



प्रधानआयुक्त) सामान्य (सीमाशुल्ककार्यालय
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (GENERAL)
कस्टमब्रे करअनुभाग, नवीनसीमाशुल्कभवन,
CUSTOMS BROKER SECTION, NEW CUSTOM HOUSE,
बेलार्डइस्टेट, मुंबई - I
BALLARD ESTATE, MUMBAI - I

F. No. GEN/CB/159/2022-CBS

Date: 25.08.2022

DIN No. 2022087700000000A9B9

ORDER No 27 /2022-23

The Customs Broker M/s. Maruti Logistics (ABQFM4134J), having registered address at Shop No. 05, Building No. 06, Jai Santoshi Maa CHS Ltd, Gauri Shankar Wadi No. 02, Pantnagar (East), Ghatkopar (East), Mumbai - 400 075, is holder of Customs Broker License No. 11/2686 (PAN No. ABQFM4134J), issued by the Pr. Commissioner of Customs, Mumbai under regulation 7(2)(b) of CBLR, 2018 and as such they are bound by the regulations and conditions stipulated therein.

2. SIIB(I) vide their letter F. No. SG/Misc-55/2022-23/LRM/SIIB(I)/JNCH dated 26.05.2022 stated a complaint was received that the CB M/s. Maruti Logistics (ABQFM4134JCH001) has forged government documents namely Consent Validity issued by State Pollution Control Board as the original consent was valid upto 30.06.2021, however, the CB has forged the consent validity certificate and change the validity upto 30.08.2022. This forged document was used for filing and clearance of goods under Bill of Entry No. 8295863 and 8304509 both dated 16.04.2022.
3. Thereafter, an officer was deputed to visit Maharashtra Pollution Control Board (MPCB) office to verify the allegedly forged certificate which was uploaded in e-sanchit while clearing the consignment under Bill of Entry No. 8295863 and 8304509 both dated 16.04.2022. Officials of MPCB, after verifying their records, has confirmed that the certificate appeared to be forged, the actual validity was upto 30.06.2021 only. This fact has also been admitted by Shri Hemant Bhanushali, partner of the CB M/s. Maruti Logistics (ABQFM4134JCH001) in his statement dated 04.05.2022.
4. Statement of Customs Broker Shri Hemant Bhanushali, partner of CB Firm M/s. Maruti Logistics (ABQFM4134JCH001) was recorded on 04.05.2022 under section 108 of the Customs Act, 1962, wherein he interalia stated that: -

(i) On being asked to explain the discrepancies in validity of MPCB certificate No. Format 1.0/CAC/UAN No. 0000092321/CR-2009000528 dated 09.09.2020, he stated that after receiving summons from SIIB(I), he enquired from the mediator Mr. Ashok Jadhav, (whose role is to sell the product of overseas supplier to the Indian consignee i.e. Importer and to obtain all valid necessary documents from the overseas supplier and also procure documents form the overseas supplier), regarding discrepancies of import documents to which he (Ashok Jadhav) interalia stated that he had only valid MPCB certificate No. Format 1.0/CAC/UAN No. 0000092321/CR-2009000528 dated 09.09.2020 validity period upto 30.06.2021. Further, he (Ashok Jadhav) informed that on behalf of importer he has already applied for extension of validity of MPCB certificate on 24.03.2021. However, due to covid-19 pandemic, the application could not be processed timely; that after surpassing of 12 months, application has been considered by MPCB department and thus in this regard final renewal consent MPCB certificate No. Format 1.0/CC/UAN No. MPCB-CONSENT-0000111441/CR/2204001608 dated 24.04.2022 valid upto 30.06.2025 has been issued. He also informed that the importer has already applied for approval of certificate and further extension of the said period i.e. validity of the MPCB Certificate. As the Importer have not received the MPCB certificate in time, therefore, in order to clear consignment early, the mediator (Mr. Ashok Jadhav) has submitted the forged MPCB certificate No. Format 1.0/CAC/UAN No. 0000092321/CR-2009000528 dated 09.09.2020 valid upto 30.08.2022 (actual validity upto 30.06.2021).

During the course of investigation, Shri Hemant Bhanushali further stated that he has uploaded the same certificate in e-sanchit; however, changes were made in the validity period by Mr. Ashok jadhav, assuming that MPCB department may issue the certificate by 30.08.2022. In order to clear consignment early, the CB did not verify the genuinely of the MPCB certificate.

