



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

संचिका सं./F. No.- GEN/CB/455/2023 -CBS

आदेश दिनांक/Date of Order: 10.04.2024

CAO No. NCH/02/AC/PAM/CBS 2024-25

जारी दिनांक/Date of issue: 10.04.2024

संख्या:

DIN : 2024047700000000444F05

द्वारा जारी : प्रमोद ए. मेंडन  
सहायक आयुक्त, सीमाशुल्क (सामान्य)  
मुंबई -400 001

Issued By : Pramod A. Mendon  
Asst. Commissioner of Customs(Gen.),  
Mumbai - 400 001.

**ORDER-IN-ORIGINAL मूल आदेश**

**ध्यान दीजिए/ N.B. :**

8. यह प्रति उस व्यक्ति को निजी उपयोग हेतु निःशुल्क प्रदान की जाती है, जिसे यह जारी की जा रही है।

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9. 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, यथोत्तराधिकार 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.

10. 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 क्रॉसड 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. Global Links, 105, situated at Bhanot Corner, Pamposh Enclave, Greater Kailash-I, New Delhi -(hereinafter also referred to as the said CB) is a Customs Broker having CB License No. R-008/97/ DEL/CUS/2017 (PAN: AADFG5566JE) valid upto 31.12.2026, issued by the Commissioner of Customs (Airport & General), New Delhi. CB M/s. Global Links was granted permission under Regulation 7(3) of CBLR, 2018 to operate CB license at Mumbai Customs Station by Commissioner of Customs, Mumbai. Shri. Jitesh Premji Mav was a G Card Holder (Kardex No. M-2771) in CB M/s. Global Links (CB No. 11-1760) and as such he is bound by the regulations and conditions stipulated therein.

**2.** The customs Broker M/s. Global Links (CB No. 11-1760) filed Bill of Entry No. 4324995 and 4325182 dated both 23.01.2023 of total declared assessable value Rs. 1631679=98 and Rs. 3099218=41 respectively for goods from China for home consumption at Mumbai Port for M/s. Dreams Inc (IEC No. 0307032027) (herein after referred to as the importer) having address registered at Godown No. 06, Ground Floor, Ma Padmavati Complex, Bhiwandi, Thane - 421302. CIU NCH booked a case of importing goods with various discrepancies/ misdeclaration which included BIS violation, mis-declaration with respect to value and quantity, Non-Payment/Appropriate payment of Anti-Dumping Duty, IPR Violation and RE-44 Violation. After Investigation Offence report dated 06.02.2022 vide File No. CIU/NCH/INV-63-2022-23 was issued.

**3.** The importer had imported goods vide Bill of Entry No. 4324995 and 4325182 both dated 23.01.2023 of total declared assessable value Rs. 1631679=98 and Rs. 3099218=41 respectively from China for home consumption through Customs Broker M/s. Global Links at Mumbai Port.

**3.1** Examination of the said goods covered under B/E No. 4324995 dated 23.01.2023 and B/E No. 4325182 dated 23.01.2023 were carried out by the officers of CIU, NCH under two panchnama dated 27.01.2023.

**3.2** On examination of the two above mentioned Bills of Entry by CIU officers, various discrepancies were found which included BIS violation, mis-declaration, Undeclared Goods, Examination order not followed, mis-declaration with respect to quantity, Non-Payment/Appropriate payment of Anti-Dumping Duty, RE-44 Violation and mis-declaration with respect to value.

**3.3** Goods were found mis-declared in terms of description and quantity in addition to violation of allied acts i.e. DGFT Notification No. 44(RE-2000)/1997-2002 dated 24.11.2000 and violation of BIS in the Bills of Entry no. 4324995 and 4325182 both dated 23.01.2023. Also, the goods appear to be undervalued Therefore, the goods appeared to be liable for confiscation under section 111(d), 111(1) and 111(m) and subsequently the goods covered under Bills of Entry no.

4325182 dated 23.01.2023 and 4324995 dated 23.01.2023 were seized under section 110(1) vide seizure memo no. 07/2022-23 dated 06.02.2023.

