



सीमा शुल्क के प्रधान आयुक्त कार्यालय (सामान्य)
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (GENERAL)
कस्टमब्रोकरअनुभाग, नवीनसीमाशुल्कभवन,
CUSTOMS BROKER SECTION, NEW CUSTOM HOUSE,
बेलार्डइस्टेट, मुंबई - I
BALLARD ESTATE, MUMBAI - I

F.NO. GEN/CB/115/2024/CBS

Date: 28.03.2024

DIN: 2024037700000621979

ORDER No. 56 /2023-24
UNDER REGULATION 16 OF THE CUSTOMS BROKER LICENSING
REGULATION, 2018

M/s. Aaroh Logistics, (AARPS9514JCH001), having address registered at Shop No 35 Adarsh Market Plot No. 18A, Sector 48A, Seawoods, Nerul, Navi Mumbai, Thane, Maharashtra - 400707 (hereinafter referred as the Customs Broker/CB) is holder of Customs Broker License No. 11/2205, issued by the Commissioner of Customs, Mumbai under regulation 7(1) of CBLR, 2013, [Now regulation 7(2) of CBLR, 2018] and as such they are bound by the regulations and conditions stipulated therein.

2. An offence report with respect to the role of the CB, M/s. Aaroh Logistics is received in this office from the CIU, JNCH, Nhava Sheva, Zone-II wherein it is informed that M/s Pinga Enterprises Pvt Ltd (AAKCP1048G) has filed B/E No 2018186 dated 07.02.2024 for the import of "Unbranded ladies purses along with Bag accessories" from China through their Customs Broker M/s Aaroh Logistics (AARPS9514JCH001). The Bill of Entry was RMS facilitated, hence no assessment and examination was prescribed. However, Container No. WHSU5956802 of the said B/E was marked suspicious during CSD scanning, requiring 100% examination under AC/DC Docks supervision.

3. As per the endorsement dated 07.02.2024 on the body of B/E and the examination report fed in the ICES on 09.02.2024, goods were examined on 07.02.2024 in the presence of CHA and under supervision of AC/DC(Docks). The endorsement and report fed into the ICES reveals that "goods were examined 100% and found as declared".

4. Meanwhile, as per the specific input about possible misdeclaration, goods were kept on hold by CIU/JNCH on 13.02.2024. On examination

in negative and stated that he did not remember about the previous consignment.

viii. On being asked that as per the CBLR rules you are supposed to follow the examination instructions that is 100% examination for CSD scan container. He replied that Yes, they should have examined 100% but they de-stuffed all the goods marked suspicious in the CSD image and random Carton were cut and examined by the officer.

ix. they were absolutely unaware of the counterfeit undeclared goods in the consignment as B/E was filed based on the documents submitted by the importer.

x. In his further statement dated 28.02.2024, stated that the CB firm does not have a G-Card Holder now. The G-Card holder of the CB firm had left the company during COVID time and the firm is operating without a G-Card holder since then.

xi. for a regular document, they submit BL, invoice, Packing list, copy of B/E to the Docks officer posted in the CFS who gives forwarding on it. Then CFS officer gives seal cutting permission based on the forwarding, only then they cut the seal. For the CSD Hold container, a letter is received by the CFS from the CSD which has the list of containers put on hold by CSD. They first go to the AC/docks with all documents and CSD letter, then it is signed by the AC/docks. They are also provided with the CSD image for examination purpose.

xii. the Seal cutting permission was taken for this container on 07.02.2024 from the docks officer Shri Afaque Sheikh and the shipping line seal having number WHAA517626 was cut. The container was then examined by the said Docks officer Shri Afaque Sheikh. All the goods marked suspicious in the CSD image were de-stuffed and random cartons were cut. Later, the container was re-sealed by Bottle Seal No. 124933 (private seal purchased by them) on 07.02.2024. On 09.02.2024, the said Bottle Seal No. 124933 was cut open after getting verbal direction from Shri SU Nair, Docks officer and goods were examined. Goods were de-stuffed as per CSD image and random cartons were checked. Later the container was again sealed by the Bottle Seal No. 125004 (private seal purchased by them) on 09.02.2024.

