulation 10(d) is wrongly held as 'PROVED':- 2016 (337) E.L.T. 586 (Tri. - Del.) P.V. CARGO CARRIERS P. LTD. Versus COMMR. OF CUS. (GENERAL), NEW DELHI
- The above Regulation has been misconstrued by the Ld. IO by holding that the above Clause obligates the CB toward the proper officer, which is incorrect as the above Clause only obligates the CB towards his client and thus the Ld. IO's findings that the allegation of violation of Regulation 10(e) is proved is patently wrong and is required to be rejected.
- The livelihood of various persons and employees directly depend on the operation of the company and the CB License and thus the entire case may kindly be viewed and considered sympathetically with human approach. It is prayed that the SCN may kindly be dropped.

Discussions and Findings:

14. I have carefully gone through the Offence Report received from the Office of Commissioner of Customs, NS-II, JNCH, Mumbai Zone-II, the present Show Cause Notice, the Inquiry Report submitted by the Inquiry Officer, and the submissions of the Noticee made in writing as well during the personal hearing. I find that the Notice proposes revocation of the Customs Broker Licence issued to the Noticee under Regulation 14 read with Regulation 17 of the CBLR, 2018; forfeiture of the Security Deposit under Regulation 14 read with Regulation 17 of the CBLR, 2018 and imposition of penalty under Regulation 18 read with Regulation 17 of the CBLR, 2018.

15. In terms of Regulation 17 of the Customs Brokers Licensing Regulations,2018, an Inquiry Officer was appointed to cause necessary inquiries and submit his report to the Principal Commissioner of Customs,

Custom Commissionerate, Ahmedabad. Before dealing with the merits of the issue on considering the submissions of the Noticee, I find it pertinent to refer to the Inquiry Report dated 16.06.2026 submitted by the Inquiry Officer. The relevant part of the Inquiry Report with regard to the charges levelled against the Noticee are reproduced below:

> *"11. With regard to the contention that CB had taken due precautions and have excercised due diligence before filing the Shipping Bill, it is observed that it is an undisputed fact that the export goods in the present case fall under the list of restricted goods and the same had been attempted to be exported out of India without the proper authorization from the competent authority. Thus, in view of this it cannot be considered that Customs Broker had shown due diligence with respect of clearance of cargo in the present case.*
>
> *12.1 In this regard, it is observed that the contention put forth in their defence reply that they were not aware that the export goods were covered under any SCOMET Entry and were restricted for export outside India and the Shipping Bill had been filed by the Customs Broker on Bona fide belief that the exporter had submitted a declaration is totally unstainable. It is observed Customs Broker are granted licence under the CBLR, regulations after thorough examination and licenced Customs Brokers are expected to work as arm of Customs Department. The Customs Broker have been bestowed upon with a lot of responsibility with regards to documents produced by them before the Customs Authorities and it is expected that careful scrutiny of the documents is done by a CB before the same is presented for examination before a Customs Officer.*
>
> *12.2 It is observed that the Customs Broker has failed to scrutinized the documents produced by the exporter with utmost care and responsibility as the Customs Broker has simply relied on the declaration submitted by the exporter and on bona fide belief has filed by the shipping Bill. The Customs Broker has failed to observe that the export goods were covered under the restricted SCOMET list and the details were mentioned in the Material Safety Data Sheet (MSDS) but the Customs Broker had remained oblivious to the said fact and had presented the goods before the Customs Authorities. In view of these circumstances, it is clear the customs broker has failed fulfil their obligations as a licenced Customs Broker and accordingly, contention put forth by CB in the said case is not tenable.*

13.1. It is observed that the contention of the Customs Broker that there is no evidence to prove that the Customs Broker had prior knowledge that the goods fall under the restricted category is not sustainable because as per the facts and records available in the present case, in the MSDS the goods have been declared as poisonous material and in the MSDS it had been clearly mentioned that Hydrogen Fluoride was present in the export goods. The said MSDS was available with the Customs broker, but the CB had failed acknowledge the presence of Hydrogen Fluoride in the said goods.

