



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

F. No. GEN/CB/610/2024-CBS

Date: 03.06.2025

DIN: 20250677000000000CJA3

**ORDER NO. 05 /2025-26 CBS**

**UNDER REGULATION 16 (1) OF CUSTOMS BROKER LICENSING**  
**REGULATION, 2018**

M/s. Saidutta Clearing Agency Pvt Ltd (CB License No. 11/978) (EDI License No. AAFC5286ACI1001) having address registered at Mr Ashwanii Dham, Saidutta Clearing Agency Pvt Ltd 201, Madhuban Building 23, Chochin Street Fort, Mumbai - 400001 (hereinafter referred as the Customs Broker/CB) is holder of Customs Broker License No. 11/978, issued by the Commissioner of Customs, Mumbai under Regulation 8 of CHAIR, 1984, [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 O-I-O no- 990(L)/2024-25/ADC/Gr.I &IA/NS-I/CAC/JNCH dated- 06.11.2024, issued by the Addl Commissioner of Customs, wsa received on 07.11.2024. regarding the Customs Broker M/s. Saidutta Clearing Agency Pvt Ltd (CB License No. 11/978). The RUDs for the same have been received on 03.04.2025. Vide the offense report, inter alia, the following has been informed:

2.1 M/s Vegas International (IEC No:- BPNPG2029C)(here-in-after referred to as 'the importer'), having address at 21st Century Business, D-1/6, Shakarpur Extn. Delhi - 110092, through their Custom Broker M/s Sai Dutta Clearing Agency Pvt filed Warehouse Bill of Entry No. 8505793 dated 28.10.2023 (hereinafter referred to as 'subject Bill of Entry'). Based on the reasonable ground for suspicion of mis-declaration, the goods covered under subject Bill of Entry were examined 100% by the officials of SIIB(I) under Panchanama dated 28.11.2023.

The details of the Bill of Entry are given as under in Table-I.

TABLE-I

BE No. & Date	8505793 dated 28.10.2023
IGM No. & Date	2357407 dated 12.10.2023
Bill of Lading	AFFHANJEANSA31089 dated 09.10.2023
Container No.	EMCU3924915
Importer	M/s Vegas International (IEC No:- BPNPG2029C)
CHA	M/s Sai Dutta Clearing Agency Pvt. Ltd. (AAFC5286ACI1001)

Declared Items	Esse Lights Cigarettes (50*10*20)
Assessed Value	Rs 66,93,900/-
Total Duty Payable	Rs. 4,59,61,474/-
Invoice No.	73/23-24 dated 22.09.2023
Invoice Value	79500 USD
Supplier	One Point Trading Limited, Hong Kong
No of Cases	300Pkgs
Declared Weight	Rs. 3099.47 KGS (Total 30,00,000 sticks)
Country of Origin	Republic of Korea

2.2. During examination of the goods, **the description and quantity were found as declared. No concealment was observed.** The following markings were found on the Cigarette Packets.

“Esse Lights  
 For the Stylish Leader  
 Super Slim Cigarettes  
 20 Class A Filter Cigarettes  
 American Blend  
 KTMG”

2.3 However, Cigarette packets didn't have **any Pictorial warning**. Further **no Maximum Retail Price, Name of Manufacturer, Year of Manufacture, etc** were found on the packets. All tobacco products (whether domestically manufactured and sold or imported) require to comply with the requirements contained in the Cigarettes and other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 [COTPA, 2003] and the Cigarettes and other Tobacco Products (Packaging and Labelling) (COTP) Rules, 2008 framed thereunder. **The COTP Rules are strict in nature and their compliance requires the printing of pictorial and textual warning on cigarette packets in specified format, colours, resolution, font and language.**

The Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 which extends to the whole India, Section 7(3) *ibid* mandates: -

*“No person shall import cigarettes or any other tobacco products for distribution or supply for a valuable consideration or for sale in India unless every package of cigarettes or any other tobacco products so imported by him bears thereon, or on its label, the specified warning.”*

Further, Section 8 of the said Act *supra* mandates the manner in which specified warning shall be made

*(1) The specified warning on a package of cigarettes or any other tobacco products shall be —*

- (a) legible and prominent;*
- (b) conspicuous as to size and colour;*
- (c) in such style or type of lettering as to be boldly and clearly presented in distinct contrast to any other type, lettering or graphic material used on the package or its label and shall be printed, painted or*

inscribed on the package in a colour which contrasts conspicuously with the background of the package or its labels.

(2) The manner in which a specified warning shall be printed, painted or inscribed on a package of cigarettes or any other tobacco products shall be such as may be specified in the rules made under this...

(3) Every package containing cigarettes or any other tobacco products shall be so packed as to ensure that the specified warning appearing thereon, or on its label, is, before the package is opened, visible to the consumer.