xiii. Docks officer, Smt Sujata Kunder madam gave verbal direction to cut the Bottle Seal No. 125004 (private seal purchased by them) for re-examination of goods on 12.02.2024. The goods were examined in the evening, however, officer asked them to de-stuff the entire container. Labourers were not

stuff the entire container. Labourers were not available at that time. His senior was arranging the labourers but they got to know from the Docks officer madam that the container was put on Hold by CIU on same day 12.02.2024. So, they sealed the container again with Bottle Seal no. 125012 (private seal purchased by them).

6. From facts of case, it appears that CB M/s. Aaroh Logistics (11/2205) has failed to comply with the provisions of regulation 10 (b), 10 (d) and 10(e) of CBLR, 2018.

Legal Provision of the CBLR, 2018:-

Regulation 10 (b) of the CBLR, 2018:- “A Customs broker shall transact business in the Customs Station either personally or through an authorized employee duly approved by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;”

Regulation 10 (d) of the CBLR, 2018:- “A Customs broker shall 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;”

Regulation 10 (e) of the CBLR, 2018:- “A Customs broker shall 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;”

6.1 From the offence report, it is noticed that Shri Bijendra Shahi, BCBA Pass Holder of CB M/s Aaroh Logistics was present during the examination of the consignment. Since he did not have a valid Customs Pass to handle the consignment and he did not have any authorization from CB to handle the consignment duly approved by the DC/AC which is prerequisite under regulation 10(b) of the CBLR, 2018. Therefore, CB violated the provisions of regulation 10(b) of the CBLR, 2018.

6.2 From offence report, it is noticed that Container No. WHSU5956802 of the Bill of Entry No.2018186 dated 07.02.2024 was marked suspicious during CSD scanning, requiring 100% examination under AC/DC Docks supervision. CB in his statement dated 15.02.2024 has inter-alia confirmed that goods marked suspicious were destuffed and random cartons were cut. Therefore, it appears that the goods were not presented for 100% examination by CB, as required and

at the Customs station, but only to assist the authorized employee to enable them to "transact business with the Customs".

CB further submitted that as per statements of Shri Parth Gori dated 28.02.2024 as narrated in the Suspension Order dated 12.03.2024 it is apparent that he was present at all the times while examination of goods were carried out by the Customs Officer and Shri Bijendra Shahi was only assisting him for the said function, and hence it cannot be said that the Customs Broker "transacted business at the Customs Station" through unauthorized employees. Thus, the allegation of violation of Regulation 10(b) of the CBLR, 2018 does not prima facie sustain against the Customs Broker.

iii. In response to the violation of regulation 10(d) of the CBLR,2018:-

CB in his defence submitted that the extent of examination purely comes under the domain of the Customs Officer and is a procedural aspect of assessment of goods. Customs Broker does not have any role in picking and choosing the packets or the lot for examination of goods which is the domain of the Customs Officer performing the assessment functions and the Customs Broker only abides by the direction of the Customs Officer and presents the goods accordingly. Customs Broker being professional can tender advice only when full facts are known to him. In the instant case, it is on record that the goods which have been found during examination allegedly do not tally with the declaration made in various documents and there is no evidence to suggest that the Customs Broker was privy to fact that the consignment contains goods which allegedly violates the IPR Law/Regulations. It is submitted that there is nothing on record to suggest that the Customs Broker has any prior knowledge of such things, in such a matter the question of advising the client does not arise and so does the question of bringing the fact of non-compliance to the notice of the Deputy/Assistant Commissioner would be irrelevant. Thus, the allegation of violation of Regulation 10(d) would not prima facie survive against the Customs Broker.