**3.4** During the course of the investigation, summons was issued to various persons under provisions of section 108 of the Customs Act 1962. Statements of the Importer Shri Pankaj S. Banal was recorded on 06.02.2023 under Section 108 of the Customs Act, 1962 wherein he interalia stated that on an average 5 to 7 consignments are imported by him in a month; that M/s. Global Links, CB Firm is doing the clearance of the consignments; that he pays Rs. 80,000/- to Rs. 1,00,000/- through cheque for a consignment to CB Firm for clearance of the goods which also include transportation, CFS charges, DO charges etc.; that he is aware that consignment was examined by the Officers of CIU, NCH and he accept that there are irregularities in the consignment w.r.t declarations as per the BE.; that he does not have knowledge about the requirement of compliance of RE-44 notification for the goods found in pre-packaged condition during the examination; that regarding the goods found not conforming with BIS guidelines, that the CB Firm had not informed him anything about the requirements of compliance of RE-44, and other compliances; He doesn't have any written agreement with the supplier and is ready to accept the value whichever will be decided by the Customs and is ready to pay differential duty, fine and penalty. He did not have any supportive evidence to show that goods imported are as per BIS norms.

**3.5** Statement of Shri Vinod P. Nanda, Power of Attorney and G card holder, M/s. Global Links was recorded under section 108 of the Customs Act 1962 on 08.02.2023, wherein he interalia stated: that he is involved in clearance of Import/Export consignments for M/s. Global Links since 2012; he has filed Bill of Entry on basis of documents provided by importer; he was present during the re-examination of the B/Es by C1U, NCH on 27.01.2023 and during the re-examination mis-declaration in respect of quantity /description/brand and violations of BIS and RE-44 requirements were found; he knows it's a duty of CB to inform about the compliance of provisions of Customs Act and any other allied acts; he is also aware about the duty of CB under CBLR, 2018; he is also aware that if any discrepancy found during the examination, it's a duty of the CB to inform the importer and competent authority.

**3.6** Statement of Shri Jitesh P. Mav, G card holder of M/s Global Links was recorded on 06.02.2023 under section 108 of the Customs Act 1962 wherein he interalia stated that he is aware about the CBLR, 2018; he was present during the examination by the dock officer on 25.01.2023 of the examination of the goods covered under Bills of Entry no. 1325182 and 4324995 both dated 23.01.2023; examination of Bill of entry no. 4324995 dated 23.01.2023 started at 01:00 PM and completed at 03: 00 PM ; examination of Bill of entry no. 4324995 dated 23.01.2023 started at 04:30 PM and completed at 09: 00 PM ;

Dock officers have not raised any query and gave out of charge ; Dock officers did not observe any discrepancies regarding mis-declaration in respect of quantity /description/brand and violations of BIS and RE-44 requirements during the examinations; he did not inform DC/Docks about the Dock officers did not observe any discrepancies regarding mis-declaration in respect of quantity /description/brand and violations of BIS and RE-44 requirements; Dock officers did not examine all the packages. Shri. Jitesh P. Mav in his statement dated 16.02.2023 inter-alia stated that Discrepancies found by C1U on re-examination on 27.01.2023 of the subject consignments under panchanama were not noticed by him and dock officer; Dock officer had not raised any query about any mis-declaration and noncompliance of applicable allied acts.

**3.7** On the basis of above offence report concluded that it appears that the noticee had violated Regulation 10(d), 10(e), 10(m) and of CBLR 2018.

**4.** As the CB was issued license from Delhi Customs, offence report was sent to Delhi Customs (General) who in turn they requested that as G-category Pass (KARDEX NO. M-2771) of Shri Jitesh Premji Mav employee of M/s Global Links was issued by the Office of the Principal Commissioner of Customs (General), New Customs House, Mumbai, action under CBLR-2018 against Shri Jitesh P. Mav G-Card holder, employee of M/s Global Links may be initiated at our end. Accordingly, SCN dated 05.12.2023 was issued to Shri. Jitesh P. Mav was issued from this Commissionerate.

**5. SHOW CAUSE NOTICE:** *Shri. Jitesh P. Mav was issued a Show Cause Notice (SCN) No. 30/2023-24 dated 05.12.2023 by the Assistant Commissioner of Customs (CBS), NCH, Mumbai, Zone-I asking him to show cause as to why G-Card issued to him should not be cancelled and/or penalty should not be imposed upon him under Regulation 18 of the CBLR, 2018 for his failure to comply with the provisions of CBLR, 2018 within 30 days from the date of issue of the notice.*

**6. PERSONAL HEARING AND RECORDS OF PERSONAL HEARING:-**

Opportunity of personal hearing was granted to the noticee on 21.03.2024. Shri Jitesh P. Mav, G card holder of M/s Global appeared for personal hearing and he submitted KYC documents of the Importer and acknowledgement letter importer of the wherein the Importer was advised to comply BIS, WPC and LMPC rules/acts and re-iterated the contents of his submission.

