



प्रधान आयुक्त (सामान्य) सीमाशुल्क का कार्यालय
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (GENERAL)
कस्टम ब्रोकर अनुभाग, नवीन सीमाशुल्क भवन, बेलाई इस्टेट, मुंबई- I
CUSTOMS BROKER SECTION, NEW CUSTOM HOUSE, BALLARD ESTATE,
MUMBAI - I

F. No. GEN/CB/97/2024-CBS

Date: 22.03.2024

DIN: 20240370C000001010D

ORDER No. 53/2023-24
UNDER REGULATION 16 OF THE CUSTOMS BROKER LICENSING
REGULATION, 2018

M/s. Razvi Shipping Agency (CB No. 11/314 and AAEFR3124LCH001), having office address at 5th floor, Evergreen apartment, Mazgaon, Mumbai-400010 [hereinafter referred to as the Customs Broker/CB], is holding a regular Custom Broker License No. 11/314 issued by Commissioner of Customs, Mumbai under Regulation 10(1) of the Customs House Agents Licensing Regulations (CHALR), 1984 [Now regulation 7(2) of Customs Broker Licensing Regulations (CBLR, 2018)] and as such they are bound by the regulation and condition stipulated therein.

2. An O-i-O dated 28.11.2023 issued vide file no. S/10-ADJ/15/ADC/2023-24/ADJ(I)/ACC, having Centralised Adjudication Order no. ADC/PKK/146/2023-24/Adj(I)/ACC, has been received from Group VI, ACC, Sahar Mumbai and interalia following is stated:

2.1. A Bill of Entry (BoE) dated 14.05.2022, filed by the CB M/s Razvi Shipping Agency (CB No. 11/314) on behalf of the Importer M/ s Affinity Enterprises (IEC No. ABSFA4847J), was put on hold for examination by Central Intelligence Unit, Air Cargo Complex, Mumbai.

2.2. On examination of the said consignment by the officers of the CIU, certain discrepancies were noticed, which are as follows: -

Table: A

S. No.	Detail	
1.	MAWB No.	31296565803 dated 11.05.2022
2.	Invoice No. and date	AE/ 003/ 2022 dated 11.05.2022
3.	Assessable Value	Rs.187295.72/-
4.	Duty	74044/-
5.	Weight	989 Kgs
6.	No. of Packages	48
7.	Goods declared	Description Quantity
		Mobile Accessories Mobile Screen Chinese 2520 Nos.
		Mobile Accessories Back cover for mobile 155 Doz
		Wireless Earphone (BT) 1519 Nos.

		Mobile Accessories Camera Lens for mobile	26200 Nos.
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Examination of consignment imported vide bill of entry no. 8686461 dated 14.05.2022 was carried out under Panchanama dated 18.05.2022 by CIU in the presence of the authorized Custom Broker representative and the independent panchas. The detailed inventory of the goods found during the examinations has been incorporated in the Panchanama dated 18.05.2022. Abstract of the goods found during the examination are as follows:

Table-B

S.No. (1)	Description of goods declared (2)	Quantity Declared (3)	Quantity Found During examination (4)
1.	Mobile Screen Chinese	2520 Pcs	295
2.	Mobile Back Cover	155 Pcs	946
3.	Wireless Earphone	1516 Pcs	14680
4.	Camera Lens for Mobile	26200 Pcs	26000
Not Declared Items			
5.	Tempered Glass	Not Declared	7840
6.	Mobile Back Guard Film	Not Declared	12850
7.	Smart watch Screen Guard	Not Declared	1120
8.	Capacitance pen	Not Declared	30

Consequently, the goods imported vide bill of entry 8686461 dated 14.05.2022 were seized under Section 110 of the Customs Act, 1962 vide Seizure Memo dated 30.05.2022 on the reasonable belief that the same are liable for confiscation as the goods found during examination are not declared/mis declared in terms of description, quantity and valuation. To avoid detention and demurrage charges, permission to warehouse the goods under Section 49 was allowed to the importer, however, the importer has not availed the facility.