13.2 The Customs Broker had relied solely on the declaration submitted exporter that the export goods did not fall under the category of restricted goods as per the SCOMET list. This act of omission on the part of Customs broker clearly shows that the Customs Broker has failed to act responsibly as they have clearly ignored the provisions of Customs and its allied act with regards to restriction on exports of certain goods. The Import/Export procedures under the Customs Act are complex procedures and it is expected from a licenced Customs Broker that they are well conversant with the provisions of the Customs and its allied act. Further, it is expected that the Customs Broker will guide their client with regards to the said provisions and restrictions but in the present case the Customs Broker without application of mind has simply relied on the declaration submitted by their client. Accordingly, in view of these facts and circumstances it clear that the contention of Customs broker that they were not having any prior knowledge that the goods fall under the restricted category is not tenable.

14.1 This contention of the Customs Broker that they have not drawn any undue benefits from the present transaction with the exporter is not sustainable as the case at hand is not related to the monetary benefit availed by the exporter or the Customs Broker but it is related to the export of restricted goods and failure of Customs Broker to comply with the provisions of CBLR, 2018. In the present case the Customs Broker has failed to show due diligence with respect to verification of goods in respect of restriction as per SCOMET list, which in turn had resulted in failed attempt to export Hydrofluoric Acid without proper authorization.The contention of the Customs Broker is pleading in nature and devoid of any merit or material evidence and thus it is found untenable.

15.1 With regard to the classification of the export goods, it is observed that as per the Export Invoice bearing no. 18A/2023-24 dated 24.02.2024 description of the goods has been mentioned as

*" **Hydrofluoric Acid UNNA:1790 PG:II (Class 6.1) IIP Certification No. UN 107637 0009 Rev. 02**" and the HSN Code for the export goods has been mentioned as " **28111100**.*

15.2 In view of the above, it is observed that Hydrofluoric Acid has been classified under the Customs Tariff Head 28 which deals with the classification of- " Inorganic chemicals, organic or inorganic compounds of precious metals, of rare-earth metals, of radioactive elements or of isotopes" and as per the said classification, Hydrogen Fluoride (Hydrofluoric Acid) has been mentioned under the CTH 28111100, the relevant portion of the Customs Tariff Head 28 is reproduced below:-

*15.3 Further, the CAS RN (Chemical Abstract Service Registry Number) number of both Hydrofluoric Acid& Hydrogen Fluoride is (**7664-39-3**), and on perusal of CAS (Chemical Abstract Service) Registration Criteria- Overview which is reproduced below: -*
It is observed that a single CAS RN is assigned to substance having principle chemical element regardless of the varying physical forms and further, a single CAS RN is not assigned to an intentional mixture and CAS RNs are provided for the individual components of the mixture.

*15.4 In view of the above, it is observed thatboth Hydrofluoric Acid& Hydrogen Fluoride have been assigned a single CAS RN i.e. **7664-39-3**& both have been classified under a single Customs Tariff Head 28111100. Therefore, in view of the above it can be concluded that both the substances are same chemicals regardless of their physical forms.*

It is observed that chemical substances having the same Chemical Abstract Service Registry Name (CAS- RN) are restricted regardless of their physical form. Accordingly, in view of the above, the Hydrofluoric Acid (Hydrogen Fluoride) are covered under SCOMET List and are restricted for export outside India.

*16.1 **For violation of Regulation 10(d) of CBLR, 2018:***

As per the provisions of Regulation 10(d) of the Customs Broker Licensing Regulations, 2018, explicitly requires a Customs Broker to advise client to comply with the provisions of the Act, other allied Acts and the rules and regulation thereof. But, in the present case it is observed that as per the Export Invoice and Material Safety Data Sheet submitted by the Customs Broker before the Customs Authorities, it was clear that the export goods were Hydrofluoric

Acid (Hydrogen Fluoride) and the same were covered under the restricted SCOMET List. But, the Customs Broker without proper verification as to whether the said goods can be exported outside India and had filed the Shipping Bill and had not advised their clients regarding the applicable provisions in respect of goods covered under SCOMET List.

