IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 09-03-2026

CORAM

THE HON'BLE MR.JUSTICE MOHAMMED SHAFFIQ

WP No. 6701 of 2025 AND WP NO. 29820 OF 2025
and WMP.Nos.7347, 7350 and 33445 of 2025

WP No. 6701 of 2025

M/s. Senghi Shipping Services
No.19/11,Rathana Sabapathi Street, 3rd Floor,
Purusawalkam, Chennai-600 007 Rep By Its
Authorised Signatory M.Dhanunjai

..Petitioner(s)

Vs

The Principal Commissioner Of Customs
General Commissionerate,
O/o.Principal Commissioner Of Customs
(General), Chennai Customs Zone,
60, Rajaji Salai, Customs House,
Chennai-600 001

..Respondent(s)

WP No. 29820 of 2025

M/s.Senghi Shipping Services
No.19/11, Rathna Sabapathi Street, 3rd Floor,
Purusawalkam, Chennai-600 007,
Rep. By Its Authorized Signatory V.Jayesh

..Petitioner(s)

Vs

1. The Principal Commissioner Of Customs
   General Commissionerate
   O/o.Principal Commissioner Of Customs
   (General) Chennai Customs Zone,
   60, Rajaji Salai, Customs House,
   Chennai-600 001.

2. The Assistant Commissioner Of Customs
   (Inquiry Officer)No.60, Rajaji Salai,
   Customs House, Chennai-600 001

..Respondent(s)

WP No. 6701 of 2025

Writ Petition filed under Article 226 of the Constitution of India, seeking issuance of Certiorari, calling for the records pertaining to impugned show cause Notice dated 10.01.2025 in F.No.GEN/CB/SCN/34/2024-CBS issued under Regulation 17 of CBLR, 2018 by the respondent herein and to quash the same in so far as the impugned show cause Notice had been issued in gross violation of Regulation 17(1) of the CBLR, 2018 which mandates the issuance of show cause Notice within 90 days from the date of offence report and the non-compliance of the same vitiates the impugned show cause notice dated 10.01.2025 which is without jurisdiction in terms of various judicial pronouncement rendered in this regard.

WP No. 29820 of 2025

Writ Petition filed under Article 226 of the Constitution of India, seeking issuance of Certiorarified Mandamus, calling for the records pertaining to the impugned Inquiry Report dated 09.04.2025 issued by the 2nd respondent in reference to the Show Cause Notice dated 10.01.2025 in F.No.GEN/CB/ SCN/ 34/ 2024-CBS issued under Regulation 17 of CBLR, 2018 by the 1st respondent herein and to quash the same in so far as the impugned show cause notice had been issued in gross violation of Regulation 17(1) of the CBLR, 2018 which mandates the issuance of show cause notice within 90 days from the date of offence report and the non-compliance of the same vitiates the impugned inquiry report dated 09.04.2025 issued by the 2nd respondent which is without jurisdiction in terms of various judicial pronouncement rendered in this regard.

In both WPs

For Petitioner(s): Mr.S.Baskaran

For Respondent(s): Mr.Saisrujan Tayi
Standing Counsel for Respondents

ORDER

These Writ Petitions have been filed praying for issuance of a writ of Certiorari and Certiorarified mandamus, seeking to quash the show cause notice dated 10.01.2025 issued under Regulation 17(1) of CBLR, 2018 and quash the impugned Inquiry Report dated 09.04.2025, on the premise that the said show cause notice does not comply with the limitation contained in Regulation 17(1) of CBLR, 2018 for issuance of Show cause notice.

2. Brief facts:

2.1. Petitioner is a partnership firm engaged in customs clearance work since 2015. Petitioner would submit that present show cause notice is concerned with investigation carried out, concerning export of goods made vide 108 shipping bills during the period from 25.12.2016 to 04.11.2018 by M/s.Heeba Enterprises Pvt. Ltd., Mumbai viz., RMG goods, home and kitchen accessories, bags, kids wear etc. meant for export to USA and other countries from Nhava Sheva Port. Investigation revealed that FOB value for the above said export was Rs.15,47,16,142/- and exporter claimed drawback of Rs.63,49,427/- and

Rs.22,48,812/- towards Rebate of State and Central Taxes and Levies (hereinafter referred to as 'ROSCTL' in short) incentive benefits. Investigation revealed that exporter had allegedly not realized the export proceeds/FOB value, pertaining to the above said shipping bills within the prescribed time limit. However, exporter had availed the incentives, in the form of drawback and ROSCTL against such exports. Show cause notice refers to the above shipping bills, filed by various Customs Brokers, including the petitioner herein, M/s.Senghi Shipping Services (having filed 18 shipping bills). In respect of the above said 18 SB filed by petitioner, as CHA, the total drawback amount claimed by the exporter was Rs.12,74,120/- and ROSCTL.

