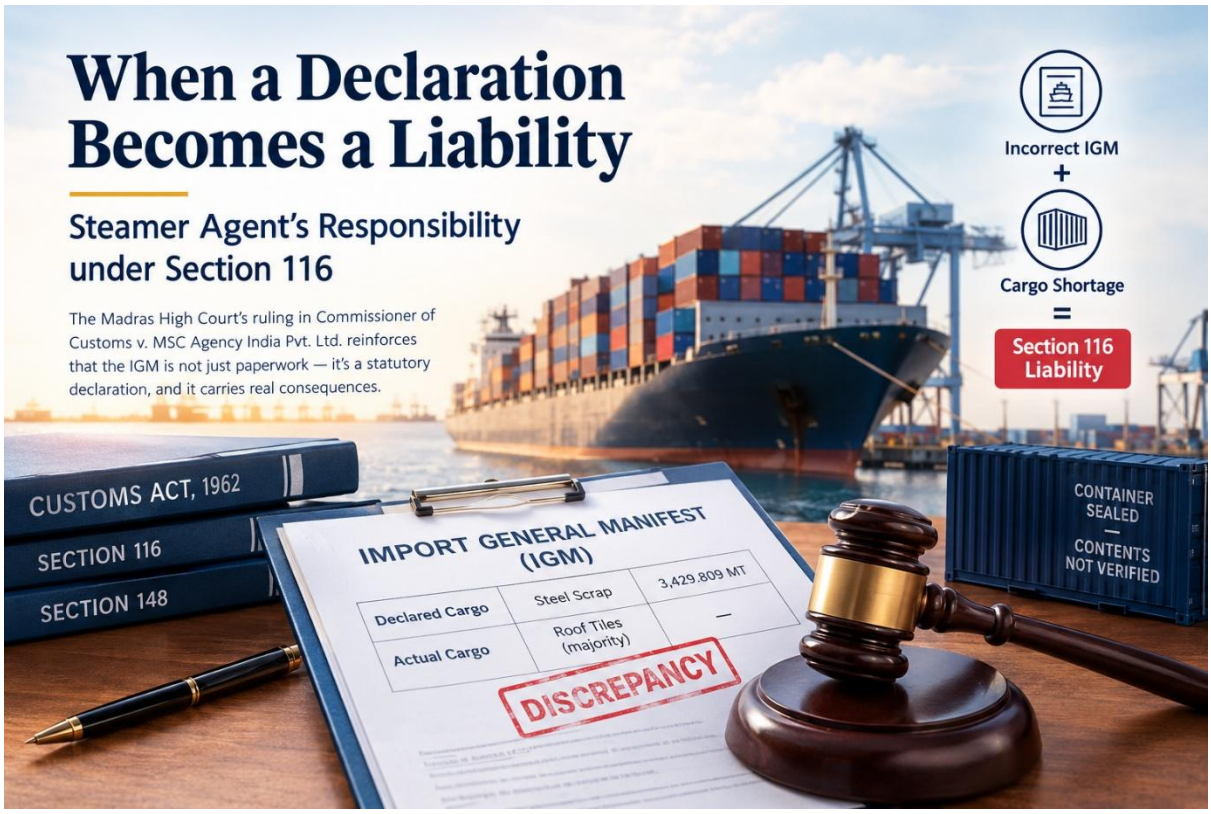
When imported Cargo and IGM Don't Match: Who Bears the Liability?



Steamer Agent Liable for Incorrect IGM and Cargo Shortage under Section 116 of the Customs Act

Commissioner of Customs v. MSC Agency India Pvt. Ltd. – Madras High Court

Introduction:

The role of a steamer agent is often understood primarily as a representative of the shipping line for carrying out documentation and other formalities before Customs and port authorities. But what happens when the cargo declared in the Import General Manifest (IGM) does not match the goods actually found at the port? Can the steamer agent be held responsible even when it claims that the information was supplied by the shipper and that the containers were received with their seals intact?

The Madras High Court recently examined this issue in **Commissioner of Customs v. MSC Agency India Pvt. Ltd., CMA No. 3675 of 2014, decided on 10 August 2026**. The Court upheld the liability of the steamer agent under **Section 116 of the Customs Act, 1962**, read with **Section 148**, where the cargo declared in the IGM was not properly accounted for and the deficiency was not satisfactorily explained.

The decision is important because the Court looked beyond the argument that the steamer agent was "only an agent". The statutory role played by the agent in filing the IGM and representing the master before Customs became central to the decision.

Facts of the Case:

MSC Agency India Pvt. Ltd. was acting as the steamer agent of Mediterranean Shipping Company, S.A. Customs authorities noticed serious discrepancies in consignments declared as steel scrap.