Further, as per the provisions of the said Regulation the Customs Broker was also required to bring to the notice of the Customs Authorities, the non-compliance of the provisions of Customs Act on the part of the Exporter in the present case. But the Customs Broker had remained oblivious to the contraventions in the present case and had failed to report the same to Customs Authorities. This act of omission on the part of Customs Broker has led to the non-compliance of provisions of Regulation 10(d) of CBLR, 2018.

16.2 ***For violation of Regulation 10(e) of CBLR, 2018:***

The Regulation 10(e) of the Customs Broker Licensing Regulations, 2018, mandates a Customs Broker to exercise due diligence to ascertain the correctness of any information he imparts to client with any reference to any work related to clearance of cargo.

In regard to the said contravention, it is observed that Customs Broker are granted licence under CBLR, regulations after thorough examination and licenced Customs Brokers are expected to work as arm of Customs Department. The Customs Broker have been bestowed upon with a lot of responsibility with regard to documents produced by them before the Customs Authorities and it is expected that careful scrutiny of the documents is done by a CB before the same is presented for examination before a Customs Officer. It is an undisputed fact that the export goods in the present case fall under the list of restricted goods and the same had been attempted to be exported out of India without the proper authorization from the competent authority. Thus, in view of this it cannot be considered that Customs Broker had shown due diligence with respect of clearance of cargo in the present case.

Customs Broker has failed to scrutinized the documents produced by the exporter with utmost care and responsibility as the Customs Broker has simply relied on the declaration submitted by the exporter and on bona fide belief had filed by the shipping Bill. The Customs Broker has failed to observe that the export goods were covered under the restricted SCOMET list and the details were

mentioned in the Material Safety Data Sheet (MSDS) but the Customs Broker had remained oblivious to the said fact and had present the goods before the Customs Authorities without excursing due-diligence. This act of omission on the part of Customs Broker has led to the non-compliance of provisions of Regulation 10(e) of CBLR, 2018.

Conclusion

17. In light of the above, the Customs Broker, M/s.Benchmark Shipping and Logistics, have failed to discharge statutory obligations under Regulations 10(d), and 10(e) of the Customs Brokers Licensing Regulations, 2018 and thus, appropriate action under the Customs Brokers Licensing Regulations, 2018, is warranted."

16. I proceed to deal with the submissions and contentions of the Noticee in the light of the above findings of the Inquiry Officer as well as the material available on record. The Noticee have principally contended that:

a) They had done necessary KYC of the Exporter who had never come to any adverse notice of the department.
b) They had filed the Shipping Bill on the basis of the documents submitted by the exporter and also relying upon the Declaration of the Exporter that the goods presented for export were not falling under the SCOMET List.
c) The goods presented for export was not the same which figured in the SCOMET List.
d) The issue of classification of the goods entered into by the Inquiry Officer was beyond the scope of the show cause notice issued to them.
e) There is no allegation that they have benefited monetarily.
f) Violation of the principles of natural justice inasmuch as they were not supplied copies of documents sought by them and also for the reason that opportunity of personal hearing was not granted to them despite adjournment having been sought by them.

Examination of the charges

17. I have carefully considered the Offence Report, the Show Cause Notice dated 08.04.2026 issued under Regulation 17(1) of the Customs Brokers Licensing Regulations, 2018, the Inquiry Report dated 16.06.2026, the written submissions made by the Noticee, their representation dated 16.07.2026 against the Inquiry Report, the submissions made during personal hearing, and the material available on record. The principal charges against the Noticee relate to failure to discharge the obligations prescribed under Regulations 10(d) and 10(e) of the CBLR, 2018. Since the two Regulations prescribe distinct obligations, I consider it appropriate to examine each charge separately.

17.1 The Noticee have contended that they had undertaken the prescribed KYC verification of the exporter, M/s. Kotak Bros.; that the exporter was an existing and regular client who had not previously come to adverse notice; and that the subject Shipping Bill was filed under due authorisation from the exporter. These facts are not in dispute. However, the present proceedings do not allege any contravention relating to KYC, authorisation or verification of the identity/existence of the exporter. Compliance with those obligations, therefore, does not by itself answer the specific allegations under Regulations 10(d) and 10(e), which are required to be independently examined on their respective ingredients.