**7. DISCUSSION AND FINDINGS: -**

I have carefully gone through the facts of the case, material evidence on record, the Show Cause Notice 30/2023-24 dated 05.12.2023, and written and oral submissions of the said G card holder.

**7.1** I observe that the charges against the noticee is for violation of Regulation 10(d) 10(e) and 10(m) of CBLR, 2018 has been made vide the Show Cause Notice.

**7.2** Now I examine the charges in the SCN sequentially. For clarity I am reproducing, the charges levelled against the noticee in the SCN, his submissions w.r.t to specific charges.

**7.3 With regard to violation of Regulation 10(d) of CBLR, 2018:**

**7.3.1** *The Regulation 10(d) of CBLR, 2018 reads as: -*

*“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;”*

I find that the said SCN alleges that M/s Global Links and their employee Shri. Jitesh Premji Mav, G Card Holder failed to properly advise their client M/s. Dreams Inc regarding the rules and regulations of customs and allied acts by not informing them about the declarations to be made for pre-packaged goods falling under the purview of General Note 5 "packaged products" of ITC (HS) read with DGFT Notification No. 44(RE-2000)/1997-2002 dated 24.11.2000 and also for the wireless equipment which require mandatory requirements of ETA certification from WPC. It is the responsibility of the Customs Broker and their employees to inquire about the condition (i.e. pre-packaged or bulk), specifications of the goods etc. with the importer and advise the importer to comply with the extant rules which was not done in the instant case. The Customs Broker and their employee Shri. Jitesh Premji Mav has also failed to inform/ bring this to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs. Further Shri Jitesh P Mav, G-card holder was present during the examination by the Docks Officer on 25.01.2023 but he didn't bring out the discrepancies in the goods regarding quantity, non-compliance of RE 44 provisions. BIS norms and ETA certification in the notice of the Docks Officer nor inform the DC/Docks. By doing so, it appears that the Customs Broker and their employee Shri. Jitesh Premji Mav have violated the provisions of Regulation 10(d) of CBLR, 2018.

**7.3.2** w.r.t violation of Regulation 10(d) the noticee submitted that:

i) The Noticee has complied with the Regulation 10(d) as after carrying out KYC of the importer M/S Dreams Inc, the importer provided documents i.e. Import invoice, Packing List, BIS Certificate for filing the bill of entry. On perusal

of the documents, CB M/S Global Links vide letter dated 26/12/2023 informed the importer regarding compliances of BIS, WPC Licence and LMPC, to be fulfilled for import clearance of their consignment.

ii) The entire case came to light only after the consignments were re-examined by CIU after the bill of entries were out of charge on 25/01/2023 by the Docks officer without raising any discrepancy.

iii) The Noticee submits that he was present during the examination of the goods by the Docks officer on 25/01/2023. The goods were examined after opening the cartons before the customs authority. The officer completed examination and gave out of charge on 25/01/2023. No discrepancy in terms of Quantity, RE-44 Notification, BIS, ETA or IPR regulation was reported by the officer. In the circumstances, when the Docks officer after verifying all the aspects has given out of charge without raising any discrepancy or objection, hence how the Noticee or a CB can be held responsible for not informing DC/Docks about the discrepancy? As a matter of fact, there was no discrepancy raised by the Docks officer at the time of examination on 25/01/2023 who gave out of charge for the two bills of entry. Therefore, when the discrepancy did not exist, question of reporting to DC/Docks did not arise at all.

iv) In fact, it was the duty of the Docks officer to report the discrepancy, if noticed at the time of examination to DC/Docks and subsequently to the respective group for further action which is not done in the present case. In fact, he gave a clean report and out of charge. The Investigation Report and SCN do not highlight any lapse on part of the officer. It only alleges lapse by Noticee & CB of not reporting discrepancy to DC/Docks that too after the goods were examined by CIU.