(ii) On being asked that, by the above acts, it appears that the documents have been forged, he stated that original MPCB certificate No. Format 1.0/CAC/UAN No. 0000092321/CR-2009000528 dated 09.09.2020 which was valid upto 30.06.2021 was forged and the validity was extended upto 30.08.2022 and the forged document was uploaded in e-sanchit.

(iii) On being asked that submitting wrong documents in the e-sanchit portal is liable for penal action as per Customs Act, 1962 and also attracts suspension of CB License, he stated that he had submitted the said

documents on e-sanchit based on documents provided by Mr. Ashok Jadhav, the mediator. That, had they been aware about the forged documents, they would not have uploaded the factious documents on e-sanchit. That, they have received the valid MPCB certificate No. 1.0/CC/UAN No. MPCB-CONSENT-0000111441/CR/2204001608 dated 24.04.2022 valid upto 30.06.2025. The consignment was given out of charge on 21.04.2022 for BOE No. 8295863 & 8304509 both dated 16.04.2022. Had they been aware about it, they would have cleared it after getting proper certificate issued by MPCB. The valid certificate has been issued on 24.04.2022. That, he knows that mis-declaration in any form attracts penal action to the importer and CB and that misdeclaration or suppression of fact can lead to suspension of license.

5. In view of the above, as per the obligations of a Customs Broker, it appears that the said CB has failed in their obligations as per the Regulation 10(a), 10(e), 10(j) of CBLR, 2018 according to which a Customs Broker shall:

(i) **Regulation 10(a) of CBLR, 2018:**10(a):- *“A Customs Broker shall obtain an authorisation from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Broker and produce such authorisation whenever required by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be”.*

(ii) **Regulation 10(e) of CBLR, 2018:** 10(e): exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage.

(iii) **Regulation 10(j) of CBLR, 2018:** Regulation 10(j): - *“A Customs Broker shall not refuse access to, conceal, remove or destroy the whole or any part of any book, paper or other record, relating to his transactions as a Customs Broker which is sought or may be sought by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be”*

6. In view of the above, the CB Licence no. 11/2686, held by M/s. Maruti Logistics, was suspended vide Order No. 18/2022-23 dated 27.06.2022, issued by the Pr. Commissioner of Customs (Gen) and a PH opportunity was given to the CB on 11.07.2022 at 12.30 hrs. However, the CB failed to attend the PH. Therefore, another PH opportunity was given to the CB scheduled on 29.07.2022 at 12.30 P.M., However the CB did not attend the P.H. Accordingly, a final PH opportunity was given to the CB on 10.08.2022 at 12.00 P.M.

RECORD OF PERSONAL HEARING

7. Shri Ram Awatar Singh, Authorized Representative of M/s. Maruti Logistics appeared for the PH on behalf of the CB through virtual mode on 10.08.2022 at 12.00 Hrs. wherein he reiterated and summarized written submissions dated 10.08.2022. The authorized representative of the CB denied all the charged levelled against the CB under regulation 10(a), 10(e) and 10(j) of CBLR, 2018. He further added that this is a case against the CB for submission of forged MPCB certificate on e-sanchit for clearance of certain Bills of Entry. Whereas, in his statement dated 04.05.2022 the CB has nowhere mentioned that he has forged the document and in fact he has stated that he initiated inquiry when the matter came to his knowledge by the SIIB(I) letter; that if he was aware of the forgery he would have not uploaded the same on e-sanchit and would have cleared after getting proper state Board Pollution Control Certificate, He further requested on behalf of the CB that suspension may be revoked and enquiry may be held and in any case if any violation found, penalty may be levied.

WRITTEN SUBMISSIONS MADE BY THE CB

8. Shri Ram Awatar Singh, Authorized Representative of the CB M/s. Maruti Logistics in their written submissions dated 10.08.2022 denied all the charged levelled against the CB under regulation 10(a), 10(e) and 10(j) of CBLR, 2018. In this regard, he submitted that: -

8.1 The suspension order dated 27.06.2022 relies the statement of Shri Hemant Bhanushali, partner of CB Firm M/s. Maruti Logistics recorded on 04.05.2022 under section 108 of the Customs Act, 1962.

8.2 The authorized advocate of the CB stated that Shri Hemant Bhanushali in his statement dated 04.05.2022, nowhere stated that he has forged the Consent Validity certificate issued by State Pollution Control Board. At every place in the said statement recorded on 04.05.2022, he has categorically & emphatically stated

i) That "After receiving summons from SIIB(I), he enquired from the mediator Mr. Ashok Jadhav regarding discrepancies of import documents."