Charge under Regulation 10(d) of the CBLR, 2018

17.2 Regulation 10(d) of the CBLR, 2018 requires a Customs Broker to *"advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be."* The obligation of a licensed Customs Broker is, therefore, not confined merely to accurate

transcription of the particulars furnished by an exporter into a Shipping Bill. While a Customs Broker cannot reasonably be expected to possess specialised technical expertise in every commodity, he is nevertheless expected to exercise the degree of professional care reasonably expected of a person licensed to transact Customs business and, where the documents available with him disclose an apparent statutory restriction or inconsistency requiring clarification, to appropriately advise his client before proceeding with the Customs transaction.

17.3 In the present case, Shipping Bill No. 7876017 dated 27.02.2024 was filed by the Noticee on behalf of M/s. Kotak Bros. for export of goods described as "Hydrofluoric Acid". The documents available with the Noticee included the Export Invoice, Packing List, Hazardous Goods Declaration, Non-SCOMET declaration and Material Safety Data Sheet (MSDS). Significantly, the MSDS expressly disclosed the presence of Hydrogen Fluoride (CAS No. 7664-39-3) in a concentration of 40%. Hydrogen Fluoride was specifically appearing under Serial No. 09 (SCOMET Code ID009) of Category 1D of the applicable SCOMET List. The material forming part of the Offence Report further records that export of the subject goods required an Export Authorisation from DGFT and that no such authorisation had been obtained.

17.4 It is further material that the intended destination of the goods was Kenya, which, as per the applicable SCOMET provisions forming the basis of the proceedings, did not fall within the permitted destinations specified under Table I of Category 1D. Thus, the regulatory issue involved was not merely the absence of an ordinary procedural document but concerned an attempted export of a SCOMET-controlled chemical to a destination for which the prescribed conditions had not been fulfilled.

17.5 The issue for determination is not whether the Customs Broker was required to independently conduct a chemical analysis or possess the expertise of a chemical examiner. The relevant question is whether the

express disclosure of "Hydrogen Fluoride" in the MSDS available with the Noticee constituted information which ought reasonably to have alerted a licensed Customs Broker to the possible applicability of the SCOMET export-control regime and required him to advise the exporter accordingly before filing the Shipping Bill.

17.6 In this regard, the statement dated 14.07.2025 of Shri Amit Naranbhai Mali, F-Card holder of the Noticee, assumes significance. He admitted that the Noticee were aware of the SCOMET guidelines and of the requirement for prior export authorisation in respect of SCOMET goods, but that they had not checked the SCOMET applicability at the time of filing the subject Shipping Bill and had proceeded on the basis of the Non-SCOMET declaration furnished by the exporter. He further acknowledged that failure to verify the validity of the Non-SCOMET declaration was an oversight on their part. The F-Card holder subsequently expressly accepted responsibility for the lapse and requested that a lenient view be taken.

17.7 I have considered the contention that the Noticee were entitled to rely upon the written Non-SCOMET declaration furnished by the exporter. Obtaining such a declaration is undoubtedly a relevant compliance measure. However, such declaration cannot be viewed in isolation where another document forming part of the same transaction expressly disclosed the presence of "Hydrogen Fluoride". Once such information was available with the Noticee, the apparent inconsistency between the Non-SCOMET declaration and the MSDS required, at the minimum, further examination and appropriate advice to the exporter before proceeding with filing of the Shipping Bill.

17.8 I therefore find that the Noticee ought reasonably to have noticed the apparent regulatory issue disclosed by the documents available with them and ought to have advised their client to ascertain and comply with the applicable SCOMET requirements before proceeding with the export

transaction. In the event of non-compliance, the matter was required to be brought to the notice of the competent Customs authority. Instead, the Shipping Bill was filed without such verification/advice and the issue was detected by Customs during scrutiny of the export consignment.

17.9 I accordingly hold that the Noticee failed to discharge the obligation cast upon them under Regulation 10(d) of the CBLR, 2018. The charge under Regulation 10(d) of the CBLR, 2018, therefore stands proved.

