



**OFFICE OF THE PR. COMMISSIONER OF CUSTOMS
(GENERAL),
CUSTOM BROKER SECTION, NEW CUSTOM HOUSE,
BALLARD ESTATE, MUMBAI - 400 001.
Email-Id: cbsec.nch@gov.in**

F.No.GEN/CB/199/2024-CBS/NCH

Date:

DIN: 20240477000000 498430

ORDER No. 07 /2024-25

**UNDER REGULATION 16 OF THE CUSTOMS BROKER LICENSING
REGULATION, 2018**

M/s. Saraimx Logistics Pvt. Ltd. CB No. 11/2640 (PAN NO. ABACS8742F), having address at Office No. 701, Raturaj CHS, Pendse Nagar, Cross Road, Dombivali, Thane, Maharashtra-421201, (hereinafter referred as the Customs Broker/CB) is holder of Customs Broker License No. 11/2640 (PAN NO. ABACS8742F), issued by the Commissioner of Customs, Mumbai under Regulation 7(2)(b) of the CBLR, 2018, and as such they are bound by the regulations and conditions stipulated therein.

2. An Offence Report in the form of Show Cause Notice No. 40/ADC/ADJ(X)/2022-23/ACC dated 30.03.2024, issued by ADC, Export, ACC, Mumbai Customs Zone-III was received by CBS, NCH, wherein inter-alia following were informed:

2.1. M/s. Kotal Enterprises (IEC No. BHTPK2839Q) (hereinafter referred to as "the exporter") having declared address in IEC as Room No. 10, New Indra Nagar, Near Sudarshan Colony, Thane (East), Maharashtra-400603, had filed three Shipping Bills No. 9254160, 9254271 & 9254283 all dated 27.03.2022 (hereinafter mentioned "The Subject Shipping Bills"), through their Customs Broker M/s Saraimx Logistics Pvt. Ltd (hereinafter referred to as "the C.B.") for export of Readymade Garments, having total declared FOB value of Rs. 85,95,360/- (Rupees eighty five lakh ninety five thousand three hundred sixty only), under the drawback/LUT scheme for the claim of drawback of Rs.1,89,098/- (Rupees one lakh eighty nine thousand ninety eight only) and RoSCTL of Rs. 5,20,018/- (Rupees five lakh twenty thousand eighteen only).

2.2. On the basis of risk analysis, the NCTC, Mumbai had informed to SIIB Export, ACC, vide their email dated 29.03.2022 that M/s Kotal Enterprises (IEC No. BHTPK2839Q) had filed the 07 risky S/bs dated 27.03.2022 & 28.03.2022 at INBOM4 i.e Air Cargo Complex, Mumbai Zone-III for Risky Commodity i.e Readymade Garments (RMGs). The NCTC, Mumbai further informed that the exporter appears to have no supply chain pertaining to the RITC of these items i.e Readymade Garments (RMGs).

2.3. Further, NCTC Mumbai informed that; the exporter had NIL local outward supply, and had inward only in the month of March, 2022; All the suppliers of exporter were Proprietorship concerns, which had obtained registration recently and had shown sudden spurt in their business activities in recent months; the exporter appeared to be front man with meagre financial resources; one out of two L1 suppliers on record, M/s Ram Traders, had NIL inward supply; The RITC of the goods supplied to exporter by M/s Ajay Sales (L1 supplier) falls under Chapter 62; however, as per the inward supply chain, the suppliers of M/ s Ajay Sales had no inward for HSN 62, this L2 was only dealing in Scrap falling under Chapter 72 indicating paper-based book transaction. M/s Advanta Sales (L2 Supplier), who was the only supplier of M/s Ajay Sales, had

'Cancelled' their GST registration. The exporter M/s Kotal Enterprises had carted the goods for the three S/b's no. 9254160, 9254271 & 9254283 all dated 27.03.2022.

2.4. Accordingly, the consignments under three SBs 9254160, 9254271 & 9254283 all dated 27.03.2022 were put on hold and the consignment was examined 100% under supervision of SIIB(X), ACC, Mumbai under panchanma dated 04.04.2022 and the goods were found as per declaration in Shipping Bills/check list in respect of quantity and descriptions. Respective sealed Samples of the goods were drawn for further investigation/testing and for valuation purpose.

