



प्रधान आयुक्त(सामान्य) सीमाशुल्क का कार्यालय
**OFFICE OF THE PRINCIPAL COMMISSIONER / COMMISSIONER OF
CUSTOMS (GENERAL)**

कस्टमब्रोकर अनुभाग, नवीन सीमाशुल्क भवन,
CUSTOMS BROKER SECTION, NEW CUSTOM HOUSE,
बेला र्द इस्टेट, मुंबई - I
BALLARD ESTATE, MUMBAI ZONE - I

F.NO. GEN/CB/206/2024-CBS-

Date: 26.04.2024

DIN: 202404770000006153E7

SHOW CAUSE NOTICE No. 05/2024-25

**UNDER REGULATION 17 OF THE CUSTOMS BROKER LICENSING
REGULATION, 2018**

1. Customs Broker M/s. Maa Om Business Enterprises Pvt Ltd (PAN AALCM6744K) formerly known as M/s Shree Durga Logistics with PAN (AFXPK9295D), having address registered at Unit No. 107, Plot No. 1A, Siddhivinayak complex, Sector- 19C, Vashi, Navi Mumbai-400705 (hereinafter referred as the Customs Broker/CB) is holder of Customs Broker License No. 11/1772, issued by the Commissioner of Customs, Mumbai under regulations of CHALR, 1984, [Now regulation 7(2) of CBLR, 2018] and as such they are bound by the regulations and conditions stipulated therein.
2. On the basis of specific information received by the DRI, MZU, Mumbai investigation was conducted. Investigation revealed that various export firms including M/s. Lavin Exports & Imports Pvt. Ltd. (Hereinafter referred as exporter) were procuring fake purchase bills against the export consignments from one Mr. Suhel Ansari, through fake firms floated by him. Searches were conducted at the premises of Suhel Ansari, which led to the recovery of copies of bogus bills in the names of several companies issued by him.
3. The office premises from where Shri Suhel Ansari was operating, was situated at Room No. 30, 4th Floor, Chunnwala Building, 38-Kolsa Street, Pydhonie, Mumbai - 400003 was searched on 14.08.2015. During the course of search of the said premises, certain records/documents, three laptops and one hard disk and various rubber stamps were recovered.
4. During the course of investigation statement of Shri Suhel Parvez Ansari and Shri Shaikh Mohammed Arshad employee of Shri Suhel Parvez Ansari was recorded on 24.08.2015 by DRI, Mumbai where inter-alia they stated that they supplied fake invoices to the export firms including M/s. Lavin Exports & Imports Pvt. Ltd.

5. DRI, MZU, Mumbai forwarded the case to the SIIB(X)/ACC for carrying out further investigation wherein exporters including M/s. Lavin Exports & Imports Pvt. Ltd., who have claimed undue drawback by overvaluing the exports and to justify the over-value of the goods, they procured fake invoices from Shri Suhel Ansari.

6. Further, on scrutiny of the shipping bills filed by the exporter M/s. Lavin Exports & Imports Pvt. Ltd., it was found that the Customs Broker M/s. Shree Durga Logistics (now reconstituted as M/s. Maa Om Business Enterprises Pvt. Ltd.) (CB No. 11/1772) had cleared consignments/shipping bills of the said exporter. Therefore, Summonses No.GKV/89/2022-23 and GKV/90/2022-23 both dated 19.05.2022 were issued to the Customs Brokers M/s. Shree Durga Logistics (now reconstituted as M/s. Maa Om Business Enterprises Pvt. Ltd.), however, nobody turned up for the statements.

7. During the investigation, DRI, MZU, Mumbai had issued Summons dated 11.09.2015, 03.12.2015 & 29.12.2015 to the Directors of M/s. Lavin Exports & Imports Pvt Ltd., however they did not appear to record the statement. Further, in response to summons, Shri Ramesh P. Singh Director of M/s. Lavin Exports & Imports Pvt. Ltd. in his written letter dated 28.12.2015 to DRI, MZU, Mumbai inter alia admitted that Shri Suhel Ansari who had issued bills/invoices and not supplied any goods.

