



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

F.NO. GEN/CB/151/2024/CBS

Date: 27.03.2024

DIN: 2024037700000000 D3 CE

ORDER NO. 55 /2023-24

M/s Pratik International (Licence No. 11/1988, CB Code AAPFP3036J CH001), 131, Almedia House, Room No. 01, Road No. 02, Church Pakhadi, Sahar Village, Andheri East, Mumbai-400099 (hereinafter referred as the Customs Broker/CB) is holder of Customs Broker License No. 11/1988, 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 in the form of Investigation Report dated 15.03.2024 issued vide F. No. SG/MISC-160/2023-24 CIU, JNCH was received in the CB Section, NCH, Mumbai through Official E-mail of CIU, JNCH on 18.03.2024, from the Office of the Commissioner of Customs (Gen), CIU, JNCH, Mumbai-II, wherein, inter-alia following were informed:

2.1 The Officers of CIU, JNCH held two Forty Feet (40') containers nos. ARCU4534860 & ARCU4534475 in M/s. Central Warehousing Corporation CFS, D'Node, Dronagiri containing 4158 CTNs of imported "**Fresh Pear Fruit**" of net weight 49896.0 Kgs covered under RMS Facilitated Bill of Entry No. 9192378 dated 12.12.2023, imported by importer M/s. Abhi Agro Fresh Fruits (IEC:- BOWPD1234G) through their Customs Broker M/s. Pratik International (11/1988) by misusing the Phyto-sanitary Certificate No. NPPO-ZA/2023/10/1049905 dated 03.10.2023 issued in South Africa.

2.2 During 100% examination of both Containers under Panchanama dated 19.12.2023 it was found that the description and quantity of the goods were found to be same as declared by the importer. However, Phyto-sanitary Certificate for Re-Export No. DXB-APH-02415-2460883 dated 05.12.2023 issued in UAE was uploaded in E-Sanchit for clearance of Fresh Pear Fruits. After scrutiny of the Phyto-sanitary Certificate it was found that PC No. NPPO-ZA/2023/10/1049905 dated 03.10.2023 was issued in South Africa (as declared

country of origin), for export from South Africa to UAE, has been issued for a quantity of 13770 Cartons & 168830 NETT KGM of Fresh Pear Fruit.

2.3 Furthermore, after scrutiny of past consignments of **Fresh Pear Fruit** imported by the said importer for a period from 03.10.2023 to 26.12.2023, it was found that Phyto-sanitary Certificate No. NPPO-ZA/2023/10/1049905 dated 03.10.2023 was issued in South Africa (as declared country of origin) and multiple Phyto-sanitary Certificates were issued in UAE which were utilized by the importer M/s. Abhi Agro Fresh Fruits for multiple re-export shipments from UAE to Nhava Sheva.

2.4 It appears that the said importer had Misused “Country of Origin” Phyto-sanitary Certificate No. NPPO-ZA/2023/10/1049905 dated 03.10.2023 and had fraudulently imported 05 consignments of **Fresh Pear Fruit**, including the live consignment, having total Assessable Value of Rs. 2,20,77,346/-

2.5 Further, Phyto-sanitary Certificate for Re-Export No. DXB-APH-02415-2460883 dated 05.12.2023 issued in UAE against PC No. NPPO-ZA/2023/10/1049905 issued in South Africa was used by the importer does not validate clearance of Fresh Pear Fruit imported vide Bill of Entry No. 9192378 dated 12.12.2023 and the same appeared to be misused for fraudulent Customs Clearances by misleading the Customs Authorities. Hence, it appears that the said 05 import consignments of Fresh Pear fruit, including the live consignment under seizure, have been imported without a valid mandatory Phyto-sanitary Certificate, subsequently, putting the Indian flora & fauna at risk. It was also found that PC No. NPPO-ZA/2023/10/1049905 dated 03.10.2023 issued in South Africa, in light of the Plant Quarantine (Regulation of Import into India) Order, 2003; did not contain the additional declarations and special conditions mentioned under Chapter-II & III and Schedule-VI of the said PQ order, 2003.

2.6 During the course of investigation, the Officers of CIU, JNCH seized the imported consignment of Fresh Pear Fruit covered under Bill of Entry No. 9192378 dated 12.12.2023 vide seizure Memo dated 26.12.2023 u/s 110 of the Customs Act 1962.

2.7 As per the PQ (Regulation of Import into India) Order, 2003, every import of Fresh Fruits (Pear and Apple) into India shall be accompanied by an original Phyto-sanitary Certificate, containing the additional declarations and special conditions, issued by an authorized officer in the country of origin.

Also, in case of re-export into India, the consignments shall be accompanied by a Phyto-sanitary certificate of re-exporting country along with the original/certified copy of Phyto-sanitary certificate issued by the country of origin.

2.8 In view of above, all the import consignments of **Fresh Pear Fruit** made by the said importer since 03.10.2023 were taken up for investigation by the CIU, JNCH. As per data retrieved from ICES 1.5 System, it was found that the Importer had filed 14 Bills of Entry of **Fresh Pear Fruit**.