Charge under Regulation 10(e) of the CBLR, 2018

18. I now independently examine the allegation under Regulation 10(e). Regulation 10(e) requires a Customs Broker to *"exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage."* The language employed in the Regulation is significant. The statutory obligation relates to the correctness of information imparted by the Customs Broker to his client.

18.1 In the present case, the allegation is that the Noticee failed to correctly appreciate and act upon information and documents furnished by the exporter to the Noticee, particularly the MSDS and Non-SCOMET declaration. The record does not identify with sufficient specificity any particular incorrect information concerning SCOMET applicability which was imparted by the Noticee to the exporter, the correctness of which the Noticee failed to ascertain.

18.2 The failure of the Noticee to appropriately act upon the information available with them and to advise the exporter regarding compliance with the applicable export-control requirement has already been examined in the context of Regulation 10(d). The same factual omission cannot, without satisfying the distinct ingredients of Regulation 10(e), automatically be treated as an independent contravention thereof.

18.3 I therefore hold that although the conduct of the Noticee establishes failure to discharge the advisory obligation prescribed under Regulation 10(d), the ingredients necessary for independently establishing contravention of Regulation 10(e) have not been sufficiently established on the charge as framed and the evidence available on record. Accordingly, the charge under Regulation 10(e) is not proved.

SCOMET contention and classification issue

19. The Noticee have extensively contended that the goods declared as "Hydrofluoric Acid" are different from "Hydrogen Fluoride" appearing in the SCOMET List; that the product contained only 40% Hydrogen Fluoride and 60% water; and that the Inquiry Officer travelled beyond the scope of the Notice by referring to CTH 28111100, CAS number and related technical material.

19.1 I find that the reference to CTH 28111100 cannot, by itself, be regarded as introduction of a new charge against the Noticee. The description and classification declared in the export documents already formed part of the transaction forming the basis of the proceedings. Reference to the tariff description may therefore legitimately be made as corroborative material for appreciating whether the information available to the Customs Broker reasonably called for further verification/advice. However, the present proceedings under CBLR are concerned with the professional obligations of the Customs Broker and are not intended to substitute the adjudication of the proceedings independently initiated under the Customs Act against the exporter/other noticees.

19.2 Therefore, for determining the charge under Regulation 10(d), it is neither necessary nor appropriate for me to attribute to the Noticee any deliberate attempt to misdescribe the goods or circumvent the SCOMET provisions, particularly when no such deliberate conduct or collusion has

been specifically established against the Noticee in the present proceedings. What is relevant is that the documents admittedly available with the Noticee expressly disclosed Hydrogen Fluoride and thereby presented a regulatory issue which a reasonably diligent Customs Broker ought not to have ignored while advising his client.

19.3 The contention concerning 40% concentration and applicability of the General Notes to the SCOMET List does demonstrate that the ultimate technical determination may involve considerations beyond merely reading the commercial description. This circumstance supports the Noticee's contention to the limited extent that they cannot be expected to undertake the functions of a chemical expert. At the same time, it does not absolve the Noticee from their obligation under Regulation 10(d), since the presence of Hydrogen Fluoride was expressly disclosed in the MSDS and was sufficient, at the minimum, to require the Noticee to advise the exporter to verify and comply with the applicable SCOMET requirement before proceeding further.

Case laws relied upon by the Noticee

20. The Noticee have placed substantial reliance upon the decision in *Sun Impex Clearing and Shipping Agency* to contend that a Customs Broker cannot be penalised where SCOMET applicability emerges from technical characteristics of the goods which could not reasonably be ascertained from the commercial documents. I have considered the said decision. The principle that a Customs Broker cannot be expected to possess specialised technical expertise or independently determine technical characteristics which are not reasonably apparent from the documents is not disputed.

20.1 However, I find a material factual distinction in the present case. Here, the document available with the Noticee, namely the MSDS, itself expressly disclosed the presence of Hydrogen Fluoride, together with CAS No. 7664-39-3 and its concentration. Further, the F-Card holder of the Noticee admitted that SCOMET applicability was not checked and

characterised the omission to verify the Non-SCOMET declaration as an oversight. The finding against the Noticee under Regulation 10(d), therefore, does not proceed on an expectation that the Customs Broker should independently discover an undisclosed technical characteristic of the goods. It proceeds upon their failure to appropriately act upon information expressly appearing in the documents available with them.