2.5. As the exporter had not submitted any proof of genuineness of supply chain, accordingly goods were seized under section 110(1) of the Customs Act, 1962 and seizure memo dated 25.04.2022 was issued. Samples of the goods covered under the above three S/b's were forwarded to DYCC, ACC, Mumbai vide letter dated 11.05.2022 with request to provide the composition, nature and correct description of the goods. Test report in respect of the above goods was received from New Customs Laboratory Mumbai through DYCC, ACC, Mumbai on 05.06.2022.

2.6. A letter dated 19.04.2022 was received from the exporter M/s Kotal Enterprises with request to provisionally release the goods under the Shipping Bills No. 9254160, 9254271 & 9254283 all dated 27.03.2022. Further, the goods covered under the above said three S/Bs were provisionally released by export shed, ACC, Mumbai-III on execution of a Bond of Rs. 85,95,360/- (Eighty-five lakh ninety-five thousand three hundred sixty only) (RUD-06) and a Bank Guarantee of Rs. 3,54,558/- (Three lakh fifty-four thousand five hundred fifty-eight only) (B.G No. BOM/0151/60414111046/2022-23 dt. 30.04.2022).

2.7. A letter dated 07.06.2022 addressed to Addl. Commissioner, CGST & C.Ex, Navi Mumbai was issued to verify the genuineness of the exporter and their supplier along with ITC for the period April, 2021 to till date as per Circular No. 16/2019-Customs dated 17.06.2019.

2.8. An email letter dated 08.12.2022 along with enclosure letter dt. 10.09.2022 was received from Joint Commissioner, CGST & C.Ex, (Anti Evasion) Navi Mumbai informing that effort were made to verify the registered premises of M/s Kotal Enterprises under authorization for inspection issued under Section 67(1) of the CGST Act, 2017, However, the registered premises could not be located and appears to be non-existent. Further, on verification from the GSTN portal it is observed that the taxpayer has filed NIL GSTR-1 returns after obtaining GST registration on 20.02.2022. It was further stated that in view of these, it appears taxpayer is non-genuine and for the safeguarding govt. revenue actions such as GST Registration cancellation & bank attachment process has been initiated by GST & C.Ex, Navi Mumbai.

2.9 Officer of the SIIB(X), ACC, Mumbai visited the registered office address of M/s Kotal Enterprises i.e Room No. 10, New Indra Nagar, Near Sudarshan Colony, Thane (East), Maharashtra, on 19.09.2022 and as per visit report dated 19.09.2022 the said address was found false/incomplete/non-existent. Accordingly, a letter dated 18.12.2022 addressed to the Director General, DGFT, Maulana Azad Road, New Delhi with request to cancel the IEC No. BHTPK2839Q of M/s Kotal Enterprises, was issued by SIIB, Export.

2.10. The Bank Account No. 60409363420 of the exporter M/s Kotal Enterprises was provisionally attached u/s 110(5) of the Customs Act, 1962, on 30.11.2022 for the safeguard of the revenue of Government exchequer with the approval of Competent authority.

2.11. A letter dated 07.06.2022 addressed to Addl. Commissioner, CGST & Service Tax, Delhi West, Bhikaji Cama Place, New Delhi was issued to verify the genuineness of the business along with ITC of M/s Ajay Sales (GSTIN No. 07FSEPK2741B1Z3) (L1 Supplier of exporter M/s Kotal Enterprises). In reply vide email letter dated 27.11.2022 received from CGST, Delhi West through NCTC, Mumbai, it was informed that M/s Ajay Sales (L1 Supplier of exporter M/s Kotal Enterprises) found non-existent and GSTIN registration has been suspended of the said supplier.