7.1. Further, Special Intelligence and Investigation Branch (Exports) of Air Cargo Complex, Sahar, Mumbai issued Summons dated 06.10.2017, 02.11.2017, 27.02.2018, 12.04.2018, 23.04.2018, 16.05.2018, 10.08.2018, 13.10.2018, 11.06.2019, 09.10.2020, 13.08.2021, 11.02.2021 to the directors of M/s. Lavin Exports & Imports Pvt. Ltd., but they never appeared themselves to records their oral evidence.

7.2. During the course of investigation, the officer of SIIB(X) visited the premises of Sh. Ramesh P. Singh Director of M/s. Lavin Exports & Imports Pvt. Ltd. the said address was residential flat and was locked. On query from neighbours no one knew the exporter. Further, the officer of SIIB (X) visited another premises of Shri Ramesh P. Singh Director of M/s. Lavin Exports & Imports Pvt. Ltd., the said premises was also found locked and on inquiry it was known that whole family was out station. Moreover, the Officer pasted the summons on door, however, on given date i.e. 26.05.2022, Shri Ramesh P. Singh director of M/s. Lavin Exports & Imports Pvt. Ltd. did not appear for statement in the office of SIIB (X), ACC Mumbai.

8. During the investigation, the details of exports made by the exporter M/s. Lavin Exports & Imports Pvt. Ltd. were retrieved from the ICES System. During

the period 2012-16 exporter made export of total 504 Shipping Bills. The Duty Drawback in respect of the 504 Shipping Bills was Rs. 419.03 lakhs. As stated in the offence report, the duty drawback is Rs.147.50 Lakhs against 137 Shipping Bills, in respect of which Bank Realization Certificates (BRCs) have not been received.

9. During investigation DRI enquired with the Consulate General of India, Dubai, UAE who vide letter dated 08.03.2018 reported that from the scrutiny of the documents provided by Federal Customs Authority, Dubai it emerged that goods had been cleared and unit values had been much lower than what has been declared to Indian Customs. As per DRI the instant exporter has also adopted the similar modus-operandi.

10. During investigation a statement dated 01.07.2016 of Shri Suryabhan Eknath Dhurphate, Proprietor of M/s. Sanket Overseas, Navi Mumbai, was recorded before the DRI, MZU, who was logistics provider and was involved in clearing the consignments through CHA, M/s. Indo Foreign Agents. From the perusal of his statement, it was disclosed that usually the cost and expenses incurred on the export material was only around 35% of the drawback amount. He also stated that the benefits availed by them and the exporter was to the extent of 65%. This was the modus operandi which was adopted by all such exporters including this exporter, who were exporting the goods on the basis of fake supplier's invoice.

11. Further, from the investigation, it appears that goods were procured from Domestic Tariff Area (DTA) without any invoices, so no details of its manufacturing, production, using imported material or excisable material therein were available so it could not be ascertained whether any duties have been paid or otherwise. During investigation exporter could not produce any such details in respect of manufacturing, production or use of any imported material in impugned export goods, though he was having enough opportunity for recording of his statement but he failed to produce himself as well any such details. Therefore, it appears from investigation that necessary ingredient of second proviso to Rule 3(1) Drawback Rule, 1995 is attracted in this case which does not permit any amount of drawback in such cases where no duty has been paid.

"(1) Drawback Rule, 1995 is attracted in this case which does not permit any amount of drawback in such cases where no duty has been paid. Rule 3 of the Drawback Rules 1995 reads as under;

"Rule 3. Drawback - (1) Subject to provisions of -

Provided further that no drawback shall be allowed: -

(ii) if the said goods are produced or manufactured, using imported materials or excisable materials in respect of which duties have not been paid."