The investigation covered **150 containers**. The IGM and Bills of Lading declared the containers as carrying substantial quantities of shredded steel scrap and Heavy Melting Steel Scrap. However, when the containers were examined, Customs found that they predominantly contained **broken roof tiles**, with only a small quantity of the declared steel scrap.

The declared quantity included approximately **3,429.809 MT of shredded steel scrap and 168.24 MT of Heavy Melting Steel Scrap**. The quantity actually found was substantially lower.

Considering the magnitude of the discrepancy, the Commissioner of Customs concluded that the manifested cargo had not been properly accounted for and imposed a penalty of **Rs.90,15,924 under Section 116** on MSC Agency India Pvt. Ltd.

The steamer agent challenged the penalty before the CESTAT.

Defence of the Steamer Agent:

The defence of the steamer agent was straightforward.

- It argued that it was **not the actual person-in-charge of the vessel**, but merely the agent. It also contended that it had no involvement in the alleged fraud or misdeclaration.
- According to the agent, the containers had been received with their **seals intact**. Therefore, there was no practical opportunity for the agent to verify whether the contents of the sealed containers actually corresponded with the description and quantity provided by the shipper.
- The agent further submitted that the IGM had been prepared on the basis of the Bills of Lading and other information furnished by the shipper. The Bills of Lading also contained a disclaimer stating that the cargo particulars had been furnished by the shipper and had not been checked by the carrier.

The CESTAT accepted the broad defence of the steamer agent and treated the issue as one of **short shipment rather than short landing**. Consequently, it set aside the penalty imposed by the Commissioner.

The Revenue then approached the Madras High Court.

Legal Framework:

Section 30 – Import Manifest

Section 30 of the Customs Act requires the person-in-charge of a vessel carrying imported goods, or the prescribed person, to deliver the Import Manifest to the proper officer.

The provision also requires a declaration regarding the truth of the contents of the manifest. Therefore, an IGM is not merely a document filed for providing information to Customs. It carries a statutory responsibility.

Section 116 – Failure to Account for Goods

Section 116 provides for penalty where goods loaded for importation are not unloaded at the intended destination, or where the quantity unloaded is less than the quantity required to be unloaded, and the

deficiency is not satisfactorily accounted for to the satisfaction of the Assistant or Deputy Commissioner of Customs.

The penalty can extend to **twice the amount of duty chargeable on the deficient goods**.

Thus, the important question is not merely whether a discrepancy exists. The further question is whether the deficiency has been **satisfactorily accounted for**.

Section 148 – Liability of Agents

Section 148 becomes important where the person-in-charge acts through an agent.

Where the Customs Act requires an act to be performed by the person-in-charge, such act may be performed on his behalf by his agent. The agent representing the person-in-charge can consequently be exposed to the obligations, penalties and consequences applicable under the Customs Act.

This provision is therefore critical to understanding why the Court did not accept the simple argument that the respondent was merely a steamer agent.

Ratio of the Madras High Court:

"A steamer agent who represents the person-in-charge of a vessel before Customs and files the IGM on his behalf can be held liable under Section 116, read with Section 148 of the Customs Act, where the manifested cargo is not properly accounted for and the deficiency is not satisfactorily explained."

The Court relied upon the Supreme Court's decision in **British Airways PLC v. Union of India, (2002) 2 SCC 95**, which considered the relationship between Sections 116 and 148.

The Supreme Court had recognised that the liability under Section 116 is not necessarily confined to the master or technical person-in-charge. By virtue of Section 148, the statutory consequences can extend to an agent representing the person-in-charge before Customs.

Applying this principle, the Madras High Court noted that MSC Agency had filed the IGM and represented the master before Customs. The agent had therefore assumed the statutory role contemplated under the Customs Act. In other words, **being an agent does not, by itself, provide immunity from Section 116**.

Observations of the Court:

While the above represents the legal holding, several factual observations made by the Court are equally important in understanding why the provision was applied in this particular case.

1. IGM is more than a procedural document

The Court observed that an IGM is a **statutory declaration**, rather than merely information being passed on to Customs. Once the agent files the IGM and subscribes to the declaration regarding the truth of its contents, it cannot completely distance itself from the statutory consequences associated with that declaration.

2. The magnitude of the discrepancy mattered

The discrepancy in this case was not a small variation in weight or quantity. A very large number of containers declared as containing steel scrap were found to contain predominantly broken roof tiles. The difference between the declared and actual cargo was therefore substantial. This factual

circumstance weighed heavily in the assessment of whether the cargo had been properly accounted for.