v) The Noticee submits that Board vide Circular No 19/2011- Customs dated 15<sup>th</sup> April 2011 in respect of compliance of DGFT Notification No 44 (RE-2000)/1997-2002 dated 24/11/2000 in para 3 & 4 has clarified as under:

*“3. The matter has been examined in the Board. In order to redress the issue and to remove the difficulties faced by importers on account of space constraints at CFSs/ Port / ICDs and the nature of goods, etc. it has been decided to extend the facility of labelling on imported goods in Bonded warehouses subject to certain procedural conditions.*

*4. In this regard, it is clarified that the importers should first ascertain that for such marking / labelling facility, space, is available in warehouse prior to exercising this option. In such cases, importers may file Warehousing Bill of Entry. The assessing group will give suitable directions to Dock staff to allow bonding of the goods without labelling and with endorsement on the Warehousing Bill of Entry that verification of compliance of DGFT Notification No.44 (RE-2000)/1997-2002 is to be done prior to debonding by Bond Superintendent. The goods will be labelled in the bonded premises and compliance of DGFT Notification No.44 (RE-2000)/1997-2002 will be ensured at the time of ex-bonding of the goods, by the Bond Officer, by examining the goods again and endorsing the Examination Report on the Ex-bond Bill of Entry. It is provided that 100% examination at the time of Ex-bond clearance of goods should be done to ensure compliance of DGFT Notification No. 44 (RE-2000)/1997-2002. The Examination Report can be endorsed on hard copy of Ex-bond Bill of Entry where EDI facility is not extended,*

*and on hard copy as well as EDI system where EDI facility is extended to Bonded Warehouses. It is also clarified that this facility is applicable only to goods that cannot be easily labelled in ports / CFS, having regard to their size and other factors such as sensitivity to temperature and dust."*

vi) From the above, it is evidently clear that Board has extended the facility to the imported goods which are not in compliance with RE-44 Notification dated 24/11/2000 and the labelling can be done either in Docks/CFS or in Warehouse prior to clearance from Customs subject to certain conditions. Accordingly, the importers are eligible to rectify the short comings to fulfil the requirements of the said Notification by applying Board Circular No 19/2011- Customs dated 15th April 2011. Therefore, when the importers are allowed to rectify the shortcomings before the goods are cleared from customs, there would not be any violation of the provisions of the customs act or any other allied acts. Similarly, CB cannot be alleged of not exercising due diligence by not informing the importer to comply RE-44 Notification, violating of Regulation 10 of CBLR 2018.

vii) Reliance is placed in case of *Khurana Bearings V/s Commissioner of Cus. C.Ex. & S.T., Noida* reported in 2017 (357) E.L.T. 717 (Tri-All.). The gist of the judgment is when the Public Notice issued by the department permits labelling the goods prior to customs clearance ensuring compliance of RE-44 dated 24/11/2000, there would not be any violation requiring the goods to be confiscated and redeemed.

viii) The Noticee submits that CB operates on the basis of documents supplied to them by the importer and does not see goods before they arrive at the customs area. On the basis of documents provided by the importer, the CB had complied the due diligence, informed and advised the importer regarding various rules, regulations and other statutory provisions applicable to the shipment. This entire case is detected after examining the goods. In the circumstances, alleging non-compliance by the Noticee under Regulation 10 (d) of CBLR 2018, proposing cancellation of G-Card and imposing penalty for not informing DC/Docks, when the goods were found as declared in the import documents by the Docks officer is baseless and contemptuous, hence charges are required to be dropped. In the case of *Jayesh Shah (W.P.No.1421/2021)*, the Hon'ble Bombay High Court vide its Order dated 4.10.2022 has inter alia held as under:

"In our view, if an FCL container has been loaded on board a ship, prima facie, no-one except exporter or person who stuffed the containers will know what was inside the container.

The Custom House Agent, which the Petitioner was, only files the Bills of Entry on behalf of the importer relying on the documents provided to him by the importer, and if there is mis-match between what is mentioned in the documents given to the Customs House Agent to file Bills of Entry and what is found in the FCL container, prima-facie, the Custom House Agent cannot be made liable.

To impose penalty on such Custom House Agent and without any satisfactory findings that he knew what was inside the 7x40 ft. containers



or he knowingly or intentionally made any declaration would certainly cause undue hardship."