**2.4. Rule 3 of the Cigarettes and other Tobacco Products (Packaging and Labelling Rules) 2008** specifies Manner of packing and labelling for Cigarettes and reads as below: -

*3. Manner of packing and labelling. - (1) Every person engaged directly or indirectly in the production, supply, import or distribution of cigarette or any other tobacco product shall ensure that: -*

*(a) every package of cigarette or any other tobacco product shall have the specified health warning exactly as specified in the Schedule to these rules;*

*(b) the specified health warning shall cover at least eighty-five per cent (85%) of the principal display area of the package of which sixty per cent (60%) shall cover pictorial health warning and twenty-five per cent (25%) shall cover textual health warning and shall be positioned on the top edge of the package and in the same direction as the information on the principal display area;*

*Provided that for conical package, the widest end of the package shall be considered as the top edge of the package;*

*Provided further that on box, carton and pouch type of package, the specified health warning shall appear on both sides of the package, on the largest panels and for cylindrical and conical type of package, the specified health warning shall appear diametrically opposite to each other on two largest sides or faces of the package and the specified health warning shall cover eighty-five per cent (85%) of each side or face of the principal display area of the package of which sixty per cent (60%) shall cover pictorial health warning and twenty-five per cent (25%) shall cover textual health warning.*

....

*(h) every package of cigarette or any other tobacco product shall contain the following particulars, namely: -*

*(a) Name of the product;*

*(b) Name and address of the manufacturer or importer or packer;*

*(c) Origin of the product (for import);*

*(d) Quantity of the product;*

*(e) Date of manufacture; and*

*(f) Any other matter as may be required by the Central Government in accordance with the international practice.";*

Thus, the Rule 3(1) of COTP, 2008 mandates the display of specified health warnings on both sides of the tobacco product packages covering at least 85% of the principal display area. The said rule ibid also prescribes certain crucial information Name of the Manufacturer, Country of Origin, Date of manufacture, etc.

2.5. Ministry of Health & Family Welfare vide Cigarettes and other Tobacco Products (Packaging and Labelling) Amendment Rules, 2022 notified the new set of specified health warnings effective from 1st day of December, 2022 which is reproduced as under:

*"(i) Textual Health Warning. - For smoking and smokeless forms of tobacco products, the words 'TOBACCO CAUSES PAINFUL DEATH' in Image-1 and the words 'TOBACCO USERS DIE YOUNGER' in Image-2 shall appear in white font colour on a red background. The words 'QUIT*



*TODAY CALL 1800-11-2356' shall appear in white font colour on a black background. The intensity of color in the background of the textual health warning shall be: White: C:0%, M:0%, Y:0% K:0%, Red: C:0%, M:100%, Y:100% K: 0% and Black: C:0%, M:0%, Y:0% K: 100%. The textual health warnings shall be printed with four colors with printing resolution of minimum 300 DPI (Dots per inch). The font type and colour of the health warning shall be exactly as uploaded on the website [www.mohfw.gov.in](http://www.mohfw.gov.in) OR [ntcp.nhp.gov.in](http://ntcp.nhp.gov.in)"*

*"2. The specified health warnings shall be-*

- a. Image-1, shall be valid for a period of twelve months following its commencement.*
- b. Image-2, shall come into effect following the end of twelve months from the date of*

*commencement of specified health warning of Image-1.*

2.6. It appears that the Importer, by importing Cigarettes in packages without Specified Health Warnings (Texture Health Warning and Pictorial Health Warning) and other requisite information, has not complied with the provisions of the sub-section 4A of Section 46 of the Customs Act, 1962, which reads as under: -

*(4A) The importer who presents a bill of entry shall ensure the following, namely:*

- (a) the accuracy and completeness of the information given therein;*
- (b) the authenticity and validity of any document supporting it; and*
- (c) compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.]*

2.7. Further, Para 2 of the CBIC Circular No. 09/2017-Customs dated 29th March, 2017 directs that:

*All tobacco products (whether domestically manufactured and sold or imported) require to comply with the requirements contained in the Cigarettes and other Tobacco Products [(Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COTPA 2003)] and the Rules framed thereunder. Ministry of Health and Family Welfare Vide Notification GSR 727 (E) dated 15.10.2014 notified the Cigarettes and other Tobacco Products (Packaging and Labelling) Amendment (COTP) Rules, 2014, which came into effect from 01.04.2016 [G.S.R. 739 (E) dated 24.09.2015]. The COTP Rules are strict in nature and their compliance requires that the printing of pictorial and textual warning on cigarette packets is in specified format, colours, resolution, font and language.*

2.8. The Legal Metrology Act, 2009 and the Legal Metrology (Packaged Commodities) Rules, 2011 apply to packaged commodity which includes cigarettes. As the imported cigarettes were found to be packed in retail packing, they are covered under the Legal Metrology (Packaged Commodity) Rules, 2011 which require a declaration on the packs containing the name and address of the manufacturer or importer or packer, quantity of the product, month and year of manufacturing or pre-packing or importation, the retail sale price, etc. As the said details were missing on the cigarette packings, it appears that there is a violation of Legal Metrology (Packaged Commodities) Rules, 2011. The relevant provision of the said rules is reproduced below of sake of reference.

