



प्रधानआयुक्त, सीमाशुल्क (सामान्य) का कार्यालय
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (GENERAL),
नवीन सीमाशुल्क भवन,बेलाई इस्टेट, मुंबई- 400 001.
NEW CUSTOM HOUSE, BALLARD ESTATE, MUMBAI – 400 001.

संचिका सं./F. No.- GEN/CB/272/2024-CBS

आदेश दिनांक/Date of Order: 22.04.2024

CAO No. 03/CAC/PCC(G)/SJ/CBS-Adj

जारी दिनांक/Date of issue: 23.04.2024

संख्या:

DIN : 20240477000000813388

द्वारा जारी : सुनील जैन

प्रधान आयुक्त, सीमाशुल्क(सामान्य)
मुंबई -400 001

Issued By : Sunil Jain

Pr. Commissioner of Customs(Gen.),
Mumbai – 400 001.

ORDER-IN-ORIGINAL मूल आदेश

ध्यान दीजिए/ N.B. :

1. यह प्रति उस व्यक्ति को निजी उपयोग हेतु निःशुल्क प्रदान की जाती है, जिसे यह जारी की जा रही है।
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2. इस आदेश के विरुद्ध अपील माँगे गए राशी के **7.5%** के भुगतान पर सीमाशुल्क अधिनियम, 1962 की धारा 129A(1B)(i) के संबंधमें सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण में स्वीकार्य है, जहाँ शुल्क या शुल्क एवं जुर्माना विवादित हों, या जुर्माना, जहाँ सिर्फ जुर्माना ही विवादित हो।यह अपील इस आदेश के संप्रेषण की तारीख के तीन महीने के अंदर दायर की जाएगी। यह अपील सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण (कार्यविधि) नियमावली, १९८२, के प्रावधानों के अंतर्गत, यथोत्तरखंडपीठ में स्वीकार्य है।

An appeal against this order lies with the Customs, Central Excise and Service Tax Appellate Tribunal in terms of section 129A(1B)(i) of the Customs Act, 1962 on payment of **7.5%** of the amount demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute. It shall be filed within three months from the date of communication of this order. The appeal lies with the appropriate bench of the Customs, Central Excise and Service Tax Appellate as per the applicable provisions of Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982.

3. यह सूचित किया जाता है की इस आदेश के अमल में आते ही,न्याय निर्णयन अधिकारी का अधिकार क्षेत्र समाप्त होता है और सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण, पश्चिम क्षेत्री यखंडपीठ, के M/s Knowledge Infrastructure Systems Pvt. Ltd. & Others vs ADG, DRI, Mumbai के संदर्भ में जारी आदेश क्रमांक A/86617-86619/2018 दिनांक 31.05.2018 के अनुसार न्यायिक आदेश तदोउ प्रांत न्याय निर्णयन अधिकारी 'functus officio' बन जाता है

It is informed that the jurisdiction of the Adjudicating Authority stands alienated with the conclusion of the present adjudication order and the Adjudicating Authority attains the status of 'functus officio' as held by Hon'ble CESTAT, Mumbai in its decision in the case of M/s Knowledge Infrastructure Systems Pvt. Ltd. & Others vs ADG, DRI, Mumbai vide Order No. A/86617-86619/2018 dated 31.05.2018.

4. यदि एक ही प्रकरण में उसी पक्षकार के विरुद्ध कई कारण बताओ नोटिस लगाकर आदेश पारित किया जाता है तो प्रत्येक प्रकरण में अलग अपील दायर की जाए।

In case where an order is passed by bunching several show cause notices on an identical issue against the same party, separate appeal may be filed in each case.

5. यह अपील फॉर्म C.A.-3 में दायर की जानी चाहिए जो कि सीमाशुल्क (अपीलस) नियमावली, १९८२ के नियम 6 के तहत निर्धारित है एवं उसी नियमावली के नियम 3 के उपनियम 2 में उल्लेखित व्यक्ति द्वारा हस्ताक्षरित एवं सत्यापित की जाएगी।

The Appeal should be filed in Form C.A.-3 prescribed under Rule 6 of the Customs (Appeals) Rules, 1982 and shall be signed and verified by the person specified in sub-rule 2 of rule 3 rules ibid.