**7.3.3** From the offence report and submissions of Shri Jitesh P. Mav, G card holder of M/s Global, I find that on investigation of the B/Es by the CIU it was found that goods were mis-declared in several respects, and Shri Jitesh P. Mav, G card holder of the CB was present during the examination, he witnessed all these irregularity in the consignment but he failed to inform above mentioned discrepancies and violations of various allied acts to the Deputy/Assistant commissioner of Customs. Thereby contravened the provision of Regulation 10(d) of CBLR, 2018.

From the above facts and circumstances, I am of the considered view that the noticee failed to discharge his responsibilities mandated on him under 10(d) of CBLR 2018. Therefore, I hold that the CB has violated the provisions of Regulation 10(d) of the CBLR, 2018.

**7.4 With regard to violation of Regulation 10(e) of CBLR, 2018:**

7.4.1 Regulation 10 (e) of CBI-R 2018 reads as under:

*(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;*

I find that the said SCN alleges that in the instant case, goods declared as Mobile Back Cover, Tab Back cover, Mini Watch Strap, Digital Smart watch, Handsfree cover Wired MP3 Earphone, Audio Jack Connector, Microscope covered under Bill of Entry No. 4324995 dated 23.01.2023 and goods declared Mobile Back Cover, Massage Chair, Laptop Charger, USB Charger, various batteries covered under Bill of Entry No. 4325182 dated 23.01.2023 were found in packaged condition. Goods declared as Mobile Back Cover, Handsfree Cover, Mobile Charger, USB Charger, sport shoes, Mini watch Strap, watch cover, digital Smart watch, Tab Back cover, Car Mobile Holder covered under Bill of Entry No.4325118 dated 23.01.2023 were found in pre-packaged condition. Further, the Digital Smart Watch being a wireless equipment its import requires mandatory WPC ETA certification which was not available with the Importer. The Customs Broker and their employee by not inquiring about the condition of the goods i.e. pre-packaged or bulk and by not informing the importer about the requirement of compliance of RE-44, it indicates that the Customs Broker has not exercised due diligence to ascertain the correctness of information to his client thereby violating the provisions of Regulation 10(e) of the CBLR, 2018. Shri Jitesh P. Mav, G card Employee of the Customs Broker M/s Global Links was present during the

examination by Dock officer on 25.01.2023 and he failed to bring in notice before Importer and DC/ Docks regarding discrepancies found in the subject goods with respect to compliance of RE-44 notification, mis declaration regarding quantity, violations of statutory compliance of BIS and ETA Certification. Hence, it appeared that CB and its employee Shri. Jitesh P. Mav failed to impart correctness of information related to clearance of cargo.

7.4.2 w.r.t violation of Regulation 10(e) ibid the noticee submitted that:

i) It is apparent that the case of misdeclaration in quantity, non-compliance of RE44 Notification violation of statutory compliance of BIS and ETA was booked on the basis of examination of cargo by CIU after the goods were examined by the Docks Appraiser and out of charged. The case could have not been detected the case based on documents supplied by the importer.

ii) In fact, CB had exercised due diligence by inquiring and advising the importer about the BIS, VWPC, LMPC with the extant rules and its compliance vide letter dated 24/12/2022 (Ex-B). No evidence contradicting the above facts is coming forward in the SCN.

iii) There is no allegation on CB that he had imparted wrong or incorrect information pertaining to any laws, procedures, instructions or anything else. Therefore, in absence of any evidence, the Noticee cannot be alleged for not discharging his duty under Regulation 10(e) of CBLR 2018 and charges levelled in the SCN are required to be dropped.

7.4.3 From the offence report and submissions of Shri Jitesh P. Mav, G card holder of M/s Global, I find that in one hand the IEC holder in his statement dated 06.02.2023 has stated that that he does not have knowledge about the requirement of compliance of RE-44 notification for the goods found in pre-packaged condition and the CB Firm had not informed him anything about the requirements of compliance of RE-44 and other compliance, however on the other hand the noticee has submitted acknowledgement letter duly signed by the importer wherein the importer has been advised to comply mandatory allied acts as LMPC, WPC and BIS. Hence, I am of the view that since the G card holder has submitted acknowledgement letter of the importer for of allied acts, I am of the considered view that the charge of violation of 10(e) does not hold ground.

From the above facts and circumstances, I am of the considered view that the noticee has not violated the provisions of Regulation 10(e) of the CBLR, 2018. Therefore, I hold that the charge of violation of 10(e) ibid may be dropped.