2.12. Statement of the Shri Vishal Gupta, CEO of C. B firm M/s Saraimx Logistic Pvt. Ltd. was recorded on 04.10.2022 in the office of SIIB(X), ACC (RUD-14) under Section 108 of Customs Act, 1962 wherein he in his statement inter-alia stated that:

- He is working as CEO of the M/s Saraimx Logistics Pvt. Ltd and he handles the business of firm.
- S/Bs No. 9254160, 9254271 & 9254283 all dated 27.03.2022 were filed by them on behalf of M/s Kotal Enterprises.
- He comes in contact with the exporter M/s. Kotal Enterprises and its proprietor Mr. Anand Kotal through a whatsapp group of Customs Broker and Forwarders.
- It was the first consignment that he had taken for clearance of M/s Kotal Enterprises.
- He had verified all KYC documents and address of exporter M/s Kotal Enterprises.
- He further stated that M/s. Kotal Enterprises is a merchant exports firm which deals in Garments. Transport was arranged by exporter only.
- In response of a question – “One Officer of SIIB(X)/ACC, Mumbai, visited the addressed of Mr. Anand Kotal, Proprietor of M/s Kotal Enterprises, but no such address was found”, he stated that address was verified by him, it might be he changed his address. He would confirm the new address of Mr. Anand Kotal and will provide to this office.

2.13. Further statement of the Shri Vishal Gupta, CEO of C. B firm M/s Saraimx Logistic Pvt. Ltd. was recorded on 11.04.2023 in the office of SIIB(X), ACC under Section 108 of Customs Act, 1962 wherein he inter-alia stated that:

- M/s Saraimx Logistic Pvt. Ltd is a C.B firm as well as logistics company and there are three (03) directors namely i). Shri Amar Powale ii). Shri Samir Gharat and iii). Shri Ramesh Gupta. He works in this company in the position of CEO and looks after Custom Clearance and freight forwarding related works.
- On being asked how much they charged for filing a single S/b, Mr. Vishal stated that they charge approx Rs 2000-3000 as agency for filing/clearance of a single S/b which depend upon the number of S/b filed in a month for the exporter.
- On being asked whether they provide the logistics service to exporter, Mr. Vishal Gupta stated that they provide the logistics service to the party.
- They do not have any warehouse for the storage of goods.
- On being asked whether they had verified the address of exporter M/s. Kotal enterprises, in his reply Mr. Vishal stated that office address of M/s. Kotal Enterprises was verified by one of his employee Mr. Anil Kamble.

- On being asked to submit the proof of address verification carried out by them, Mr. Vishal Gupta stated that they do not have any proof in this regard.
- On being asked that one of SIIB(X) officer visited the address of exporter M/s Kotal enterprises on 19.09.2022 i.e. Room No 10, New Indira Ngar, Near Sudarshan Colony, Thane East, Maharashtra and it was found that said address is non-existent, in this regard Mr. Vishal stated that he has no idea.
- Again on countered that in his earlier statement dated 04.10.2022 recorded in this office, Mr. Vishal Gupta stated that the said address verification was carried out by him but now he is saying it was carried out by Mr. Anil Kamble, in his reply Mr. Vishal stated that in his previous statement, address verification was carried out by him means it was carried out by his employee.
- On shown his earlier statement recorded on 04.10.2022 where Mr. Vishal deposed that exporter may have changed his address and he made a promise that he will submit the new one after confirming from M/s Kotal Enterprises, Mr. Gupta stated that they are trying to communicate with the Exporter but no response is being received from the Exporter side. They tried to call several times but nobody picks up call. So they could not ascertain the new address of the exporter.
- On being asked whether they understand as Customs Broker it is their obligation as mentioned in CBLR, 2018 to verify the correctness of address of his client at the declared address by using reliable, independent, authentic documents, data or information. It is also their responsibility to maintain all records and accounts that are required to be maintained under these regulations and preserve for at least five years and all such records and accounts shall be made available at any time for the inspection of officers authorised for this purpose, since they could not provide any proof of address verification, it appears that the same was not carried out by their C.B firm, in his reply Mr. Vishal Gupta stated that the address verification was carried out by one of their employee Mr. Anil Kamble when the clearance work of M/s Kotal Enterprises was taken by their C.B firm but it comes to their notice at the time of last statement dt. 04.10.2022 recorded by SIIB(X), ACC that the address of M/s Kotal Enterprises is non-existent, since then they are trying to communicate with Mr. Anand Kotal, proprietor of M/s Kotat Enterprises but he is not responding to their calls.
- On being asked that as per CBLR, 2018 it is their obligation to co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees. In current investigation, summons was issued on 17.11.2022 and 23.01.2023 on which nobody appeared and from this it appears that they are not co-operating with the investigation, in this regard, Mr. Vishal Gupta stated that he was suffering from fever so could not attend previous summons.
- On being asked what was the mode of payment between their C.B firm and exporter, Mr. Gupta stated that all payment was made through online banking. Mr. Vishal also submitted bank account statement of company (M/s Saraimx Logistics Pvt. Ltd.) for one year as well as ledger of Exporter as well as IATA agent.
- On being asked about the status of payment made by exporter M/s Kotal Enterprises to M/s Saraimx Logistics Pvt. Ltd in respect of S/Bs filed by them at ACC, Mumbai, in this regard, Mr. Vishal Gupta stated that