2.3. Searches were conducted at the premises of the importer at Basement 6A/11, WEA Karol Bagh, Karol Bagh. Central Delhi - 110005 through the Jurisdictional Customs Commissionerate, New Delhi as well as at the known addresses of the CB firm M/ s Razvi Shipping Agency at EVERGREEN APARTMENT, 5th Floor, Mazgaon Mumbai-400-010 by the officials of CIU/ ACC.

2.4. Statement of Shri Manish P Joshi G-card holder bearing Kardex No. 1715/2021 of Customs Broker, M/ s. Razvi Shipping Agency (bearing CB No. 11/314) was recorded under section 108 of the Customs Act, 1962, wherein, he inter alia stated that:

He is an employee and G-card holder bearing Kardex No. 1715/2021 of Customs Broker, M/s. Razvi Shipping Agency (bearing CB No. 11/314), working with them since 2021. He is the only G-Category Custom pass holder of the firm. The Bill of Entry No. 8686461 dated 14.05.2022 was filed by his CB and they are the authorized CB for M/ s Affinity Enterprises (hereinafter referred to as "importer").

He stated that he is not very much aware of the business of the importer but he had checked KYC documents, records of imports as informed by the importer, he said that they are dealing in import of mobile accessories. He also said that his manager brought the work for them and the documents were being

supplied to his office by the importer. In his statement, he identified Mr. Sonu as the proprietor of the importing firm and the registered address of the importer as BASEMENT, 6A/11, WEA, KAROL BAGH, KAROL BAGH, CENTRAL DELHI, DELHI- 110005.

On being shown the inventory of the goods drawn under Panchanama dated 18.05.2022 in his presence wherein many items were found mis-declared in terms of description, quantity, and Valuation and asked why he had not properly declared the goods, he stated that he prepared the bill of entry as per the invoice, packing list provided by the importer and CB filed the BoE based on the same.

He was present during the examinations of the imported goods imported under Panchanama dated 18.05.2022. During examination, the goods were found mis-declared in terms of description, and quantity, but the CB were not aware of the same at the time of filing of the said B/Es. He had cleared 02 consignments for the said importer previously.

An agreement for clearance of Rs. 5000/- per consignment was made between the importer and the CB, but no payment had been received till date. He also did not know the bank account details of his CB at the time of the statement, but promised to submit the same in a few days. He also informed that these goods had not been imported on behalf of any third party.

3. From facts of case, it appears that CB M/s. Razvi Shipping Agency (11/314) has failed to comply with regulation 10(a), 10 (d), 10 (e), 10 (m), 10 (n) and 10(q) of CBLR, 2018, as amended.

3.1. The relevant regulation of CBLR, 2018, are produced below for reference:

- (i) *Regulation 10(a) states that "A custom broker shall obtain an authorisation from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Broker and produce such authorisation whenever required by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be"*
- (ii) *Regulation 10(d) states that "A custom 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"*
- (iii) *Regulation 10(e) states that "A custom 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".*
- (iv) *Regulation 10(m) states that "A custom broker shall discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay"*
- (v) *Regulation 10(n) states that "A custom broker shall verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information"*
- (vi) *Regulation 10(q) states that "A custom broker shall co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees";*

3.2. The CB failed to produce any authorisation obtained from the importer before the investigating authority and nor submitted the authorisation before the adjudicating authority despite being provided opportunity for the same. Thus, it appears that CB has failed to comply with Regulation 10(a) of CBLR, 2018.

3.3. As fake BIS certificates were submitted in e-Sanchit, which did not match with the goods imported. Thus, it appears that the CB neither advised the importer to submit correct BIS certificates, nor brought the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs; as they were fully aware of the fact that the BIS certificates were wrong and even submitted it for customs clearance of the said imported goods, thus it appears that CB has failed to comply with Regulation 10(d) of CBLR, 2018,

3.4 In respect of wireless earphones, the brand name found on the sample Wireless Headphone is "TECHFIRE", however the BIS certificates no. R-41180637 uploaded on the e-Sanchit by the CB is for the Brand name "RUDRA". In this regard, it was the duty of CB to showcase diligence by ascertaining the correctness of BIS certificates before uploading thus it appears that the CB failed to comply with Regulation 10(e) of CBLR, 2018.