*6. Declarations to be made on every package.*

- (1) Every package shall bear thereon or on the label securely affixed thereto, a definite, plain and conspicuous declaration made in accordance with the provisions of this chapter as, to –*
- (a) the name and address of the manufacturer, or where the manufacturer is not the packer, the name and address of the manufacturer and packer and for any imported package the name and*

address of the importer shall be mentioned. Explanation I.- If any name and address of a company is mentioned on the label without any qualifying words 'manufactured by' or 'packed by', it shall be presumed that such name and address shall be that of the manufacturer and the liability shall be determined accordingly; Explanation II. - If the brand name and address of the brand owner appears on the label as a marketer, then the brand owner shall be held responsible for any violation of these rules and action as may be required shall be initiated against the deemed manufacturer and in the event of more than one name and address appearing in the label, prosecution shall be launched against the manufacturer indicated on the label in the first place and not against all of them.

Explanation III. - In respect of packages containing food articles, the provisions of this sub-rule shall not apply, and instead, the requirement of the Prevention of Food Adulteration Act, 1954 (37 of 1954) and the rules made there under shall apply

(b) The common or generic names of the commodity contained in the package and in case of packages with more than one product, the name and number or quantity of each product shall be mentioned on the package.

(c) The net quantity, in terms of the standard unit of weight or measure, of the commodity contained in the package or where the commodity is packed or sold by number, the number of the commodity contained in the package shall be mentioned.

(d) The month and year in which the commodity is manufactured or pre-packed or imported shall be mentioned in the package. Provided that for packages containing food articles, the provisions of the Prevention of Food Adulteration Act 1954 (37 of 1954) and the rules made there under shall apply:

(e) the retail sale price of the package; Provided that for packages containing alcoholic beverages or spirituous liquor, the State Excise Laws and the rules made there under shall be applicable within the State in which it is manufactured and where the state excise laws and rules made there under do not provide for declaration of retail sale price, the provisions of these rules shall apply.

(f) Where the sizes of the commodity contained in the package are relevant, the dimensions of the commodity contained in the package and if the dimensions of the different pieces are different, the dimensions of each such different piece shall be mentioned.

(g) such other matter as are specified in these rules:

Provided that -

(A) no declaration as to the month and year in which the commodity is manufactured or pre-packed shall be required to be made on-- (i) any package containing bidis or incense sticks; (ii) any domestic liquefied petroleum gas cylinder of 14.2kg or 5kg, bottled and marketed by a public sector undertaking;

3. The importer submitted letter dated 18.12.2023, vide which they submitted that the impugned goods are not meant for home consumption and are for supplies for embassies and re-export. Citing the said reasons, importer requested for NOC to move the goods to Delhi Public Warehouse under Bond-to-Bond transfer.

3.1. Summons dated 01.02.2024 were issued to the Importer, however no one appeared in the said summons proceedings. In reply to the summons dated 22.02.2024, authorised Representative of importer Shri Azad Sharma appeared in the said summons proceedings and his statement dated 05.03.2024 was recorded under Section 108 of the Customs Act, 1962, wherein he, inter-alia stated that:

a) The company started in 2023. The director of Company is Sanjip Gurung. This is their first import consignment. Previously they used to import alcohol for sale in domestic market, embassies etc through their other company M/s K.C. liquors. The said company used to provide liquors to the officers of various embassies in a duty-free mode. Officers of embassies get quota every quarter entitling them duty free alcohol, cigarettes, beers etc. Using these quotas they used to place orders to M/s K.C. Liquors. There was a demand of Cigarettes as well, however M/s K.C Liquors was not endorsed to import Cigarettes by DGFT. Hence a new firm M/s Vegas International was opened to cater demand of

Cigarettes by embassies. IIC of M/s Vegas International is endorsed by DGFT for importation of Cigarettes.

b) The plan for the consignment imported under WH Bill of Entry No. 8505793 dated 28.10.2023 was to keep goods in Customs Bonded Warehouse and to supply the goods to the Embassies located in Delhi as and when they received order for the same.