exporter M/s Kotal Enterprises has paid Rs. 5,90,440/- (Rupees five lakh ninety thousand four hundred forty only) to them till date i.e as on 11.04.2023 but this amount was due for the previous consignment cleared at JNPT, Nhava Sheva. Mr. Gupta further stated that in respect of the three (03) S/Bs which was filed/cleared at ACC, Mumbai-III on behalf of M/s Kotal Enterprises, an amount of Rs. 9,48,806/- (Rupees nine lakh forty-eight thousand eight hundred six only) was paid by them (M/s Saraimx Logistics Pvt. Ltd.) to IATA for booking of freight and as on this amount is due/yet to be received from exporter M/s Kotal Enterprises.

- On being asked that as RMG is risky commodity and consignments were destined to Sudan which is a sensitive country. Whether they tried to verify/know the origin of goods or supplier of Exporter, Mr. Vishal Gupta stated that being a Customs Broker, they did not try to verify/know the origin of the goods or exporter's suppliers.

2.14. Statement of Mr. Abdul Rauf Abdul Lafit Shaikh (**RUD-16**), authorized person of M/ s. Kotal Enterprises (BHTPK2839Q) recorded on 17.10.2022 under Section 108 of the Customs Act, 1962 at the office of SIIB(X), ACC, Sahar, Andheri (East), Mumbai, in his statement Mr. Abdul Rauf Abdul Latif Shaikh inter alia stated that;

- He works with M/s Kotal Enterprises.
- On being asked his role in M/s Kotal Enterprises, Mr. Abdul Shaikh stated that he assists Mr. Anand Kotal proprietor of M/s Kotal Enterprises in his business. He further stated that he contacts the party for business.
- On being asked whether the S/Bs No. 9254160, 9254271 & 9254283 all dated 27.03.2022 were filed by M/s Kotal Enterprises, Mr. Abdul stated that these S/Bs were filed by C.B M/s Saraimx Logistics Pvt. Ltd on behalf of M/s Kotal Enterprises.
- On being asked from whose exported goods were purchased, Mr. Abdul stated that goods were purchased from one M/s Ajay Sales.
- On being asked about the payment mode between M/s Kotal Enterprises and M/s Ajay Sales, Mr. Abdul stated that goods were purchased on credit.
- On being asked whether they have received the remittance from the foreign buyer, Mr. Abdul stated that payment yet to be received from consignee; however, they are in touch with their foreign buyer in respect of remittance.
- On being asked the question who arranged the transport for carrying goods from supplier/warehouse to ACC, Mumbai, Mr. Abdul stated that it was arranged by them.
- On asked for the receipt of the goods, delivery challan, Toll slips/transporter challan, e-way bill etc, Mr. Abdul stated that right now, he is not carrying the delivery challan, toll slips/transporter challan etc. He will check it in his office and will submit accordingly and he further informed that e-way bill has already been submitted by them.
- On shown the data of GST of the Exporter and as per data the exporter has NIL local outward supply in domestic market before starting the business of exports, in this regard, Mr. Abdul stated that before starting the export, they used to deal in garments in local market.
- On being asked how they came in contact with their foreign buyer, Mr. Abdul stated that they came in contact with the foreign buyer through one of their acquaintance.