3.5 Further, it appears that the CB also failed to discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay, thereby failing to comply with the Regulation 10(m) of CBLR, 2018.

3.6 It also appears that the CB did not verify the correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address thereby violating Regulation 10(n) of CBLR, 2018.

3.7 In the instant case, CB was given opportunities to be heard personally or virtually vide Personal Hearing Intimation letters dated 20.9.2023, 6.10.2023, 20.10.2023 and 01.11.2023 vide which PH was scheduled on 03.10.2023, 17.10.2023, 31.10.2023 and 13.10.2023 respectively, but CB didn't attend PH on scheduled dates and time. Further, CB vide letter dated 31.10.2023 had requested for extension of 7 days for the Personal Hearing in the said matter. However, he didn't appear even on 13.11.2023 for the Personal Hearing, though given fourth opportunity for the same, thus it appears that the Customs Broker M/s. Razvi Shipping Agency failed to comply with Regulation 10(q) of CBLR, 2018.

4. In view of the available facts, it was prima facie evident that the CB has failed in discharging their obligations as required in Regulations 10(a), 10(d), 10(e), 10(m) 10(n) & 10(q) of CBLR, 2018. It was, therefore, apprehended that the Customs Broker may adopt similar modus operandi in future consignments and the department cannot remain oblivious to the danger posed by such an eventuality. Therefore, immediate action was required to be taken against the Customs Broker and after examining the appropriateness of the instant issue, the Customs Broker Licence of M/s. Razvi Shipping Agency, CB No. 11/314 was suspended vide Order No. 48/2023-24 dated 01.03.2024 and a post decisional hearing was offered to the CB on 14.03.2024 at 01:00 PM.

RECORD OF PERSONAL HEARING

5. In pursuance to regulation 16(2) of the CBLR, 2018, opportunity of personal hearing was granted to the CB M/s. Razvi Shipping Agency on 14.03.2024 at 01:00 PM. Shri Shah Alam Quraishi F- pass holder & partner of the CB appeared for the personal hearing on 14.03.2024.

During the personal hearing, he interalia stated that:

- a. Regulation 10(a) is invoked on the ground that the CB has filed BoE on behalf of importer without acquiring authorization certificate from importer.

It is submitted that he had authorization certificate dated 01.05.2022, received from importer, but he was not given opportunity to produce the same as all the correspondence was made at the address of his G-category employee Shri Manish Agarwal.

- b. Regulation 10(q) is invoked on the ground that CB didn't co-operate with custom authority during the course of investigation as he didn't appear for any of the personal hearing given to him.

It is submitted that only his G-category employee i.e. Shri Manish Agarwal was contacted during the course of investigation. He had neither received any summons, letters for PH, SCN, adjudication order nor any communication from department at his address.

DISCUSSION AND FINDINGS

6. I have carefully gone through the records of the case and oral submissions given by the Customs Broker during the personal hearing. The facts of the case and finding of investigation have been mentioned in above Paras and are not being repeated for brevity

6.1 The issues to be decided in the instant case is whether the suspension Order No. 48/2023-24 dated 01.03.2024 is required to be continued or revoked.

6.2 As per submission, CB had produced importer authorization certificate dated 01.05.2022. As evident from the statement dated 26.7.2022 of Shri Jatin, importer and partner of M/s. Affinity Enterprises CB has cleared two more BoE 8438322 dated 26.4.2022 & 8523522 dated 3.5.2022 prior to present seized consignment. It seems that CB has filed Bill of Entry 8438322 dated 26.4.2022 prior of obtaining the authorization dated 01.05.2022 from Importer.

6.3 As per submission, CB has stated that only his G-category employee i.e. Shri Manish Agarwal was contacted during the course of investigation and he has not been given any opportunity to appear before the investigation/adjudicating authority. Here, I want to illustrate the Regulation 13(12) of CBLR 2018

"The Customs Broker shall exercise such supervision as may be necessary to ensure proper conduct of his employees in the transaction of business and he shall be held responsible for all acts or omissions of his employees during their employment".