20.2 I have also considered the other decisions relied upon by the Noticee, including *Anax Air Services Pvt. Ltd.*, *CRM Logistics Pvt. Ltd.*, *P.V. Cargo Carriers Pvt. Ltd.*, *Vairavan Thandal*, *Kranti Associates Pvt. Ltd.* and *Prabhat Zarda Factory Co.* The principles emerging therefrom regarding the need for specific charges, adherence to natural justice, reasoned findings and determination of liability with reference to the particular obligation alleged have been kept in view while arriving at the findings recorded herein.

Absence of monetary benefit

21. The Noticee have contended that there is no allegation or evidence of collusion, deliberate facilitation or monetary benefit arising from the subject transaction. I find that absence of monetary benefit does not, by itself, extinguish an established contravention of an obligation under Regulation 10 of the CBLR, 2018. Regulation 14 does not make monetary gain an essential ingredient for action arising from failure to comply with the Regulations.

Alleged violation of principles of natural justice

22. The Noticee have contended that the principles of natural justice were violated on account of non-supply of certain documents, particularly the statement of the exporter, and because the Inquiry Officer proceeded in their absence despite requests for adjournment.

22.1 I find that the finding recorded by me under Regulation 10(d) is based upon the Shipping Bill and documents pertaining to the subject export transaction, including the invoice, MSDS and declarations furnished in relation thereto, together with the statement of the F-Card holder of the Noticee. I have not relied upon the statement of the exporter for arriving at the adverse finding against the Noticee. Therefore, even assuming that the Noticee disputes receipt of the exporter's statement, no adverse finding in this order is founded upon that statement. Consequently, non-availability/non-supply thereof has not caused prejudice to the Noticee in respect of the finding recorded herein.

22.2 As regards opportunity during inquiry, the record indicates that opportunities of hearing were fixed by the Inquiry Officer on 19.05.2026, 02.06.2026 and 05.06.2026. The Inquiry Officer thereafter submitted the Inquiry Report on 16.06.2026. A copy thereof was furnished to the Noticee; the Noticee submitted a detailed representation dated 16.07.2026 against the Inquiry Report; and thereafter personal hearing before the adjudicating authority was held on 17.08.2026, at which their authorised representative appeared and reiterated their submissions.

22.3 I have independently considered the Noticee's representation against the Inquiry Report and the submissions advanced during personal hearing instead of treating the conclusions of the Inquiry Officer as binding. Having regard to the opportunities available and the independent consideration accorded to their defence in this order, I find that no prejudice survives which would vitiate the present proceedings on the ground of violation of principles of natural justice.

Conclusion

23. In view of the foregoing discussion and upon an independent examination of the ingredients of the respective provisions, I hold that the charge of failure to discharge the statutory obligation under Regulation 10(d)

of the CBLR, 2018 stands proved. The material on record establishes that, despite information available in the MSDS warranting examination of the applicable SCOMET restrictions, the Noticee failed to appropriately advise the exporter and proceeded with filing of the Shipping Bill. However, the evidence on record does not establish the distinct ingredients necessary for sustaining a contravention of Regulation 10(e), particularly any incorrect information imparted by the Noticee to its client. Accordingly, the charge under Regulation 10(e) is held to be not proved.

Whether revocation is warranted

23.1 Having held the contravention of Regulation 10(d) to be established, I now proceed to determine the appropriate consequence under the CBLR, 2018. I am conscious that revocation of a Customs Broker licence is a serious regulatory consequence and should not follow mechanically from every technical breach of the Regulations. The nature of the obligation breached, the degree of negligence involved, the nature of the goods and regulatory restriction concerned, the potential consequences of the lapse, and the overall conduct of the Customs Broker are relevant considerations in determining whether the established contravention warrants revocation, forfeiture of security and/or penalty.