Thus the CB was unaware of any discrepancy when the Consent validity issued by State Pollution Control Board was handed over to the CB for uploading in e-sanchit and it came to his knowledge when the summons were issued to him.

ii) That Mr. Ashok Jadhav was the person engaged by the importer to get the validity of the certificate extended from

MPCB who, on behalf of importer, had already applied for extension of validity of the same; that said Mr. Ashok Jadhav could not get the validity extended due to covid-19 pandemic and that "As the Importer have not received the MPCB certificate timely, hence, in order to clear consignment early the mediator (Mr. Ashok Jadhav) has submitted the forged MPCB certificate No. Format 1.0/CAC/UAN No. 0000092321/CR-2009000528 dated 09.09.2020 valid upto 30.08.2022 (actual validity upto 30.06.2022).

- iii) That "had they been aware about the forged documents, they would not have uploaded the factious documents on e-sanchit." And "Had they been aware about it, they would have cleared it after getting proper certificate issued by MPCB.

8.3 Further the authorized representative of the Customs Broker again stated that the CB was unaware that the said certificate of MPCB provided to him by the importer through Mr. Ashok Jadhav was forged as regards to its validity date when his client uploaded the import documents in e-sanchit and thus the allegation that the CB has forged the said document and uploaded the same in e-sanchit knowing it to be forged, has no basis sustainable in law and accordingly any action relying the said statement of the CB cannot be justified in law.

8.4 That the import documents were sent by the importers through some person entrusted by the importer for the same. It is clear from the statement of Mr. Bhanushali, partner of the CB recorded on 04.05.2022, that Mr. Ashok Jadhav was engaged by the importer 'as mediator' to get the MPCB certificate validity extended but due to delay being caused in covid situation, the said Mr. Ashok Jadhav changed the validity date at his own end and handed the same to the CB of which the CB was unaware & uploaded the same in e-sanchit.

9. In view of the above, the authorized representative of the CB stated that the Customs Broker has not violated any of the obligation pointed out in order dated 27.06.2022. In this regards the CB submits that: -

- (i) **With regards to the violation of Regulation 10(a) of CBLR, 2018,** the authorized representative of the CB stated that there was no occasion pointed out when the CB was asked to produce such authorisation by the Deputy Commissioner of Customs or Assistant Commissioner of Customs. Had the CB been so asked, he had definitely produced the authorization

of the importer as his client had obtained such authorization from the importer.

(ii) With regards to the violation of Regulation 10(e) of CBLR, 2018, the authorized representative of the CB stated that Regulation 10(e) is attracted in a situation where the CB has 'imparted to his client any information'. In the instant case, there is no case that the CB has imparted certain information to the importer. Therefore, the provisions of Regulation 10(e) of CBLR, 2018 is not attracted at all in the instant case.

(iii) With regards to the violation of Regulation 10(j) of CBLR, 2018, the authorized representative of the CB stated that there is no place in the order dated 27.06.2022 to show that the CB has refused access to, concealed, removed or destroyed the whole or any part, of any book, paper or other record, relating to his transactions as a Customs Broker which was sought by Customs department. Therefore, Regulation 10(j) of CBLR, 2018 has no application in the instant case.

10. In view of the above submissions, the authorized representative of the CB stated that the suspension of CB License of M/s. Maruti Logistics is not justified in law. Moreover, continuance of suspension of CB License will bring unbearable loss to the CB as it was the only means of livelihood on which the CB and his employees survive. Therefore, they requested that the CB license of M/s. Maruti Logistics may be restored as functioning.

DISCUSSION AND FINDINGS

11. I have gone through the fact of the case. The issue before me at the present instance is limited to determining whether the revocation of suspension of the CB Licence is warranted or otherwise in the instant case in the light of the material on record.

12. I find that the license of Customs Broker M/s. Maruti Logistics (CB no. 11/2686) was suspended vide Order No. 18/2022-23 dated 27.06.2022 based on the offence report received from SIIB(I) vide their letter F. No. SG/Misc-55/2022-23/LRM/SIIB(I)/JNCH dated 26.05.2022 issued by JNCH, Nhava Sheva.

13. My consideration in the instant case is limited to determining whether the continuation of suspension of the Customs Broker License is warranted or otherwise in light of the facts and material on the record. I find that giving several opportunities to the CB, his authorized advocate appeared for PH on 10.08.2022 and give written submission. Since the authorized representative of the CB

requested that continuance of the suspension of CB Licence will bring unbearable loss to his client as it is the only means of livelihood on which his client and his employees survives. Therefore, they requested to take lenient view in the case. Further it is contested by the CB that he never forged any document and was not aware about this fact hence his case may be considered leniently, also he has agreed to undergo any enquiry proceedings and to accept any penalty.