c) On being asked that if Plan was to sell goods in Embassies located in Delhi then why goods were kept in a Customs Bonded Warehouse of Mumbai Zone, he replied that they wanted goods in Delhi only, however supplier was ready to ship goods till Nhava Sheva only hence goods landed in JNPT and were kept in Punjab Bonded Warehouse.

d) On being asked that the supplier of said consignment is M/s One Point Trading, Hongkong whose website showed that it deals with Serum, Electronics, Garments etc and nowhere it appeared that it deals with Cigarettes, he replied that the said company is a trading company and it can supply goods as per requirement of Customers. There are many such companies in Hongkong and Dubai.

e) That they got to know about said supplier on Internet. They contacted them through mail and inquired about prices. He will submit copy of mail communication within a week.

f) On being asked that the Invoice shows that 100% payment must be made before shipment and whether they have made any payment in this regard, he replied that it seems Invoice was generated on a set pattern. However, the supplier has given them credit of 90 days. He will submit copy of communication made by supplier in this regard within a week.

g) On being asked that the Bill of Lading shows that consignor is M/s Golden Start Tobacco Trading FZ LLC, UAE. However as per Invoice, the name of Consignor should be M/s One Point Trading Ltd. He replied that as far as he knows, their supplier M/s One Point Trading Ltd procured goods from M/s Golden Start Tobacco Trading FZ LLC, UAE and since this company was the actual shipper of the goods hence its name is shown as the consignor in Bill of Lading.

h) On being asked about the violation of Section 46(4A) of Customs Act, 1962 read with Section 7(3) of the Cigarettes and Other Product Act, 2003 [COTPA, 2003], as the imported Cigarettes didn't have Pictorial warning as per Section 7(3) of the COTPA Act, 2003, he replied that as far as he knows sale of Cigarettes in Duty Free Shops or embassies is not considered as home consumption and hence the said pictorial warning do not apply for sale taking place in DFS or Embassies.

i) On being shown CBIC Instruction F.No. 450/160/2009-Cus.IV dated 29 December 2009 which mandates that distribution or sale of cigarettes in duty free shops shall also be subject to compliance of the Cigarettes and Other Tobacco Products (Packaging and Labelling Rules), 2008, he replied that as he said earlier, as far as he knows, said rules and stipulations are not applicable for sale taking place in DFS or Embassies. He will produce relevant notifications/rules in this regard within a week.

j) Copy of CBIC Circular No. 09/2017 dated 29.03.2017 was shown and it was asked that it seems that there is a violation of said circular also. He replied that Please give him some time to submit relevant documents/ notifications. He hoped, it will clear all doubts.

k) On being asked that whether he has any purchase order from a Duty-Free Shop or Embassy, he replied that as of now, they didn't have but they had purchase order from 02 embassies in last quarter i.e. Oct-Dec 2023. These purchase orders were lapsed now as the order needed to be fulfilled in the same quarter. However, he will submit copy of the purchase order within a week.

3.2. In this regard, it is pertinent to mention that the Importer/authorised representative failed to submit the relevant notification/rules/purchase order/email communication, etc as affirmed by him during

recording of statement. It appeared that the importer has no such documents in their possession. Further, it was also noted on scrutiny of the import documents uploaded in e-Sanchit at the time of filing of Bill of Entry, that the importer had not made any such declaration that the goods are meant for re-export in Bill of Entry or any import documents. It appeared that it is a case of Improper Importation Violating Section 46(4A) of the Customs Act, 1962 read with Section 7(3) of the COIPA, 2003, the goods were seized vide Seizure Memo No. 198/2024 dated 26.03.2024.

3.3. Statement of Shri Kuldeep Singh Rangrass, G -Card holder of CB firm M/s Sai Dutta Clearing Pvt Ltd, under authorisation from proprietor of the said CB firm, was recorded on 18.04.2024 under Section 108 of the Customs Act, 1962, wherein he, inter-alia stated that;