#### **7.5 With regard to violation of Regulation 10(m) of CBLR, 2018:**

**7.5.1 Regulation 10(m):** *“A Customs Broker shall discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay.”*

I find that the said SCN alleges that in the instant case, undeclared goods, mis-declaration of goods with regard to quantity and description and violation of RE-44, BIS and WPC guidelines were found by CIU officers. Shri Jitesh P. Mav, G card Employee of the Customs Broker M/s Global Links was present during the examination by Dock officer on 25.01.2023 and he failed to bring in notice before Importer and DC/Docks regarding discrepancies found in the subject goods with respect to compliance of RE-44 notification, mis-declaration regarding quantity, violations of statutory compliance of BIS and ETA Certification. By not informing the importer or seeking necessary clarifications from the importer regarding the same, it indicates that the Customs Broker and their employee Shri. Jitesh P. Mav have failed to discharge his duties with utmost efficiency and caused a significant delay in Customs clearance thereby violating the provisions of Regulation 10(m) of the CBLR, 2018.

7.5.2 w.r.t. violation of Regulation 10(m) of the noticee submitted that:

i) After filing the bill of entry, it was submitted to the Docks Appraiser for examination on 25/01/2023 the goods were examined by the docks officer on the same day. No discrepancies were noticed by the Docks Appraiser at the time of examination and bill of entry was out of charged. Since, no objection was raised at the time of examination seeking clarification from the importer did not arise. No evidence is forthcoming in IR or SCN about delay on part of the CB or the Noticee. Thus, SCN alleging violation of Regulation 10 (m) of CBI-R 2018 is frivolous and unsubstantiated. Accordingly, charges levelled in the SCN are required to be dropped.

7.5.3 From the offence report and submissions of Shri Jitesh P. Mav, G card holder of M/s Global , I find that on investigation of the B/Es by the CIU it was found that goods were mis-declared in several respects, and the Shri Jitesh P. Mav, G card holder of M/s Global was present during the examination, he witnessed all these irregularity in the consignment but he failed to inform above mentioned discrepancies and violations of various allied acts to the Deputy/Assistant commissioner of Customs, this act of the noticee shows inefficiency on the part of the notice and thereby it appears that he contravened the provision of Regulation 10(m) of CBLR, 2018.

From the above facts and circumstances, I am of the considered view that the noticee failed to discharge his responsibilities mandated on him under 10(m) of CBLR 2018. The noticee did not bring the said discrepancy to the notice of the Deputy or Assistant Commissioner of Customs. Therefore, I hold that the CB has violated the provisions of Regulation

10(m) of the CBLR, 2018.

8. In view of above facts and circumstances, I hold that the charges against the noticee under Regulation 10(d), 10(m) of the CBLR, 2018 are proved & 10(e) ibid not proved. The CB is hereby liable for penal action under the CBLR, 2018. keeping in mind the above finding, principle of proportionate punishment and considering the livelihood of the noticee as nearly 10 months have passed since the noticee has surrendered (04.05.2023) his pass, I abstain myself from further debarring the noticee from transacting the business under these regulations. Accordingly, I pass the following order: **ORDER**

9. I, Assistant Commissioner of Customs, Customs Broker Section, in exercise of the power conferred upon me under Regulation 17(9) and 18 of the CBLR, 2018, pass the following order:

(i) hereby impose penalty of Rs. 10,000/- (Rupees Ten Thousand only) on Sh. Jitesh P. Mav under Regulation 18 of the CBLR, 2018.

This order is passed without prejudice to any other action which may 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.



**(PRAMOD ANAND MENDON)**

ASSISTANT COMMISSIONER OF CUSTOMS  
CB SECTION (GENERAL) MUMBAI ZONE-I

To,

Shri. Jitesh P. Mav  
Address: B-13, vanroj CHS, Himalaya Society,  
Asalfa Village, Mumbai, Maharashtra 400084.

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. Commissioner of Customs (Export), ACC, Sahar, Mumbai
4. CIU's of NCH, ACC & JNCH
5. EDI of NCH, ACC & JNCH
6. ACC (Admin), Mumbai with a request to circulate among all departments.
7. JNCH (Admin) with a request to circulate among all concerned.
8. Cash Department, NCH, Mumbai.
9. Notice Board
10. Office Copy.
11. Guard File (Admin)