2.9 In light of the above, it is submitted that both the mandatory Phyto-sanitary Certificates issued by the re-exporting country and country of origin were either not uploaded or only one of the said Phyto-sanitary Certificates was uploaded in e-sanchit. Further, most of the import consignments imported by the said importer were re-exported consignments from UAE to Nhava-Sheva wherein, Phyto-sanitary Certificates issued by the re-exporting country (UAE) had been uploaded in e-sanchit but the mandatory Phyto-sanitary Certificates issued by the country of origin (South Africa) as mentioned in the said Phyto-sanitary Certificates issued by the re-exporting country (UAE), had not been uploaded in e-sanchit.

2.10 Furthermore, letters dated 13.01.2024 & 16.01.2024 were issued by the Office of the Commissioner of Customs, Gen, CIU, JNCH to the Pr. Commissioner of Customs (Prev.), Lucknow and the Pr. Commissioner of CGST, Meerut requesting for conducting search of the importer's Premises & recording of their statement w.r.t fraudulent imports of Fresh Fruits at, JNCH, Nhava Sheva. Search was conducted by a team of Officers of Customs (Prev.) Division, Bareilly along with the Officers of CGST Meerut at the Premises of importer M/s. Abhi Agro Fresh Fruits at Shop No. 3, Sai Udyam, Rohta Road, Udyam Turupati Enclave, Meerut-250001, Uttar Pradesh under panchanama dated 16.01.2024. During search operation the said premises of the importer was found vacant, and nothing was found there except a few financial records and Phyto-sanitary Certificates. Shri Jaineesh Dubey, owner/proprietor of M/s. Abhi Agro Fresh Fruits was not present during the search and the search was conducted in the presence of Shri Vikas Sharma (friend of Shri Jaineesh Dubey). Also, on asking about the 05 import consignments of Fresh Pear Fruit (which have been imported without valid mandatory Phyto-sanitary Certificates) through telephonic conversation with Shri Jaineesh Dubey, he said that he was ignorant of the fact, and they will communicate later with the help of their CA.

2.11 Therefore, all the said 14 imported consignments of Fresh Pear Fruit, during the period from October-2023 to December-2023 appears to be imported in violation of "**pre-import condition**" set by the said PQ Order, 2003, thereby, making them prohibited goods for import into India. This involved 1137.23 Tons of Pears valued at Rs. 6.43 crores and Customs Duty of Rs. 2.12 crores.

2.12 Statement of Shri Devendra Ramchandra Salvi, Employee of CB M/s. Pratik International in connection with import of Fresh Pear Fruit by Importer

M/s. Abhi Agro Fresh Fruits covered under Bill of Entry No. 9192378 dated 12.12.2023 was recorded on 05.01.2024 under Section 108 of the Customs Act, 1962 wherein he inter-alia stated that:

He was an employee of M/s. Pratik International CB No. (11/1988) having Customs G Pass Kardex No. 5924/2022; was looking after all the Customs related work of M/s. Pratik International at JNCH; Mr. Ram Krishna Shetty was the F-Card holder and owner of his CB firm. He further stated that BE No. 9192378 dated 12.12.2023 was filed by his CB firm on behalf of the said Importer after proper authorization; he stated that importer had provided respective Phyto-sanitary Certificates for re-export issued in UAE in respect of three past import consignments and one live consignment of "Fresh Pear Fruit" and the same were uploaded in e-sanchit in 1.5 ICES System in which only PC No. NPPO-ZA/2023/10/1049905 & Country of Origin "South Africa" and quantity of individual import shipment from UAE was mentioned. He further stated that imports of "Fresh Pear Fruit" were made by using Phyto-sanitary Certificate No. NPPO-ZA/2023/10/1049905 dated 03.10.2023 which was issued in South Africa; he stated that his CB firm had not enquired the same from the importer. He further stated that he accepted the mistake of his CB firm for not doing the proper KYC verification of the said importer and proper documentation in respect of imported goods i.e. Fresh Pear Fruits; he stated that as per available records in his office 09 import consignments of Fresh Pear Fruits including the live consignments pertaining to the importer M/s. Abhi Agro Fresh Fruits were filed by his CB firm during the period from 01.04.2023 to 05.01.2024. He further stated that due to some technical issues Phytosanitary Certificates of 05 past import consignments of the said importer had not been uploaded in e-sanchit in 1.5 ICES System; he stated that COO Certificate in respect of 09 imported consignments of Fresh Pear Fruits of the importer filed by his CB Firm M/s. Pratik International CB No. (11/1988) was not readily available with him and the same would be submitted in a week time.