2.2 It is submitted that case of the Department was that petitioner as a Customs Broker *inter – alia* failed to advise exporters to comply with the provisions of the Act, Rules and Regulations and failed to exercise due diligence.

2.3. Petitioner would submit that Offence Report was received by the respondent in the form of a show cause notice dated 30.03.2024 issued by the ADC, ACC (Export) Mumbai.

2.4. He would submit that in terms of Regulation 17(1) of CBLR, 2018, Show cause notice ought to have been issued within 90 days from the date of the Offence Report dated 30.03.2014 i.e., on or before 29.06.2024. However, Show cause notice had been issued on 10.01.2025. He would submit that in terms of Regulation 17(1) of CBLR, 2018, Show cause notice ought to be issued within 90 days from the receipt of the Offence Report, the same has been found to be mandatory by this Court on more than one occasion. However, the Show cause notice had been issued on 10.01.2025 i.e., beyond 90 days from the date of receipt of Offence Report, thereby vitiating the proceeding.

3. Heard both sides. Perused material on record.

4. It may be relevant to refer to Rule 17(1) of Customs Brokers Licensing Regulations, 2018, which reads as under:

> *"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."*

5. The above regulation has been the subject matter of consideration on more than one occasion. Question as to whether the timeline prescribed in

Regulation 17(1) of CBLR, is mandatory and failure to adhere to the timeline would prove fatal to the validity of the show cause notice is no longer *res integra.* This Court has consistently taken the view that the timeline prescribed in Regulation 17(1) of CBLR, 2108 are mandatory and failure to adhere to the timeline would prove fatal. The following judgments may be relevant:

i) A.M.Ahamed & Co. vs. Commissioner of Customs (Imports), Chennai reported in 2014(309) E.L.T.433 (Mad.) , wherein it has held as under:

> "*18. The above regulation has only ingredients namely (I) failure to comply with the bond conditions, (ii) failure to comply with the regulations and (iii) a misconduct, for any of which, the licence can be revoked. Since the above regulation does not use the expression "offence report", we have to presume that a report indicating the availability of any one of the above 3 ingredients should be construed as an offence report. Consequently, the date of knowledge gained by the Commissioner, by means of any communication, be it show cause notice or order-in-original, has to be construed as the date of receipt of the offence report. Otherwise, a report about anyone of the above 3 ingredients can be sent at any time, even after five years or ten years.*
>
> *19. The Regulations not only fail to prescribe what an offence report is and how it is to be sent, but they do not also prescribe the person competent to sent it. In such*

circumstances, the interpretation sought to be given by the petitioner is more acceptable.

20. The time limit prescribed in Regulation 22(1) has to be understood in the context of the strict time schedule prescribed in various portions of the Regulations. Regulation 20(2), for instance, entitles the Commissioner, to suspend the licence of an agent, in appropriate cases where immediate action is necessary. Regulation 22(3) prescribes a time limit of 15 days. Regulation 22(1) prescribes a time limit within which action is to be initiated. It also prescribes the time limit under Regulation 22(5). Therefore, considering the fact that the whole proceedings are to be commenced within a time limit and also concluded within a time frame, I am of the view that the show cause notice issued to the petitioner on 08-05-2010 with a copy marked to the first respondent should be taken as the date of receipt of the offence report. Consequently, the period of 90 days should commence only from that date. If so calculated, the impugned proceedings have obviously been initiated beyond the period of 90 days."

ii) Overseas Air Cargo Services vs Commissioner of Customs (General), New Delhi reported in *2016 (340) E.L.T. 119 (Del)*. The relevant portion of the judgment reads as under:

"16. In Indair Carrier Pvt. Ltd. v. Commissioner of Customs (General) (supra) the Court emphasised the mandate nature of the CHALR as regards the time limits as under:

"6. <u>The time limits in the CHALR 2004 for issuance of the SCN to the CHA licence holder and</u>

<u>completion of the inquiry within 90 days of issuance of such SCN are sacrosanct</u>. The aforesaid time limits were engrafted into Regulation 22 of the CHALR, 2004 by a Notification No. 30/2010- Cus. (N.T.) dated 8th April, 2010. Simultaneously, the CBEC issued Circular No. 9/2010 dated 8th April 2010 clarifying the procedures governing the suspension and revocation of CHA licence. In para 7.1 of the said Circular, it was noted as under:

> *"7.1 The present procedure prescribed for completion of regular suspension proceedings takes a long time since it involves inquiry proceedings, and there is no time limit prescribed for completion of such proceedings. Hence, it has been decided by the Board to prescribe an overall time limit of nine months from the date of receipt of offence report, by prescribing time limits at various stages of Issue of Show Cause Notice, submission of inquiry report by the Deputy Commissioner of Customs or Assistant Commissioner of Customs recording his findings on the issue of suspension of CHA license, and for passing of an order by the Commissioner of Customs. Suitable changes have been made in the present time limit of forty five days for reply by CHA to the notice of suspension, sixty days time for representation against the report of AC/DC on the grounds not accepted by CHA, by reducing the time to thirty days in both the cases under the Regulations."*