- On being asked that one of SIIB(X) officer visited the address of Mr. Anand Kotal, Proprietor of M/s Kotal Enterprises on 19.09.2022 but no such address was found, in this regard, Mr. Abdul Rauf Abdul Lafit Shaikh stated that the office address is same as mentioned in IEC but Mr. Kotal are residing at a new address "1/6 Jai Ambika Niwas, Garibachwada, Phulerd on rent and he submitted the light bill for the proof.

2.15. In the furtherance of investigation, the scrutiny of Bank Statement of M/s Kotal Enterprises bearing Account No. 60409363420 of the Bank of Maharashtra, Kopari Branch Thane, Maharashtra was undertaken and it was observed that the account was opened on 24.02.2022 by depositing an amount of Rs 6,000/- (by cash) in the said branch. On 30.05.2022, an amount of Rs. 2,14,591/-, Rs. 2,13,938/-, Rs. 1,82,687/- Rs. 1,75,472/-, Rs. 1,64,109/- Rs. 1,77,542/- & Rs. 1,68,398/- was credited in a/c of M/s Kotal Enterprises through NEFT from SIBN, CBEC ICEGATE and on 31.05.2022 an amount of Rs. 2,16,119/- was also credited through NEFT from SIBN, CBEC ICEGATE. These amounts, which were credited form CBEC ICEGATE appears to be Govt. transferred/Incentive/refund of Drawback, IGST & RoSCLT etc and immediately on 01.06.2022 an amount of Rs. 5,90,440/- (Rupees five lakh ninety thousand four hundred forty only) was transferred from account of M/s Kotal Enterprises to the account of C.B firm M/s Saraimx Logistics Pvt. Ltd through cheque no. 090458.

2.16. Further, the Bank statement of C.B firm M/s Saraimx Logistics Pvt. Ltd was scrutinized from 01.06.2022 to 31.10.2022 and it was observed that the statement consists of a lot of transactions between M/s Saraimx Logistics Pvt. Ltd and bank/logistics/exporter importer etc including the transaction of Rs. 5,90,440/- which was made from M/s Kotal Enterprises on 01.06.2022.

2.17. The Role of Exporter: On departmental enquiry, it was found that the premises of M/s. Kotal Enterprises having address at Room No. 10, New Indra Nagar, Near Sudarshan Colony, Thane (East), Maharashtra-400603 was found false/incomplete/non-existent. The CGST & C.Ex. (Anti Evasion) Navi Mumbai vide their letter 10.09.2022 has also submitted that effort were made to verify the registered premises of M/s Kotal Enterprises under authorization for inspection issued under Section 67(1) of the CGST Act, 2017, however, the registered premises could not be located and appeared to be non-existent and further submitted that on verification from the GSTN portal it was observed that the taxpayer had filed NIL GSTR-1 returns after obtaining GST registration on 20.02.2022, and hence, it appeared that the taxpayer was non-genuine and for the safeguarding govt. revenue actions such as GST Registration cancellation & bank attachment process was initiated by their office.

2.18. Further, several summons were issued to the proprietor of M/s Kotal Enterprises at the address of the firm and/or at address as mentioned in Aadhar card No. 7456 1705 7345 of Mr. Anand Kotal which were not honoured by the exporter M/s Kotal Enterprises. From which, it appeared that the Exporter had nothing to present in his defense and deliberately tried to avoid appearing before Customs Authority to record his statement and thus not co-operating with the investigation. Therefore, it appears that the firm was created only on paper with sole intention of defrauding the govt. exchequer by fraudulently claiming/availing export incentives including ITC. Further, CGST, Delhi West vide their email letter dated 27.11.2022 (refer RUD-13) through NCTC, Mumbai informing that M/s Ajay Sales (L1 Supplier of exporter M/s Kotal Enterprises) found non-existent and GSTIN registration was suspended of the said supplier.