6. (i) यदि प्रतिवादित आदेश, जिसके विरुद्ध अपील की गई है, में शुल्क एवं मांगे गए ब्याजवलागाएगए जुर्माने की राशि रु. पाँच लाख या इस से कम होतो रु. 1000/-, (ii) यदि यह राशि रु. पाँच लाख से अधिक हो किंतु पचास लाख से अधिक न होतो रु. 5000/- एवं (iii) यदि यह राशि रु. पचास लाख से अधिक होतो रु. 10000/- के शुल्क का भुगतान क्रॉस्ड बैंक ड्राफ्ट के माध्यम से अधिकरण की खंडपीठ के सहायक पंजीयक के पक्ष में जिस स्थान पर खंडपीठ स्थित है, के किसी भी राष्ट्रीय क्रत बैंक की शाखा में किया जाए एवं डिमांड ड्राफ्ट अपील के साथ संलग्न किया जाए।

A fee of (i) Rs. 1000/- in case where the amount of duty and interest demanded and the penalty imposed in the impugned order appealed against is Rupees Five Lakhs or less, (ii) Rs. 5000/- in case where such amount exceeds Rupees Five Lakhs but not exceeding Rupees Fifty Lakhs and (iii) Rs. 10000/- in case where such amount exceeds Rupees Fifty Lakhs, is required to be paid through a crossed bank draft in favour of the Assistant registrar of the Bench of the Tribunal on a branch of any nationalized bank located at the place where the bench is situated and demand draft shall be attached to the Appeal.

7. अपील की एक प्रति में कोर्ट फी अधिनियम, 1870 की अनुसूची मद 6 के तहत निर्धारित रु. 50 का कोर्ट फी स्टैम्प लगा होना चाहिए एवं इसके साथ संलग्न इस आदेश की उक्त प्रति में रु. 50 का कोर्ट फी स्टैम्प लगा होना चाहिए।

Once copy of the Appeal should bear a Court Fee Stamp of Rs. 50 and said copy of this order attached therein should bear a Court Fee Stamp of Rs. 50 as prescribed under Schedule item 6 of the Court Fee Act, 1870, as amended.

BRIEF FACTS OF THE CASE

M/s. Krish Logistics, (AASFK0331L) having office address at "Room No. 14, Mohd Hasan Building, Sahar Cargo, Near Cargo Office, Sutar Pakhadi, Andheri (East), Mumbai-400099" [hereinafter referred to as the Customs Broker/CB], is holder of Customs Broker License No. (11/1969), 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. This Office has received two CBLMS application No. 100000034188 dated 28.03.2024 for change of partner/director and application No. 100000034177 dated 28.03.2024 to modify Office address from Customs Broker M/s. KRISH LOGISTICS, (11/1969).

3. Legal Provision of the CBLR, 2018 :-

3.1 Regulation 7(2) of the CBLR, 2018:-*Provided further that where a company or a firm which has been granted a license under this regulation undergoes any change in the directors, or managing director or partner, such change shall forthwith be communicated by such licensee to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, within one month of such change:....*

3.2 Regulation 10(o) of the CBLR, 2018:- *inform any change of postal address, telephone number, e-mail etc. to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, of all Customs Stations including the concerned Deputy Commissioner or Assistant Commissioner of the Commissionerate who has granted the license immediately within two days;*

4. After scrutiny/examination of the CBLMS application No. 100000034188 dated 28.03.2024 for change partner/director, notarized copy of Partnership Deed of CB was made and executed on 05.10.2023 in which Mr. Siddhesh Manoj Ghag mentioned as "Retired Partner" from CB firm and Mr. Manoj Balkrishna Ghag had joined as a "New Partner" in the CB firm. Further, two other partners Mr. Prabhakar Narayan Shetty and Mr. Pankaj Mohanlai Rathod have "Continued" as partners in the said CB firm. The Partnership Deed was made and executed on 05.10.2023 but CB intimated vide letter dated 25.11.2023 of their Partnership Deed to this office vide Sevottam receipt No. 3145 dated 29.11.2023.

As per regulation 7(2) of CBLR, 2018 it is mentioned that *any change in the directors, or managing director or partner, such change shall forthwith be communicated by such licensee to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, within one month of such change.*

In view of the above, CB informed to this office of their Partners' change in CB firm after one month from date of execution of their Partnership Deed and hence, violated the regulation 7(2) of CBLR, 2018.

5. Further, after scrutiny/examination of CBLMS application No. 100000034177 dated 28.03.2024 to modify CB's Office address it was found that "Leave and License Agreement" was made and executed on 10.10.2023 and but CB informed to this office vide letter dated 10.11.2023 of change of their Office Address vide Sevottam receipt No. 3059 dated 10.11.2023.