7. This Court has consistently emphasised the mandatory nature of the aforementioned time limits *in several of its decisions. These include the decision in Schankar Clearing & Forwarding v. C. C. (Import & General) 2012 (283) E.L.T. 349 (Del.), the order dated 25th April, 2016 passed by this Court in Customs Appeal No.14/2016 (Commissioner of Customs (General) v. S. K. Logistics) and the order dated 29th April, 2016 in W.P.(C) No. 3071/2015 (M/s Sunil Dutt v. Commissioner of Customs (General) New Customs House). The same position has been reiterated by the Madras High Court in Sanco Trans Ltd. v. Commissioner of Customs, Sea Port/Imports, Chennai (2015) 322 E.L.T. 170 (Mad.) and Commissioner v. Eltece Associates 2016 (334) E.L.T. A50 (Mad.).*

17. Consequently, following the above decision, the Court holds that the impugned order dated 10th April, 2015 passed by the Commissioner of Customs (General), Delhi revoking the CHA license of the appellant to be unsustainable in law. The said order and the consequential order dated 16th September, 2015 of the CESTAT affirming it are hereby set aside.

iii) Santon Shipping Services vs. The Commissioner of Customs, reported in *2017 (10) TMI 621 (Mad)*. After referring to decisions on the subject, it was held that strict adherence to the timelines prescribed in Regulation 17 of CBLR is mandatory, and failure would prove fatal to validity of proceeding. The relevant portion of the judgment reads as under:

"41. In view of the aforesaid Judgments, in our opinion, the issue as to whether the limitation prescribed i.e., 90 days period, under Regulation 22(1) of CHALR 2004, is mandatory or not, is no more res integra.

45.Whatever be the claim and counter claim on the merits, in this appeal can, in our view, they get shadowed by the failure on the part of the Revenue in not acting in time, by issuing the show cause notice, within the period as contemplated under Regulation 22(1) of CHALR, 2004.

46. Therefore, we are of the considered view, and in fact have no hesitation to hold that, the Revenue has not issued the show cause notice dated 18.11.2011 within the period of limitation prescribed under Regulation licence and forfeiture of its security deposit, is unlawful."

6. The above judgment was followed and the view expressed reiterated by a Single Judge of this Court recently in W.P.Nos.577 and 581 of 2025 dated 21.03.2025. The relevant portion is extracted hereunder:

"The learned Single Judge in a batch of writ petitions, as observed supra, has also followed the decision rendered by the Division Bench in the case of Santon Shipping Services vs. The Commissioner of Customs, referred to supra and has quashed the show cause notice and inquiry reports on the ground that the respondents did not adhere to the timelines fixed under the CBLR, 2018.

13. For the foregoing reasons, this Court is of the considered view that the impugned show cause notice as well as the impugned inquiry report have to be quashed on the ground of non adherence to the timelines fixed under regulation 17(5) and (7) of CBLR, 2018, which are mandatory in nature."

7. The learned counsel for the respondent on the other hand would submit that counter-affidavit has been filed and they have explained the reasons for the delay, wherein *inter alia* it has been submitted that the submission of the learned counsel for the petitioner that the timeline is mandatory requires a re-visit inasmuch as before finding a particular provision to be mandatory or directory, the test is to examine whether non-adherence or non-compliance to the provision results in visiting with a consequence. He would also place reliance upon a decision of a Division Bench of Kerala High Court in *M/s.Cargo Care International vs Commissioner of Customs dated 02.12.2024, in support of his submission*, wherein it has held that the timeline prescribed in Regulation 17 of CBLR, 2018 is not mandatory but only directory.

8. Having said that the issue stands covered by the Division Bench of this Court, which is binding, I am inclined to set aside the impugned show cause notice dated 10.01.2025 on the limited ground of non adherence to the timeline prescribed under Regulation 17(1) of CBLR, 2018. Consequently, the consequential proceedings cannot be sustained thus impugned Inquiry Report dated 09.04.2025 is also set aside.

9. Accordingly, these writ petitions stands disposed of. No Costs. Consequently, connected miscellaneous petitions are closed.

09-03-2026

Index: Yes/No
Speaking/Non-speaking order
Neutral Citation: Yes/No

MRN/ANU

To

1. The Principal Commissoner Of Customs
   General Commissionerate
   O/o.Principal Commissioner Of Customs
   (general) Chennai Customs Zone, 60, Rajaji
   Salai, Customs House, Chennai-600 001.

2. The Assistant Commissioner Of Customs
   (inquiry Officer)No.60, Rajaji Salai, Customs
   House, Chennai-600 001

MOHAMMED SHAFFIQ J.

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