12. From the investigations made by DRI, MZU and the investigations conducted by SIIB(X), ACC, Mumbai following appears:

- M/s. Lavin Exports & Imports Pvt. Ltd. procured fake and bogus invoices from Shri Suhel Ansari.
- Goods of inferior quality were procured from the local market without any invoice.
- Incorrect bank transactions were made with the fake suppliers, whose invoices were raised by Shri Suhel Ansari. This was done to conceal the actual transactions and give cover to the bogus transactions.
- This automatically explained the facts that there was no physical movement of the goods against the fake invoice raised by Shri Suhel Ansari.
- As export goods were procured from local market, which were of inferior quality and having low value, therefore impugned export by M/s. Lavin Exports & Imports Pvt. Ltd. was grossly overvalued and only done for the purpose of fraudulent claim of drawback.
- Aforesaid fact of overvaluation supported by statements as mentioned above and by the enquiry caused by DRI with the Consulate General of Dubai.

13. Vide Order-in-Original No. CC/RK/32/2023-24 Adj(X)/ACC penalty of total Rs. 2.4 crores have been imposed on Customs Broker M/s. Maa Om Business Enterprises Pvt Ltd. under Section 114(i), 114(iii) & 114AA of Custom Act.

14. As per the Offence Report, it appears that the Customs Broker M/s. Maa Om Business Enterprises Pvt Ltd. cleared the consignments of the exporter, in which the exporter knowingly and deliberately submitted the fake and bogus export invoices and inflated the export value to obtain undue drawback fraudulently. Further, from the above, it appears that it is unlikely that CB has been receiving goods based on fictitious bills and he was not aware. Had the CB seen these documents relating to meeting the criteria to claim both types of drawback and checked the correctness of relevant declaration, such fraudulent export could not have possible. Therefore, under the fact and such circumstances, the CB actively connived with exporters in claiming undue Drawback and over valuing the export goods and mis-declaring in Shipping Bill.

While dealing with exporter they did not care to follow the obligation imposed through Regulation and Act.

Therefore, under the fact and such circumstances, it appears that the CB actively connived with exporters in claiming undue drawback and over valuing the export goods and mis-declaring in Shipping Bill, therefore the CB has failed to comply with following regulations of the Customs Brokers Licensing Regulations 2018:-

-10(d) i.e. "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"

As per Circular No. 16/2009-Customs dated 25.05.2009, the goods available in the market are deemed to be duty paid goods. Thus, the merchant exporters who used to purchase goods from the local market for export shall henceforth be entitled to full rate of duty drawback (including the excise portion), subject to fulfilment of certain conditions as mandated by law. Therefore, admissibility of such duty drawback is dependent upon correct declaration of certain details i.e. the name and address of the trader from whom they have purchased the goods at the time of export, in terms of the prescribed format annexed with the above said Circular.

From the above, the CB appears to have not advised the exporter and abetted the exporter by declaring the incorrect value of the goods in SBs against the fake invoices to avail undue drawback. Thus, it appears that CB has violated the regulation 10(d) of CBLR 2018 by abetting the exporter and not bringing the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs.

-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 CB appears to have not advised the exporter and abetted the exporter for availing the undue drawback by the exporters by overvaluing the exports, whereas cheaper material was exported, and to justify the value of the goods, fake invoices from Suhel Ansari, were procured showing the higher purchase price. Hence, the CB failed to exercise due diligence and to sensitized the exporter to make proper declaration in terms of value & the details of procurement of the goods.

Thus, it appears that CB has violated the regulation 10(e) of CBLR 2018 by abetting the exporter and not bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs.

-10(f) "not withhold information contained in any order, instruction or public notice relating to clearance of cargo or baggage issued by the Customs authorities, as the case may be, from a client who is entitled to such information;"

The exporter did not furnish the declarations at the time of exports in format annexed with the Circular no. 16/2009-Customs dated 25.05.2009. As per the said format exporter were interalia required to declare the name and complete address of the traders from whom export goods had been purchased. Thus, the CB failed to verify the said declaration at the time of exports in format annexed with the circular no. 16/2009-Customs dated 25.05.2009, which is gross negligence on the part of the CB.