23.2 In the present case, the contravention cannot, in my considered view, be characterised as merely technical. The subject goods were not ordinary freely exportable merchandise but goods containing Hydrogen Fluoride, a chemical expressly appearing under Serial No. 09 (SCOMET Code ID009) of Category 1D of the SCOMET List. The SCOMET framework constitutes a specialised export-control regime governing strategic and sensitive goods and technologies, and compliance with the restrictions prescribed thereunder assumes significance beyond ordinary procedural compliance in Customs clearance. Further, the intended destination was Kenya, which, as per the applicable provisions relied upon in the proceedings, did not fall within the specified permitted destinations for the subject SCOMET

category, and no requisite export authorisation from DGFT had been obtained.

23.3 What assumes particular significance is that the information giving rise to the SCOMET concern was not concealed from the Noticee or discoverable only upon laboratory testing or specialised scientific examination. The MSDS available with the Noticee expressly disclosed the presence of “Hydrogen Fluoride”, together with CAS No. 7664-39-3 and its concentration of 40%. The Noticee's F-Card holder has further admitted that he was generally aware of the SCOMET guidelines and the requirement of prior authorisation for SCOMET goods, but that the applicability of SCOMET provisions was not checked at the time of filing the subject Shipping Bill and that failure to verify the Non-SCOMET declaration furnished by the exporter was an oversight on their part. Thus, this is not a case where the regulatory character of the goods could have been discovered only through technical investigation wholly beyond the reasonable competence of a Customs Broker.

23.4 I have duly considered the mitigating circumstances urged by the Noticee, namely that the exporter was an existing client; that the Noticee had obtained a written Non-SCOMET declaration; that there is no evidence of extraordinary monetary benefit or collusion; that the MSDS was itself furnished to Customs and was not suppressed; and that the goods ultimately did not leave India. These circumstances weigh against attributing any deliberate attempt or conscious complicity to the Noticee. However, absence of deliberate complicity does not, by itself, render the established lapse insignificant. The statutory obligations imposed upon a licensed Customs Broker are intended precisely to ensure that the Customs clearance mechanism is not reduced to mechanical filing of declarations received from clients, particularly where the documents available with the Broker themselves disclose information calling for regulatory scrutiny.

23.5 The Noticee's reliance upon the Non-SCOMET declaration furnished by the exporter also does not, in the peculiar facts of the present case, constitute sufficient discharge of their professional obligation. A declaration obtained from a client is undoubtedly a relevant compliance safeguard. However, where another document forming part of the very same transaction expressly disclosed "Hydrogen Fluoride", a substance appearing in the SCOMET List, the Noticee was required, at the minimum, to reconcile the apparent inconsistency, advise the exporter regarding the applicable export-control requirement and, in the event of non-compliance, bring the matter to the notice of the competent Customs authority. Instead, the Shipping Bill was filed without such verification or advice, and the regulatory issue came to light upon scrutiny by the Customs officers.

23.6 I therefore find that the lapse goes to a core professional obligation of the Customs Broker under Regulation 10(d) and concerns an export-control regime applicable to strategically controlled goods. The nature of the goods, the express information available in the MSDS, the absence of the requisite DGFT authorisation, the destination involved, and the admitted failure to examine SCOMET applicability, when considered cumulatively, elevate the lapse beyond an isolated clerical or technical error.

23.7 I am conscious that revocation is the most serious consequence contemplated under Regulation 14 and that the consequence imposed must bear a reasonable relationship to the gravity of the contravention established. I have therefore considered whether imposition of monetary penalty alone would adequately meet the ends of the regulatory framework. In my considered view, it would not. The licensing regime under the CBLR rests upon the confidence that a Customs Broker will act with the degree of professional vigilance reasonably expected of an intermediary entrusted with facilitating transactions across the Customs frontier. Where, despite the documents in his possession expressly disclosing a controlled chemical, and despite being aware generally of the SCOMET regime, the Customs Broker admittedly fails to examine the applicability of the restriction and proceeds

to file the Shipping Bill for export to a destination which, as per the applicable SCOMET provisions forming the basis of these proceedings, was not amongst the specified permitted destinations, and without the requisite authorisation, the failure materially impairs that confidence. I therefore find that the established contravention is sufficiently grave to warrant action under Regulation 14 and that revocation of the licence is proportionate to the nature and gravity of the lapse.