3 Sealed containers did not by themselves end the inquiry

The steamer agent relied upon the fact that the containers were sealed and that the contents were not verified by the carrier. The Court did not regard this fact, by itself, as sufficient to defeat statutory liability. The important point was that the agent had undertaken the statutory function of filing the IGM and representing the master before Customs.

4. Contractual disclaimer cannot override statutory liability

The agent also relied upon the disclaimer contained in the Bills of Lading. The Court observed that the relationship between the carrier and shipper is essentially contractual, whereas the obligations arising under the Customs Act are statutory. Therefore, a contractual clause stating that the cargo particulars were furnished by the shipper cannot, by itself, override an obligation imposed by the Customs Act.

This gives rise to an important practical principle:

"A contractual disclaimer may regulate the relationship between the carrier and shipper, but it cannot automatically provide immunity against statutory proceedings under the Customs Act."

Short Shipment vs. Short Landing:

An important part of the dispute was whether the case represented **short shipment** or **short landing**.

Short shipment refers broadly to a situation where the goods or quantity declared were not actually loaded on the vessel. Short landing, on the other hand, concerns goods loaded for importation but not fully unloaded at the destination.

The CESTAT had accepted the steamer agent's position that the discrepancy was attributable to short shipment and therefore occurred before the cargo came under the carrier's responsibility.

The Madras High Court, however, examined the issue in the context of the statutory role of the agent under Section 148, along with the fact that the agent had filed the IGM.

The Court also considered the exceptionally large discrepancy between the manifested cargo and the goods actually found.

Importantly, the judgment should **not** be read to mean that every case of short shipment will automatically result in Section 116 liability against a steamer agent. The facts of each case, the role of the agent and the explanation for the discrepancy remain relevant.

British Airways and Shaw Wallace:

The decision becomes clearer when viewed alongside two important earlier judgments.

In **British Airways PLC v. Union of India**, the Supreme Court recognised that Section 116 liability can extend to an agent representing the person-in-charge by virtue of Section 148.

The steamer agent, however, relied upon **Shaw Wallace & Co. Ltd. v. Assistant Collector of Customs, 1986 (25) ELT 948 (Bom.)**, where the Bombay High Court emphasised the need for Customs to properly establish the alleged shortage and consider the evidence explaining it.

The Madras High Court did not treat *Shaw Wallace* as granting an absolute immunity to steamer agents. Instead, the Court considered the subsequent Supreme Court ruling in *British Airways* together with the facts of the present case.

Thus, the two decisions address different aspects:

Shaw Wallace – whether the alleged shortage is properly established and explained.

British Airways – whether statutory liability can extend to an agent representing the person-in-charge.

The **MSC Agency** judgment brings these principles together in the context of a steamer agent.

Practical Implications for Steamer Agents:

The judgment highlights an important compliance lesson for shipping lines and steamer agents: **filing the IGM should not be treated as a routine clerical exercise**.

Agents should maintain a clear documentary trail regarding the source of information used for filing the IGM, including Bills of Lading, container numbers, seal details, declared quantities, loading information, instructions received from the principal or shipper and subsequent amendments or corrections.

Where a significant discrepancy comes to light, the agent should also maintain contemporaneous records explaining the circumstances and the steps taken to communicate the issue to the principal.

In a Section 116 proceeding, the ability to demonstrate **when the discrepancy arose and who was responsible for the cargo at that stage** can become extremely important.

Simply stating that "the information was supplied by the shipper" or that "the container was sealed" may not, by itself, be sufficient.

Conclusion:

The decision serves as a timely reminder that, in Customs law, a Bill of Lading may tell the story of the cargo, but the IGM creates the statutory responsibility.

For a steamer agent, filing an IGM is therefore not merely a documentation or data-entry exercise. Once the agent represents the vessel before Customs, the accuracy of the cargo declaration assumes legal significance. Where the manifested cargo is not properly accounted for, Section 116 can have financial consequences for the agent, particularly when the statutory requirements under Section 148 are attracted.

At the same time, the judgment should not be read as making steamer agents automatically liable for every discrepancy in cargo. The nature of the discrepancy, the agent's role, the documents available, and the explanation offered for the shortage remain important. What the decision makes clear is that a contractual disclaimer or reliance on information supplied by the shipper cannot, by itself, wipe away a statutory responsibility cast under the Customs Act.

The practical lesson is simple: **"Trust the documents, but verify what you file."** In an environment where one incorrect declaration can translate into a substantial penalty, careful IGM verification and proper documentation are not just good practices—they are an important part of Customs compliance.