2.19. Further, in-spite of providing ample opportunities vide issuing various summons, the Exporter did not submit the Proof of receipt of goods, Lorry Receipts, E-Way Bills for transporting of goods, Proof of payment made to the

Suppliers. The Exporter failed to produce any document to prove the genuineness of his Business transactions. Therefore, it appeared that the export goods were purchased from non-registered suppliers and no statutory duty was paid/levied by their suppliers to the Government Exchequer. Thus, the non-duty paid goods clearly indicates the complete mis-match of the exporter's supply chain. The Exporter did not submit any Foreign Remittance copy of the exported goods. It clearly implies that the Exporter has purchased the goods from unregistered local suppliers and raised fake invoices to clear the shipments to avail undue export incentives and attempted to defraud the Government and thereby acted in a manner which rendered the goods mentioned under three Shipping bills i.e. 9254160, 9254271 & 9254283 all dated 27.03.2022 having total FOB value of Rs 85,95,360/- (Rupees eighty five lakh ninety five thousand three hundred sixty only), liable to confiscation under Section 113(i) & 113(ia) of the Customs Act, 1962.

2.20. Further, Mr. Abdul Shaikh, the authorized representative of M/s Kotal Enterprises in his statement recorded on 17.10.2022 submitted that the export goods were purchased from one, M/s Ajay Sales on credit and on being asked the proof of the same he stated that he would check the receipt of the goods, delivery challan, Toll slips/transporter challan, e-way bill etc, in his office and would submit accordingly, however the same was not submitted by him. Further, he submitted that the foreign remittance with respect to the subject S/b's were yet to be received from their foreign buyer and they are in touch with their foreign buyer in respect of remittance. In respect to the NIL local outward supply of exporter in the domestic market as per GST return data, he stated that, before starting the business of exports, they used to deal in garment in local market. The above acts of omission and commission by Mr. Anand Kotal proprietor of M/s Kotal Enterprises resulted in violation of provisions of Section 50(2), 50(3) & 75(1) of the Customs Act, 1962 read with Section 11(1) of the Foreign Trade (Development and Regulation) Act, 1992, Section 7(1) & 8 of the Foreign Exchange Management Act, 1999, Rule 11 of the Foreign Trade (Regulations) Rules, 1993 and Regulation 9 of the Foreign Exchange Management (Export of Goods & Services) Regulations, 2015. Further, in terms of Boards Circular No. 5 of 2009 Customs dated 02.02.2009 vide F. No. 609/167/2003-DBK, the exporter is required to submit the proof of export realization to the Custom House within the stipulated time-limit. In the instant case, it is observed that Rule 18(1) of Customs and Central Excise Duties Drawback Rules, 2017 read with proviso to Section 75(1) of the Customs Act, 1962 provides for the mechanism for recovery of unrealized exports proceeds, if the same has not been realized under the period prescribed or permitted extended period under the Foreign Exchange Management Act (FEMA), 1999. It is noticed that in case of non-realization of exports proceeds, it is deemed that the same has never been allowed therefore the same is required to be recovered by pressing into operation aforesaid Rule 18 of the Customs and Central Excise Duties Drawback Rules, 2017. It is also clear that no statutory duty was levied on the purchase of the exported goods by the Exporter as the the export has failed to provide the documentary evidence and the supplier of exporter was also found non-existent during the investigation and it appears that same were procured from Local Unregistered Suppliers. Therefore, the claimed RoSCTL amount of Rs. 5,20,018/- (Rupees five lakh twenty thousand eighteen only) for the goods covered under Shipping Bills no. 9254160, 9254271 & 9254283 all dated 27.03.2022 for rejection under provisions of para 5 of Notification No. 77/2021-Customs(N.T.) dated 24.09.2021 read with Section 28AAA of Customs Act, 1962 as the export realization has not yet been received; In view of the above, it appears that the export firm M/s Kotal Enterprises was created on paper with sole intention to defraud the govt. exchequer.