14. The defense submission stated that in the present case, statement of Shri Hemant Bhanushali (Partner of the CB) was recorded on 04.05.2022 and the impugned order for suspending the CB licence is passed on 27.06.2022.

15. In respect of regulation 10(a) of the CBLR, 2018, I find that, the authorized representative of the CB stated that there was no occasion pointed out when the CB was asked to produce such authorisation by the Deputy Commissioner of Customs or Assistant Commissioner of Customs. Had the CB been so asked, he had definitely produced the authorization of the importer as his client had obtained such authorization from the importer. In this regard, the CB has submitted copy of the authorisation letter to clear the Import/Export consignment on behalf of Mitc Rolling Mills Pvt. Ltd. vide letter dated 24.01.2022.

I find that in the instant case, as per the statement of Shri Hemant Bhanushali, partner of the CB firm M/s. Maruti Logistics recorded under Section 108 of the Customs Act, 1962, wherein he interalia stated that he received all the valid import documents i.e. Invoice, B/L, Packing List, PSIC Certificate, MPCB Certificate etc. from a mediator (Shri Ashok Jadhav) and the said document were uploaded on e-sanchit.

Since Shri Hemant Bhanushali, partner of the CB received documents from the mediator and there is nothing on record that Mr. Ashok Jadhav was the authorized person of the Importer/Exporter. Thus, it is apparent that the CB M/s. Maruti Logistics dealt with unauthorized person and thereafter failed to get proper authorization from the importer.

16. In respect of regulation 10(e) of the CBLR, 2018, I find that Shri Hemant Bhanushali in his statement dated 04.05.2022 interalia stated that he had uploaded the MPCB documents on e-sanchit, based on the documents provided by Mr. Ashok Jadhav. They have received the valid MPCB certificate on 24.04.2022 from the Importer M/s. MITC Rolling Mills Pvt. Ltd. However, the Customs Broker did not inform about the same to the department and the same was noticed by the department only. It is evident that the Customs Broker

processed the documents without exercising due diligence to ascertain the correctness of the information. It is apparent that the CB failed to ensure in guiding the importer to provide the correct document and helped an improper import.

17. In respect of the Regulation 10(j) of the CBLR, 2018, I find that, the validity of the MPCB Certificate uploaded in e-sanchit was extended fraudulently and the same was not verified by the Customs Broker and the goods were cleared by concealing the fact that they have not a valid MPCB certificate. It is the duty of the Customs Broker to verify the records, documents related to the consignments. In this case, the CB fails to do so.

18. In the instant case, I find that the power under Regulation 16(1), was invoked as in the opinion of the Principal Commissioner of Customs, it was found that it is an appropriate case, where immediate action is necessary. In terms of sub-regulation (2) of Regulation 16, opportunity of hearing was granted to the CB, which has been availed. Further, orders issued under Regulations 16(1) and 16(2) of the CBLR, 2018 are temporary measures and final order is to be issued under Regulation 14 of CBLR, 2018 after the receipt of the inquiry report from the nominated Inquiry Officer and issue of show cause notice.

19. Accordingly, I pass the following order: -

ORDER

20. I, Principal Commissioner of Customs (General), in exercise of powers conferred upon me under the provisions of Regulation 16 (2) of CBLR, 2018 order that the suspension of the Customs Broker Licence M/s. Maruti Logistics (CB no. 11/2686) (PAN No. ABQFM4134J) vide Order no. 18/2022-23 dated 27.06.2022 shall continue, pending inquiry proceedings under Regulation 17 of CBLR, 2018.

21. 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.

Ah
25/8/2022
(SUNIL JAIN)

PRINCIPAL COMMISSIONER OF CUSTOMS (GENERAL)

MUMBAI ZONE-I

To,

M/s. Maruti Logistics, (PAN No. ABQFM4134J),
CB License No. 11/2686,

Shop No. 05, Building No. 06,

Jai Santoshi Maa CHS Ltd,

Gauri Shankar Wadi No. 02,

Pantnagar (East), Ghatkopar (East),

Mumbai - 400 075,

Copy to: -

1. The Pr. Chief Commissioner/Chief Commissioner of Customs, Mumbai I, II, III Zone
2. All Pr. Commissioners/Commr. of Customs, Mumbai I, II, III Zone
3. CIU's of NCH, ACC & JNCH
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