- a) That they are aware about procedures to be followed by CB. He looked after Customs clearance related work of imported goods only.
- b) Mr Vikrant Chawla, Proprietor of M/s Vegas International contacted his Company's director for the Customs Clearance of the said Bill of Entry.
- c) His office staff physically received all the necessary supporting documents i.e. Invoice, Packing List, Bill of Lading etc from M/s Vegas International
- d) His office has verified all the KYC documents of the Importer viz GSTIN registration certificate, IEC on DGFT website and also verified the address of the Importer physically, after online verification of IEC and GSTIN, the said importer seemed genuine. Accordingly, they proceeded to file the Bills of Entry of the Importer M/s Vegas International. The Importer provided the Import documents i.e. commercial Invoice, Packing List, Bill of Lading and Bond receipt of the said consignment in person.
- e) That they had received payment of Rs 33,000/- per container in current bank account of HDFC Bank of M/s Sai Dutta Clearing Pvt Ltd for the said consignment.
- f) That it was their first consignment for M/s Vegas International.
- g) That they have filed the Bill of Entry as per the documents i.e Bill of Lading and Commercial Invoice provided by the importer. The HSN Code of goods mentioned in the Bill of Lading of the said consignment as 24022090. Accordingly, they had classified the goods under CTI 24022090, also they referred to Tariff Book.
- h) On being asked that Cigarettes like Esse Lights imported from abroad didn't have pictorial warning on packaging, did they know about it and if they did, why didn't they warn importer regarding same, he replied that they had informed importer regarding same but he told them that he was planning to re-export all the goods and sale taking place in embassies is not considered as home consumption hence it didn't require any pictorial warning.
- i) That they had filed Bill of Entry as per the documents i.e. Bill of Lading and Commercial Invoice provided by the importer. They are aware about the notification and rules. He informed them that the said rules and stipulations regarding pictorial warning are not applicable for re- export and sale taking place in DFS or embassies. They trusted the Importer and didn't verify it.
- j) That they did their part by informing the importer to comply with all the provisions of the act, other allied acts and rules and regulations. Since, he filed the Bill of Entry based on suggestion of Importer, he didn't verify the authenticity of documents/data provided by the Importer.
- k) That he was not aware of the modus operandi of the Importer



1) That they inform importer to comply with all the provisions of the Act, other allied acts and Rules/regulations.

3.4. A letter dated 30.04.2024 was forwarded to the Principal Commissioner of Customs (Preventive), New Delhi with a request to search premises of the Importer M/s Vegas International located at "21st Century Business Centre, D-1/6 Shakarpur Extension, Delhi- 110092". Deputy Commissioner of Customs (Gr-V), Customs Preventive, New Delhi, vide letter dated 10.05.2024 informed that said address was not traceable.

3.5. The Importer vide letter dated-12.02.2024 and dated 01.03.2024 requested for re- export of shipment back to the supplier. Further vide letter dated 24.04.2024 the importer informed that the cigarettes were warehoused awaiting purchase orders from prospective clients, including diplomatic mission and duty-free shops. Once these orders are received the cigarettes would have been removed from the warehouse to the domestic markets well as to the diplomatic missions, after filing appropriate ex-bond Bills of Entry and after complying with all the rules and regulations relating to the sale of cigarettes. The importer relied upon the Public Notice No. 60/2019 dated 21.06.2019 of JNCII and submitted that the labelling/packing requirements may be completed in the warehouse to meet the statutory requirements under the Legal Metrology Act (printing of MRP etc.), requirements of FSSAI (putting of pictorial warning in respect of cigarettes), requirements of DGFT, State Excise Laws etc. Vide the said letter, the importer inter-alia requested for allowing re-export of the impugned goods.

3.5.1. Further, summonses dated 15.05.2024, 03.06.2024 and 11.06.2024 were issued to the Proprietor of M/s Vegas International, however no one attended the said proceedings. M/s Vegas International vide letter dated 18.06.2024 expressed his inability to attend the summon proceedings scheduled on 19.06.2024 which was fixed vide summon dated 11.06.2024. Further, Summonses dated 08.08.2024 and 05.09.2024 were issued to the Proprietor of M/s Vegas International requesting appearance on 13.08.2024 & 12.09.2024 respectively and submission of documents like Purchase Order from Embassies, relevant rules/notifications enabling import of cigarettes without pictorial warning. The said proceedings also went unattended by the importer.

3.5.2. During examination, goods were found to be Cigarettes of 100 mm length (including 35 mm of filter length). Thus, it appeared that classification of goods is proper.

3.5.3. Policy Condition: As per Import Policy Note No. 13 of the General Notes regarding Import Policy of ITC (HS), 2022 Schedule 1 – Import Policy, issued by the DGFT, import of cigarette or any other tobacco product shall be subject to the provisions contained in the Cigarettes and other Tobacco Products (Packaging and Labelling) Amendment Rules, 2018 (as amended from time to time) as notified by the Ministry of Health & Family Welfare. Rule 3(1) of COTP, 2008 mandates the display of specified health warnings on both sides of the tobacco product packages covering at least 85% of the principal display area. The said rule ibid also prescribes certain crucial information Name of the Manufacturer, Country of Origin, Date of manufacture, etc. Ministry of Health & Family Welfare vide Cigarettes and other Tobacco Products (Packaging and Labelling) Amendment Rules, 2022 notified the new set of specified health warnings effective from 1st day of December, 2022. As goods were found without safety health warnings, it appears that there is a violation of DGFT ITC (HS), 2022 Schedule 1 – Import Policy read with Section 7(3) of the COTPA, 2003 read with Rule 3 of COTP Rules, 2008 (as amended).