3. Comparative Analysis of the Bank Statements of M/s Kotal Enterprises and the CB, M/s Saraimx Logistics Pvt. Ltd reveals the following:

The Bank account of M/s Kotal Enterprises was opened on 24.02.2022 by depositing Rs 6,000/- (by cash) in Bank of Maharashtra, Kopari Branch Thane, Maharashtra. On 30.05.2022 an amount of Rs. 2,14,591/-, Rs. 2,13,938/-, Rs. 1,82,687/- Rs. 1,75,472/-, Rs. 1,64,109/- Rs. 1,77,542/- & Rs. 1,68,398/- was credited in a/c of M/s Kotal Enterprises through NEFT from SIBN, CBEC ICEGATE and on 31.05.2022 an amount of Rs. 2,16,119/- was also credited through NEFT from SIBN, CBEC ICEGATE. These amounts which were credited from CBEC ICEGATE appears to be Govt. transferred/Incentive/refund of Drawback, IGST & RoSCLT etc and immediately on 01.06.2022 an amount of Rs. 5,90,440/- (Rupees five lakh ninety thousand four hundred forty only) was transferred from account of M/s Kotal Enterprises to account of C.B firm M/s. Saraimx Logistics Pvt. Ltd through cheque no. 090458. Further, Mr. Vishal Gupta, CEO of C.B firm M/s Saraimx Logistics Pvt. Ltd in his statement dated 11.04.2023 has deposed that an amount of Rs. 9,48,806/- (Rupees nine lakh forty eight thousand eight hundred and six only) was paid by their firm to IATA agent for the booking of freight with respect to goods covered under S/b's no. 9254160, 9254271 & 9254283 all dated 27.03.2022. Mr. Vishal Gupta, further deposed that the amount Rs. 5,90,440/- which was transferred to their C.B firm's account from the exporter was toward the due from the previous consignment cleared at JNPT, Nhava-Sheva. As pertains to S/b's no. 9254160, 9254271 & 9254283 all dated 27.03.2022, amount of Rs. 9,48,806/- is still due.

The Bank statement of C.B firm M/s Saraimx Logistics Pvt. Ltd was scrutinized from 01.06.2022 to 31.10.2022 and it was observed that the statement consists of a lot of transactions between M/s Saraimx Logistics Pvt. Ltd and bank/logistics/exporter importer etc including the transaction of Rs. 5,90,440/- which was made from M/s Kotal Enterprises on 01.06.2022. In view of the findings as above, it appears that the export beneficiary is CB firm, M/s Saraimx Logistics Pvt. Ltd.

4. Role of the Customs Broker: During investigation, the registered office of exporter was verified by SIIB(X), ACC, Mumbai and it was found that the office of M/s Kotal Enterprises does not-exist and the same was also informed by the jurisdictional GST Commissionerate, that effort were made to verify the registered premises of M/s Kotal Enterprises under authorization for inspection issued under Section 67(1) of the CGST Act, 2017, However, the registered premises could not be located and appeared to be non-existent. Further, on verification from the GSTN portal it was also observed that the taxpayer had filed NIL GSTR-1 returns after obtaining GST registration on 20.02.2022, hence, it appears that the taxpayer is non-genuine, in view of these, it appears the firm is non-existent at the registered address. Therefore, it appears that the submission of CEO of Customs Broker M/s Saraimx Logistics Pvt. Ltd, namely Vishal Gupta, in his statement dated 04.10.2022 & 11.04.2023 that they have verified the premises of M/s Kotal Enterprises, is incorrect and false. Hence, it appears that they tried to mislead the investigation. Thus, the CB did not verify the functioning of the exporter at the IEC address and failed to comply with the requirements of regulation 10(n) of CBLR, 2018. The CB also failed to verify the credentials of the exporter. It appears that the CB aided, abetted and connived with Mr. Anand Balram Kotal in effecting fraudulent exports through M/s Kotal Enterprises for availing ineligible export incentives. The above act of omissions and commissions by the Customs Broker has resulted in contravention of the provisions of Regulation 10(d), 10(e) & 10(n) of the CBLR, 2018, and 50(2), 50(3)

& 75(1) of the Customs Act, 1962 read with Section 11(1) of the Foreign Trade (Development And Regulation) Act, 1992, Section 7(1) & 8 of the Foreign Exchange Management Act, 1999, Rule 17 & 18 of the Customs and Central Excise Duties Drawback Rules, 2017, Rule 11 of the Foreign Trade (Regulations) Rules, 1993 and Regulation 9 of the Foreign Exchange Management (Export of Goods & Services) Regulations, 2015. The failure of CB to verify the credentials of the exporter has resulted in violation of Regulation 10(n) of the CBLR, 2018 and Section 7 of the Foreign Trade (Development and Regulation) Act, 1992 read with Rule 12 of the Foreign Trade (Regulation) Rules, 1993 & Para 2.05(II)(i) of the foreign Trade Policy 2015-20.