23.8 I also take note that the subject Customs Broker licence has separately been revoked vide Order-in-Original No. AHM-CUSTM-000-COMMR-09-2026-27 dated 25.08.2026 in proceedings arising out of a separate and distinct set of facts and contraventions. The existence of the said order does not render the present proceedings infructuous, since the charges arising in the present proceedings require independent determination on their own merits and the consequence flowing therefrom is also required to be independently recorded, subject to the outcome of appellate proceedings, if any, in either matter. Accordingly, the finding that revocation is warranted in the present proceedings is being recorded independently of the revocation ordered in the earlier proceeding.

ORDER

24. In view of the facts, discussion of the evidence and findings recorded hereinabove, I pass the following order:

i. I hereby **revoke the Customs Broker Licence No. CHA/ABD/R/09/2016-17 (COSPM1345E)** issued to **M/s. Benchmark Shipping and Logistics**, under Regulation 14 read with Regulation 17 of the CBLR, 2018, for the contravention of **Regulation 10(d)** of the CBLR, 2018, as established in the foregoing findings.

ii. The charge of contravention of **Regulation 10(e) of the CBLR, 2018 is not sustained**, for the reasons recorded in the foregoing findings,

and the proceedings to that extent are accordingly **dropped**.

iii. I note that the **security deposit** furnished in respect of the aforesaid Customs Broker Licence **already stands forfeited** vide **Order-in-Original No. AHM-CUSTM-000-COMMR-09-2026-27 dated 25.08.2026**, passed in a separate and unconnected proceeding. Since the same security deposit cannot effectively be forfeited again, **no separate order for forfeiture of the security deposit is passed in the present proceedings**. This shall, however, not affect the independent finding in the present proceedings that the contravention established herein warrants action under Regulation 14 of the CBLR, 2018.

iv. I hereby impose a **penalty of ₹40000/- (Rupees Forty Thousand only)** upon **M/s. Benchmark Shipping and Logistics** under Regulation 18 of the CBLR, 2018, for the contravention of Regulation 10(d) established in these proceedings. The penalty is imposed having regard to the nature and gravity of the contravention and is **independent of the penalty, if any, imposed vide Order-in-Original No. AHM-CUSTM-000-COMMR-09-2026-27 dated 25.08.2026**, the present proceedings having arisen out of a separate and distinct transaction and cause of action.

25. I further clarify that the finding and order of revocation recorded herein are founded independently upon the facts, evidence and contravention established in the present proceedings and are without prejudice to the revocation of the same licence already ordered vide Order-in-Original No. AHM-CUSTM-000-COMMR-09-2026-27 dated 25.08.2026 in the separate proceedings concerning Regulations 10(n) and 10(q) of the CBLR, 2018. The present order constitutes an independent determination under the CBLR, 2018 and shall remain subject to its own appellate consequences, irrespective of the outcome of any appellate proceedings arising from the said earlier order.

26. Show Cause Notice bearing No. 01/2026-27 dated 08.04.2026 from F.No. GEN/TECH/Misc/527/2026-TECH is disposed of accordingly.

Digitally signed by
MANISH KULHARY
Date: 14-09-2026
16:08:09
(Manish Kulhary)
Commissioner

F. No.: GEN/TECH/Misc/527/2026-TECH Date: 14.09.2026

BY E-MAIL / SPEED POST

To,

M/s. Benchmark Shipping and Logistics
Customs Broker Licence No. CHA/ABD/R/09/2016-17 (COSPM1345E)
Shop No. 26, Aditya Complex, SAL Hospital Road,
Surdhara Circle, Opp. St. Kabir School, Thaltej, Ahmedabad
e-mail: benchmarksandl@gmail.com

Copy to:

1. The Chief Commissioner, Customs Gujarat Zone, Ahmedabad
2. The Chief Commissioner, Mumbai Customs Zone-I, II and III
3. The Principal Commissioner / Commissioner, Customs Commissionerate – Kandla / Mundra / Jamnagar
4. The System Superintendent for uploading on the Website/Portal
5. Guard File