3.5.4. The impugned goods were seized on 26.03.2024. In terms of Section 110(2) of the Customs Act, 1962, the Commissioner of Customs, NS-IV on 24.09.2024 has granted extension of 06 months for issuance of Show Cause Notice. The same was informed to the importer vide letter dated 25.09.2024.



3.5.5. The importer filed Writ Petition 14021 of 2024 in the Hon'ble High Court of Bombay. In the said WP, the importer petitioner drew reference to their letters dated 12.02.2024 and 24.04.2024. The importer petitioner requested the Hon'ble Court to pass the order or directions to the Customs Authorities to permit the re-export of the impugned shipment back to the supplier. Hon'ble High Court vide their Order dated 11.10.2024 directed the Customs Authorities to dispose of the petitioner's representations dated 12 Feb 2024 and 24 Apr 2024 as expeditiously as possible and in any event within 30 days from today in accordance with law and on their merits after giving the petitioner a personal hearing in the matters. The decision on these representations must be communicated to the petitioner within this period of 30 days.

3.5.6. In pursuance of the directions of the Hon'ble Court, SIIB(I) issued letter dated 15.10.2024 giving an opportunity to the importer to either appear in person or make submissions and clarifications in the matter on or before 22.10.2024. However, the importer vide their email dated 21.10.2024 made their submissions/clarifications in response to SIIB(I)'s letter dated 15.10.2024. Vide the said letter, they reiterated their submissions made in the Writ Petition before the Hon'ble High Court.

4. It appeared that omissions of CB firm as mentioned above with respect to the goods imported vide WH Bill of Entry No. 8505793 dated 28.10.2023 resulted in Improper Importation of goods violating provisions of the Customs Act, 1962, The Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003, Cigarettes and other Tobacco Products (Packaging and Labelling Rules) 2008, hence he is also liable to pay penalty under Section 112(a)&(b)/114A of the Customs Act, 1962. The CB is also liable to Pay Penalty under Section 114AA of the Customs Act, 1962, for submitting the false documents for the Customs purpose. Further appropriate action under provisions of CBLR, 2018 may be initiated.

5. The AA observed that it was case of improper importation violating Section 46 (4A) of the Customs Act-1962, read with Section 7(3) of the COTPA, 2003. Further violation under Section 7 (3) of the COTPA, 2003 read with Rule 3 of the COTP Rules, 2008 (as amended), read with Ministry of Health & Family Welfare vide Cigarettes and other Tobacco Products (Packaging and Labelling) Amendment Rules, 2022, CBIC instruction F. No 450/160/2009-Cus.IV dated- 29.12.2009, CBIC Circular no-09/2017-Customs dated- 29.03.2017, Legal Metrology Act-2009, Legal Metrology (Packaged Commodities) Rules, 2011, IT(D&R) Act-1992, Import Policy ITC HS 2022 and Foreign Trade Policy, 2023.

The AA imposed penalty of Rs. 500,000/- (Rupees Five Lakh only) under Section 112 (a)(i) and 112(b)(i) of the Customs Act, 1962 and penalty of Rs. 500,000/- (Rupees Five Lakh only) under Section 114AA of the Customs Act, 1962 on the CB Firm M/s. Sai Dutta Clearing Pvt Ltd.

## 6. ROLE OF CUSTOMS BROKER: -

6.1 The Customs Broker is an agent authorized by the exporter to work on their behalf. As per regulations of the CBLR, 2018, it is the obligation of the Customs Broker to exercise due diligence to ascertain the correctness of any information he imparts to a client and to advise the client accordingly 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. Further, 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.

From the Offense Report in the above-mentioned case, it appears that Customs Broker M/s Sai Dutta Clearing Agency didn't adhere to the Regulations 10(d), 10(e), 10 (f) and 10 (n) of the Customs Broker Licensing Regulations, 2018, as under.

**(i) Sub-regulation 10 (d) of the CBLR, 2018 which reads as:**

*"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;"*

On perusal of the offence report, it is clear that the Importer has violated Section 46 (4A) of the Customs Act-1962. Further the Importer has violated under Section 7 (3) of the COTPA, 2003 and Rule 3 of the COTP Rules, 2008 (as amended), read with Ministry of Health & Family Welfare vide Cigarettes and other Tobacco Products (Packaging and Labelling) Amendment Rules, 2022, CBIC instruction F. No 450/160/2009-Cus.IV dated- 29.12.2009, CBIC Circular no- 09/2017-Customs dated- 29.03.2017, Legal Metrology Act-2009, Legal Metrology (Packaged Commodities) Rules, 2011, FT(D&R) Act-1992, Import Policy ITC HS 2022 and Foreign Trade Policy, 2023.