From plain reading of above regulation, it is amply clear that the CB is responsible for the act of omission and commission etc. of his employee. Thus, the CB firm appear to be responsible from non-appearance of G card holder Shri Manish Agarwal before the Custom authority during adjudication proceeding. Hence the CB submission appear to be non tenable

6.4 Further, in respect of specific violation of regulation 10(a), 10(d), 10(e), 10(m), 10(n) & 10(q) of CBLR, 2018, I observe that the separate proceedings under regulation 17 of the CBLR, 2018 shall be initiated and therefore discussion on them at this stage is not required. Hence, I refrain from discussing CB's submission on specific violation of said regulations.

6.5. 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..."*

6.6. Further, I rely on the judgement of the Hon'ble High Court of Madras in case of *Cappithan Agencies vs Commissioner Of Customs, Chennai-VIII, 2015 (326) E.L.T. 150 (Mad.)*, has held that:

"...Therefore, the grant of licence to act as a Custom House Agent has got a definite purpose and intent. On a reading of the Regulations relating to the grant of licence to act as CHA, it is seen that while CHA should be in a position to act as agent for the transaction of any business relating to the entry or departure of conveyance or the import or export of goods at any customs station, he should also ensure that he does not act as an Agent for carrying on certain illegal activities of any of the persons who avail his services as CHA. In such circumstances, the person playing the role of CHA has got greater responsibility. The very description that one should be conversant with the various procedures including the offences under the Customs Act to act as a Custom House Agent would show that while acting as CHA, he should not be a cause for violation of those provisions. A CHA cannot be permitted to misuse his position as CHA by taking advantage of his access to the Department. The grant of licence to a person to act as CHA is to some extent to assist the Department with the various procedures such as scrutinizing the various documents to be presented in the course of transaction of business for entry and exit of conveyances or the import or export of the goods. In such circumstances, great confidence is reposed in a CHA. Any misuse of such a position by the CHA will have far reaching consequences in the transaction of business by the customs house officials. Therefore, when, by such malpractices, there is loss of revenue to the custom house, there is every justification for the Respondent in treating the action of the Petitioner Applicant as detrimental to the interest of the nation and accordingly, final order of revoking his licence has been passed."

6.7. In view of the discussion held above, I have no doubt that the suspension of the CB licence vide Order No. 48/2023-24 dated 01.03.2024 under regulation 16 of the CBLR,2018 was just and proper. The said regulation reads as: -

"16. Suspension of license. - (1) Notwithstanding anything contained in regulation 14, the Principal Commissioner or Commissioner of Customs may, in appropriate cases where immediate action is necessary, suspend the license of a Customs Broker where an enquiry against such Customs Broker is pending or contemplated."

In view of the discussion above, I hold that continuation of the suspension of the CB License will be just and proper. Accordingly, I pass the following order.

ORDER

I, Principal Commissioner of Customs (General), in exercise of powers conferred upon me under the provisions of Regulation 16 (1) of CBLR, 2018 order that the suspension of Customs Broker licence of M/s. Razvi Shipping Agency, PAN No. AAEFR3124L (CB No. 11/314) vide order 48/2023-24 dated 01.03.2024 shall continue pending inquiry proceeding under Regulation 17 of CBLR, 2018.

This order is being issued without prejudice to any other action that may 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.

[Handwritten signature]
22/3/2024

(SUNIL JAIN)

**Principal Commissioner of Customs (General)
New Custom House, Mumbai-I**

To,
M/s. Razvi Shipping Agency (11/314)
5th floor, evergreen apartment,
Mazgaon, Mumbai-400010

Copy to:

1. The Pr. Chief Commissioner of Customs/ Chief Commissioner of Customs, Mumbai Zone-I, II & III.
2. CIU's of NCH, ACC & JNCH
3. Pr. Addl. Director General, DRI, MZU
4. EDI of NCH, ACC & JNCH
5. BCBA, Mumbai
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