iv. In response to the violation of regulation 10(e) of the CBLR,2018:-

CB in his defence submitted that the examination of goods is a part of assessment function which falls under the sole domain of the "proper officer" of the Customs and the Customs Broker per se does not have any role to play in that as the same is a statutory function. It is on record that the random packages were opened as per the directions and choice of the examining officers and it is the officer who gave the report that the consignment was examined to the extent

which is prerequisite under regulation 10(b) of the CBLR, 2018. Therefore, it appears that CB has violated the provisions of regulation 10(b) of the CBLR, 2018

9.4 CB in his defence submitted that they does not have any role in picking and choosing the packets or the lot for examination of goods. I notice that Container No. WHSU5956802 of the Bill of Entry No.2018186 dated 07.02.2024 was marked suspicious during CSD scanning, requiring 100% examination under AC/DC Docks supervision. CB in his statement dated 15.02.2024 has inter-alia confirmed that goods marked suspicious were destuffed and random cartons were cut. Therefore, it appears that the goods were not presented for 100% examination by CB, as required and 100% examination was not conducted. Therefore, it appears that CB failed to comply with the provisions of regulation 10 (d) of the CBLR, 2018.

9.5. From the offence report, it is noticed that Shri Parth Gori, authorised representative of CB M/s Aaroh Logistics in his statement dated 15.02.2024 has *inter alia* stated that they de-stuffed all the goods marked suspicious in the CSD image and random Carton were cut and examined by the officer. Since, there was clear instruction to examine the consignment 100%, the CB did not adhere to the same and opened only random Cartons for examination and did not exercise due diligence. Therefore, it appears that CB has violated the provisions of regulation 10(e) of the CBLR, 2018.

9.6. I observe that the CB has a very important role in customs clearances and lot of trust has been placed by the Department on the CB. In regime of trade facilitation and with more and more of the goods being facilitated by the Risk Management Systems without examination by the Customs, the role of CB has further increased so that economic frontiers of the country are well guarded. In this regard, I rely on the judgement of the Hon'ble Supreme Court in case of Commissioner of Customs vs M/s K.M. Ganatra & Co *has held that:-*

“the Customs House Agent (CHA) occupies a very important position in the customs house. The customs procedures are complicated. The importers have to deal with a multiplicity of agencies namely carriers, custodians like BPT as well as the Customs. The importer would find it impossible to clear his goods through its agencies without wasting valuable energy and time. The CHA is supposed to safeguard the interests of both the importers and the customs. A lot of trust is kept in CHA by the importers/exporters as well as by the government agencies...”

10(e) of CBLR, 2018. Hence, all the charges sustain for the time being and can form grounds for continuation of the order of suspension.

11. Accordingly, I pass the following order: -

ORDER

- I. I, Principal Commissioner of Customs (General), in exercise of powers conferred upon me under the provisions of Regulation 16(2) of CBLR, 2018 order that the suspension of the Customs Broker Licence of M/s Aaroh Logistics (CB No. 11/2205) (AARPS9514JCH001) ordered vide Order no. 50/2023-24 dated 12.03.2024 shall continue, pending inquiry proceedings under Regulation 17 of CBLR, 2018.
- II. This order is being issued without prejudice to any other action that may be taken or purported to be taken against the CB or any other person(s)/firm(s) etc. under the provisions of the Customs Act, 1962 and Rules/Regulations framed there under or under any other law for the time being in force.

(Signature)
20/3/2024
(SUNIL JAIN)

**Principal Commissioner of Customs (G)
NCH, Mumbai - I**

Encl. - RUDs

To,

M/s. Aaroh Logistics (11/2205) (PAN:AARPS9514JCH001),
Shop No. 35, Adarsh Market, Plot No. 18A, Sector 48A,
Seawoods, Nerul, Navi Mumbai, Thane,
Maharashtra - 400707

Copy to:

1. The Pr./Chief Commissioner of Customs, Mumbai I, II, III Zone
2. CIU's of NCH, ACC & JNCH
3. The Commissioner of Customs, Mumbai I, II, III Zone
4. EDI of NCH, ACC & JNCH
5. Bombay Custom House Agent Association
6. Office copy
7. Notice Board