The CB, in his statement dated- 18.04.2024, stated that they had informed importer regarding pictorial warnings but the Importer told them that he was planning to re-export all the goods and sale taking place in embassies is not considered as home consumption hence it didn't require any pictorial warning. That the CB had filed Bill of Entry as per the documents i.e. Bill of Lading and Commercial Invoice provided by the importer. Further, as per the offense report, on scrutiny of the import documents uploaded in e-Sanchit, at the time of filing of Bill of Entry, **it was noted that the importer had not made any such declaration that the goods are meant for re-export in Bill of Entry or any import documents.** The CB should have advised the Importer to make such declaration in the Import documents and to upload the same in e Sanchit, and should have made the such declarations in the B/e also. The CB also failed to inform the Customs Authorities that the goods are meant for re-export or sale to embassies or DFS as has been claimed by the Importer. The Importer failed to produce any purchase orders from the embassies or DFS. Thus the CB failed to advise his client regarding Section 46 (4A) of the Customs Act-1962, and other provisions of the allied act, and rules and regulations thereof and the same has resulted in Import of cigarettes violating many provisions of different acts and rules and regulations. The CB also failed to bring the matter to the notice of Customs Authorities.

In view of the above, the CB appears to have violated the provisions of Regulation 10(d) of CBLR, 2018.

**(ii) Sub-regulation 10 (e) of the CBLR, 2018 which reads as:**

*"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, in his statement dated- 18.04.2024, on being asked that Cigarettes like Esse Lights imported from abroad didn't have pictorial warning on packaging, did they know about it and if they did, why didn't they warn importer regarding same, has replied that they had informed importer regarding same but he told them that he was planning to re-export all the goods and sale taking place in embassies is not considered as home consumption hence it didn't require any pictorial warning. That they had filed Bill of Entry as per the documents i.e. Bill of Lading and Commercial Invoice provided by the importer. They are aware about the notification and rules. He informed them that the said rules and stipulations regarding pictorial warning are not applicable for re- export and sale taking place in DFS or embassies. That they trusted the Importer and didn't verify it. Thus, the did not verify the claim of the importer that the goods are for the sale to the Embassies and Duty free shops and failed to act diligently. The Custom Broker did not ask for purchase orders for the same.

Further, it was also noted on scrutiny of the import documents uploaded in e-Sanchit at the time of filing of Bill of Entry, **that the importer had not made any such declaration that the goods are meant for re-export in Bill of Entry or any import documents.** The CB also did not verify the

documents properly as the Consignor in the Bill of lading is M/s Golden Start Tobacco Trading FZLLC, UAE, and the name of the Consignor in Invoice is M/s One Point Trading Ltd. Further, due the negligence of the CB, the Importer violated provisions of the act, and allied acts along with rules and regulations thereof.

This gross negligence and failure to fulfil basic professional responsibilities constitutes a clear violation of Regulation 10(e) of CBLR, 2018, which mandates Customs Brokers to exercise due diligence.

**(iii) Sub-regulation 10 (f) of the CBLR, 2018 which reads as:**

*"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 CB appears to have failed to inform the Importer about the CBIC instruction F. No 450/160/2009-Cus.IV dated- 29.12.2009, CBIC Circular no- 09/2017-Customs dated- 29.03.2017. The CBIC instructions mandates that distribution and sale to Duty Free Shops shall be subject to compliance of the Cigarettes and other Tobacco Products (Packaging and Labelling Rules), 2008. The Imported goods should have pictorial warnings for sale to DFS, but the CB has failed to inform the Importer regarding the same.

Thus the CB appears to have violated the provisions of Regulation 10 (f) CBLR, 2018.

**(iv) Sub-regulation 10 (n) of the CBLR, 2018 which reads as:**

*"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"*

It is observed that the CB, in his statement dated- 18.04.2024, had stated that they had verified the KYC documents of the Importer on DGFT website and also verified address of the Importer physically.

While as per the offense report, a letter dated 30.04.2024 was forwarded to the Principal Commissioner of Customs (Preventive), New Delhi with a request to search premises of the Importer M/s Vegas International located at "21st Century Business Centre, D-1/6 Shakarpur Extension, Delhi-110092". Deputy Commissioner of Customs (Gr-V), Customs Preventive, New Delhi, vide letter dated 10.05.2024 informed that said address was not traceable. It clearly depicts that the CB failed to verify the functioning of his client as the declared address.

In view of the above, the CB appears to have violated provisions of Regulation 10 (n) of the CBLR, 2018.