Thus, it appears that CB has violated the regulation 10(f) 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;"*

During the investigation after issuing ample summons exporter did not turn up to record the statement. Further, the officers of the SIIB(X), ACC visited the premises of the director of M/s. Lavin Exports & Imports Pvt. Ltd., however one of the address of the director was non-existence. Further, one another address of the exporter was found locked and the officer affixed summons on the door of the address, however, the exporter did not turn up before the investigation on the date and time mentioned in the affixed summons. Hence, it appears that the CB was not aware of the operating address of the exporter. Hence, the CB was failed to verify the identity of his client and functioning of his client at the declared address

Thus, it appears that CB has violated the regulation 10(n) of CBLR 2018.

15. In view of the above, it is evident that the exporter claimed duty drawback using fake invoices and Customs Broker M/s. Maa Om Business Enterprises Pvt Ltd abetted the exporter to avail this non-eligible duty drawback and did not bring the matter to the notice of the Customs authorities.

16. The evidence on record clearly indicates that the CB was working in a serious negligent manner and was in violation of the obligations casted upon them under the CBLR 2018. A Custom Broker occupies a very important position in the customs House and supposed to safeguard the interests of both the importers and the Customs department. A lot of trust is kept in CB by the Government Agencies, but by their acts of omission and commission it appears that the said CB have violated Regulation 10 (d), 10(e), 10(f) & 10(n) of the

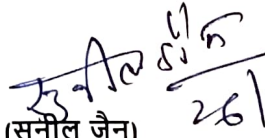
Customs Brokers Licensing Regulations, 2018 and rendered himself for penal action under Regulations 14, 17 & 18 of CBLR, 2018(Regulation 18, 20 & 22 of CBLR 2013).

17. In view of the above, as per provision of Regulation 17(1) of CBLR, 2018(Regulation 20(1) of CBLR 2013), Customs Broker M/s. Maa Om Business Enterprises Pvt Ltd (PAN AALCM6744K) formerly known as M/s Shree Durga Logistics with PAN (AFXPK9295D) is hereby called upon to show cause within 30 days from the date of issue of this notice, **as to why** under Regulation 14 read with 17 & 18 of the CBLR, 2018 for their failure to comply with the provisions of CBLR, 2018 as elaborated in Para above of this show cause notice:

- I. The Customs Broker license bearing no. 11/1772 issued to them should not be revoked.
- II. Security deposit should not be forfeited and/or penalty should not be imposed upon them.

19. They are directed to appear for personal hearing on the date as may be fixed and to produce proof of evidence/documents, if any, in their defence to the Inquiry Officer, Sh. Shrimali Suresh Kumar Kantilal Assistant commissioner of Customs, NS-II, Zone -II who shall conduct inquiry under Regulation 17 of CBLR, 2018. If no reply is received within the stipulated time period, it will be presumed that they have no explanation to offer and it will be presumed that they do not want personal hearing and the issue will be decided on the facts available on records.

This notice 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 provision of the Customs Act, 1962 and Rules/Regulation framed there under or any other law for the time being in force in Union of India.


(सुनील जैन) 26/9/2024

प्रधान आयुक्त सीमा शुल्क (सामान्य)
एनसीएच, मुंबई - I

To,

M/s. Maa Om Business Enterprises Pvt Ltd (PAN AALCM6744K),
Unit No. 107, Plot No. 1A, Siddhivinayak complex,
Sector- 19C, Vashi, Navi Mumbai-400705

Copy to:

Sh. Shrimali Suresh Kumar Kantilal Assistant commissioner of Customs, NS-II, Zone -II, appointed as the Inquiry Officer to conduct inquiry into the case under regulation 17 of CBLR, 2018.

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.