5. In view of the above facts and findings, it appears that the Customs Broker, M/s. Saraimx Logistics Pvt. Ltd. CB No. 11/2640 (PAN NO. ABACS8742F), has failed to comply with the following Regulations of the Customs Brokers Licensing Regulations, 2018: -

(i) Regulation 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 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;*

During investigation it was found that, the exporter, exported the goods with mala-fide intention to avail undue drawback & other export benefits like ROSCTL/RODTEP and availment of wrongful ITC credit in violation of 50(2), 50(3) & 75(1) of the Customs Act, 1962 read with Section 11(1) of the Foreign Trade (Development And Regulation) Act, 1992, Section 7(1) & 8 of the Foreign Exchange Management Act, 1999, Rule 17 & 18 of the Customs and Central Excise Duties Drawback Rules, 2017, Rule 11 of the Foreign Trade (Regulations) Rules, 1993 and Regulation 9 of the Foreign Exchange Management (Export of Goods & Services) Regulations, 2015.

In the instant case, the CB appears to have failed in advising his client to comply with the above mentioned provisions of the Customs Act, 1962 and other Allied Acts. Moreover, the CB also failed to bring the matter of such non-compliance to the Deputy Commissioner or Assistant Commissioner of Customs.

(ii) Regulation 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;*

The Customs Broker (CB) is an agent authorized by the exporter to work on their behalf. It is the obligation of the Customs Broker to exercise due diligence to ascertain the correctness of any information he imparts to a client with reference to any work related to clearance of cargo.

In the instant case, it appears that the CB not only failed in his duty as mandated in Regulation 10 (e) of CBLR, 2018 but also appears to be the beneficiary of the subject export.

(iii) Regulation 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;*

As per regulation 10(n), it is mandatory for a Customs Broker to 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; Whereas, the C.B in their statement dated 04.10.2022 & 11.04.2023 has submitted that they had verified the premises as mentioned in

IEC of the exporter, however, on departmental enquiry the address of the exporter was found to be fictitious/non-existent/false.

Therefore, it appears that the CB failed to comply with the duty mandated in Regulation 10 (n) of CBLR, 2018.

6. I have gone through the facts of the case. I observe that the Customs Broker M/s Saraimx Logistics Pvt. Ltd. CB No. 11/2640 (PAN NO. ABACS8742F) has failed to discharge his obligations as required under Regulation 10(d), 10(e), and 10(n) of CBLR, 2018. As per the outcome of the investigation, the CB appears to be the beneficiary of the subject export and therefore, it is apprehended that the Customs Broker may adopt similar modus opernadi in future consignments and department cannot remain oblivious to the danger posed by the such an eventuality. Hence, I observe that this is a fit case, where immediate action is needed for invoking Regulation 16 of the CBLR, 2018.

7. 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(1) of CBLR, 2018 hereby suspend the license of M/s Saraimx Logistics Pvt. Ltd. CB No. 11/2640 (PAN NO. ABACS8742F) with immediate effect, being fully satisfied that the Customs Broker had prima facie not fulfilled their obligations as laid down under Regulation 10(d), 10(e), and 10(n) of CBLR, 2018.
- II. However, I offer the Customs Broker, M/s Saraimx Logistics Pvt. Ltd. CB No. 11/2640 (PAN NO. ABACS8742F) an opportunity of Personal Hearing on 25/4/2024 at 12:00 PM through in person/video conferencing facility. Any written representation against this order should reach before the date of hearing.
- III. 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.


(SUNIL JAIN)

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

To,

M/s. Saraimx Logistics Pvt. Ltd. CB No. 11/2640 (PAN NO. ABACS8742F),

Office No. 701, Raturaj CHS, Pendse Nagar,

Cross Road, Dombivali, Thane, Maharashtra-421201.

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