6.2 From the investigation, it appears that the CB M/s. Saidutta Clearing Agency Pvt Ltd (CB License No. 11/978), a licensed Customs Broker (CB), highlights a serious breach of regulatory obligations under the Customs Brokers Licensing Regulations (CBLR), 2018. The case involves, one Bill of entry i.e., 8505793 dated 28.10.2023, for Import of declared cigarettes. However, Cigarette packets didn't have **any Pictorial warning**. Further **no Maximum Retail Price, Name of Manufacturer, Year of Manufacture, Etc** were found on the packets. The Importer has thus violated, Importer has violated Section 46 (4A) of the Customs Act-1962. The Importer has violated under Section 7 (3) of the COTPA, 2003 and Rule 3 of the COTP Rules, 2008 (as amended), read with Ministry of Health & Family Welfare vide Cigarettes and other Tobacco Products (Packaging and Labelling) Amendment Rules, 2022, CBIC instruction F. No 450/160/2009-Cus.IV dated- 29.12.2009, CBIC Circular no- 09/2017-Customs dated- 29.03.2017, Legal Metrology Act-2009, Legal Metrology



(Packaged Commodities) Rules, 2011, FT(D&R) Act-19922, Import Policy ITC HS 2022 and Foreign Trade Policy, 2023, violated provisions of allied acts along with Rules and regulation thereof as stated above.

The CB appears to have failed to advise its client regarding provisions of different allied acts. It appears that the CB did not verify the claim of the importer that the goods are for the sale to the Embassies and Duty free shops and failed to act diligently. Further, it was also noted on scrutiny of the import documents uploaded in e-Sanchit at the time of filing of Bill of Entry, that the importer had not made any such declaration that the goods are meant for re-export in Bill of Entry or any import documents. The CB also appears to have failed to verify the functioning of client at the declared address, as the address of the Importer was found to be intraceable. Had the CB fulfilled its basic verification duties, the Improper Importation of the goods might have been not occurred.

The CB's actions or inactions violated not just Regulation 10(n), but also related provisions regarding due diligence (10e) and client advisories (10d), making this a case of multiple regulatory breaches. This case should serve as a wake-up call for the CB to strengthen their compliance mechanisms, implement robust verification protocols, and understand that regulatory requirements are not mere formalities but essential safeguards against economic offenses. Therefore, it appears that the CB has violated the provisions of regulation 10(d), 10(e), 10(f) & 10(n) of the CBLR, 2018.

7. I observe that the CB has a very important role in customs clearances and lot of trust has been placed by the Department on the CB. In regime of trade facilitation and with more and more of the goods being facilitated by the Risk Management Systems without examination by the Customs, the role of CB has further increased so that economic frontiers of the country are well guarded. In this regard, I rely on the judgement of the Hon'ble Supreme Court in case of Commissioner of Customs Vs M/s K.M. Ganatra & Co *has held that:*

*"the Customs House Agent (CHA) occupies a very important position in the customs house. The customs procedures are complicated. The importers have to deal with a multiplicity of agencies namely carriers, custodians like BPT as well as the Customs. The importer would find it impossible to clear his goods through its agencies without wasting valuable energy and time. The CHA is supposed to safeguard the interests of both the importers and the customs. A lot of trust is kept in CHA by the importers/exporters as well as by the government agencies..."*

8. From the above facts, it appears that, prima facie, Customs Broker CB Saidutta Clearing Agency Pvt Ltd (CB License No. 11/978) had violated Regulation 10(d), 10(e), 10(f) & 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.

9. Accordingly, I pass the following Order:

#### ORDER

10. 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 Customs Broker M/s. Saidutta Clearing Agency Pvt Ltd (CB License No. 11/978) with immediate effect, being fully satisfied that the Customs Broker, prima-facie, did not fulfil their obligations as laid down under Regulation 10(d), 10(e), 10(f) & 10(n) of CBLR, 2018.

11. However, I offer the Customs Broker M/s. Saidutta Clearing Agency Pvt Ltd (CB License No. 11/978) an **opportunity of Personal Hearing on 12.06.2025 at 12:15 PM**. Any written representation against this order should reach the undersigned before the date of hearing.

12. M/s. Saidutta Clearing Agency Pvt Ltd (CB License No. 11/978), (PAN No. AAFCS5286A) is directed to surrender all the original Custom Passes issued to their employee/partner/director/Proprietor immediately.

13. 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.



**(RAJAN CHAUDHARY)**  
**Pr. Commissioner of Customs (G)**  
**I, NCH, Mumbai-I**

To,

M/s. Saidutta Clearing Agency Pvt Ltd (CB License No. 11/978),  
(EDI License No AAFCS5286ACH001)

**Address:** - Mr Ashwanii Dham, Saidutta Clearing Agency Pvt Ltd,  
201, Madhuban Building 23, Chochin Street Fort,  
Mumbai – 400001

**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. BCBA.
6. Office copy.
7. Notice Board.