As per sub-regulation 10(o) of CBLR, 2018 it is mentioned that "*inform any change of postal address, telephone number, e-mail etc. to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, of all Customs Stations including the concerned Deputy Commissioner or Assistant Commissioner of the Commissionerate who has granted the license immediately within two days;*"

In view of the above, CB informed to this office of change of their office address after one month from date of execution of Leave and License Agreement and hence, violated the sub- regulation 10(o) of CBLR, 2018.

6. Submission of the Custom Broker

6.1 M/s. Krish Logistics, (11/1969) vide an E-mail dated 10.04.2024 & 12.04.2024 through their registered E-mail ID to this office wherein they have submitted that they do not want any SCN or PH for violation of regulation 7(2) & 10(o) of CBLR, 2018 and requested to take a lenient view in the matter.

7. DISCUSSION AND FINDINGS: -

I have gone through the facts of the case, and submissions of the CB. For brevity, I refrain from reproducing the brief facts of the case which have already been discussed above. I, now, examine the charges sequentially.

7.1 I observed that the said CB is charged for violation of regulation 7(2) of CBLR, 2018 by not intimating to this office of their **Partners' change within one month &** for violation of regulation 10(o) of CBLR, 2018 by not intimating to this office of **their Office address change within two days.**

7.2 With regard to violation of Regulation 7(2) of the CBLR, 2018:-

I observe that Proviso to regulation 7(2) of CBLR, 2018 reads as

....Provided further that where a company or a firm which has been granted a license under this regulation undergoes any change in the directors, or managing director or partner, such change shall forthwith be communicated by such licensee to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, within one month of such change:....

From records I find that M/s. Krish Logistics, (11/1969) failed to inform to this office of their Partners' Change within one month as per regulation 7(2) of CBLR, 2018 and hence, violated the said provision.

7.5 With regard to violation of Regulation 10(o) of CBLR, 2018: - I observe that Proviso to regulation 7(2) of CBLR, 2018 reads as

inform any change of postal address, telephone number, e-mail etc. to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, of all Customs Stations including the concerned Deputy Commissioner or Assistant Commissioner of the Commissionerate who has granted the license immediately within two days;

From records I find that M/s. Krish Logistics, (11/1969) failed to inform to this of change in their office address within two days as per regulation 10(o) of CBLR, 2018 and hence, violated the said provision.

8. Thus, in view of the above, I hold that the CB M/s. Krish Logistics, (11/1969) have failed to inform Change of their Partners and also Change in their office address within one month and two days respectively as per regulation 7(2) & 10(o) of CBLR, 2018 hence, CB have failed to comply with the Regulation 7(2) & 10(o), of the CBLR, 2018, as discussed *supra* and is liable for penal action under Regulation 7(2) & 10(o) of CBLR, 2018. Accordingly, I pass the following order.

ORDER

8. (i) I, hereby, impose penalty of Rs. 10,000/- (Rupees Ten Thousand only) on M/s. Krish Logistics (CB No. 11/1969 & PAN No. AASFK0331L), for violation of provisions under Regulation 7(2) & 10(o) of the CBLR, 2018 as elaborated above.

(ii) This order is passed without prejudice to any other action which may be taken or purported to be taken against the Customs Broker and their employees under the Customs Act, 1962, or any other act for the time being in force in the Union of India.



(SUNIL JAIN)

PR. COMMISSIONER OF CUSTOMS (GENERAL),
MUMBAI ZONE-I.

To,
CB M/s. Krish Logistics, (11/1969),
Room No. 14, Mohd Hasan Building,
Sahar Cargo, Near Cargo Office,
Sutar Pakhadi, Andheri (East), Mumbai-400099.

Copy to,

1. The Pr. Chief Commissioner/Chief Commissioner of Customs, Mumbai I, II, III Zone.
2. All Pr. Commissioners/Commissioners of Customs, Mumbai I, II, III Zone
3. CIU's of NCH, ACC & JNCH.
4. EDI of NCH, ACC & JNCH.
5. ACC (Admn) Mumbai with a request to circulate among all departments.
6. JNCH (Admn) with a request to circulate among all concerned.
7. Cash Department, NCH, Mumbai.
8. Notice Board
9. Office Copy
10. Guard File (Admin).