3. In view of the above facts and findings, it is cleared that the CB M/s. Pratik International (11/1988) had not done proper KYC verification of the importer M/s. Abhi Agro Fresh Fruits. Further, they did not verify the import documents viz. packing list, COO, Phyto-sanitary Certificates, other relevant documents etc. and were in collusion with the importer in obtaining fraudulently Customs Clearances of "Fresh Pear Fruits". CB never advised the importer to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and CB did not upload Phyto-sanitary Certificates in e-sanchit in ICES 1.5 System.

4. In view of above, it appears that CB M/s Pratik International. (11/1988), Mumbai, has failed to comply with following regulations of the Customs Brokers Licensing Regulations 2018: -

10(a) *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;*

In the instant case, the Customs Broker did not produce any evidence to prove that he obtained authorization from importer. It is also clear that CB was never in touch with importer by any means of communication or contact which indicate that the CB filed the bills of entry without taking proper authorisation from importer/IEC holder and did not verify the genuineness of the importer. Since the authorisation was not produced by the CB, it is concluded that CB had never took pain to obtain proper authorisation from importer with malafide intention. Hence, the said CB appears to have violated regulation 10(a) of CBLR, 2018.

10(d) *“advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of noncompliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;”*

In the instant case, the Customs Broker did not advise the importer about PQ (Regulation of Import into India) Order, 2003 and failed to advise the importer to comply with the provision of the Customs Act, other allied Acts and the rules and regulations nor did they bring the matter to the notice of the customs authorities which is sheer non-compliance at the end of Customs broker. The CB failed to instruct the importer to get the valid mandatory Phyto-sanitary Certificates, subsequently, putting the Indian flora & fauna at risk. Hence, the said CB appears to have violated regulation 10(d) of CBLR, 2018.

10(e) *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;*

In the instant case, the CB did not exercise their duties to ascertain mandatory Phyto-sanitary Certificate submitted was genuine or not whether there was misuse of any notification, circular, public notice or not which subsequently, putting the Indian flora & fauna at risk. They also failed to check any scope for fraud or loss of Government Revenue. It appears that the CB had tacitly connived with the importer by using wrong Phyto-sanitary Certificate to evade payment of due Customs duty. Hence, the said CB appears to have violated regulation 10(e) of CBLR, 2018.

10(m) discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay;

In the instant case, it appears that the said CB did not discharge their duties with utmost speed and efficiency and without delay; had the CB informed about the wrong mandatory Phyto-sanitary Certificate to the importer, the fraudulent import and loss to government exchequer could have been averted. Hence, the said CB appears to have violated regulation 10(m) of CBLR, 2018.

10(n) 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;

In the instant case, it appears that the said CB did not contact with importer directly or indirectly and failed to verify the address of IEC holder and filed the bill of entry without proper verification of the address, identity, functioning and credential of the importer. During search operation the premises of the importer was found vacant, and nothing was found there except a few financial records and Phyto-sanitary Certificates. The importer did not appear during the search. Hence, the said CB appears to have violated regulation 10(n) of CBLR, 2018.

5. The CB representative in his statement had accepted the mistake of the Customs Broker for not doing the proper KYC verification of the said importer and not doing proper documentation in respect of imported goods i.e. Fresh Pear Fruits. It was responsibility of the CB to upload/e-sanchit valid mandatory Phyto-sanitary Certificate for import of Fresh Pear Fruits in India, with the correct Country of Origin, such serious lapses by the CB have put the Indian flora & fauna at risk as per the PQ (Regulation of Import into India) Order, 2003. The Customs Broker appears to have intentionally uploaded non-relevant documents to aid the illegal imports.

6. From the above facts it appears that, prima facie, Customs Broker M/s. Pratik International (11/1988) had violated Regulation 10(a), 10(d), 10(e), 10(m) & 10(n) of CBLR, 2018. It is apprehended that the Custom Broker may adopt similar modus operandi in future consignments and department cannot remain oblivious to the danger posed by such an eventuality.

Accordingly, I pass the following Order:

ORDER

6.1 I, Principal Commissioner of Customs (General), in exercise of powers conferred upon me under the provisions of Regulation 16 (1) of CBLR, 2018 hereby suspend the CB licence of M/s. Pratik International (11/1988) with immediate effect, being fully satisfied that the Customs Broker has prima-facie

did not fulfil their obligations as laid down under Regulation 10(a), 10(d), 10(e), 10(m) & 10(n) of CBLR, 2018.

6.2 However, I offer the Customs Broker M/s Pratik International CB No. (11/1988) an **opportunity of personal hearing on** 10/4/2024 **at** 12:30 pm **hours.** Any written representation against this order should reach the undersigned before the date of hearing.

6.3 M/s. Pratik International (CB No. 11/1988), (PAN No. AAPFP3036J) is directed to surrender all the original Custom Passes issued to their employee/partner/director/Proprietor immediately.

6.4 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.

Signature
27/3/22

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

To,
M/s. M/s. Pratik International (CB No. 11/1988),
131, Almedia House, Room No. 01, Road No. 02,
Church Pakhadi, Sahar Village, Andheri East,
Mumbai-400099.

Copy to:

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