



प्रधानआयुक्त(सामान्य(सीमाशुल्ककाकार्यालय

OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (GENERAL)

कस्टमब्रे करअनुभाग, नवीनसीमाशुल्कभवन, बेलाईइस्टेट, मुंबई-।

CUSTOMS BROKER SECTION, NEW CUSTOM HOUSE, BALLARD ESTATE, MUMBAI - I.

F. No. S/8-67/2020-21CBS

Date: .02.2021

DIN No: 20210377000000666 B19

01.03.2021

Order No. 46 /2020-21

M/s Sita Shipping, Customs Broker-11/1577, [PAN ABHFS0579E] (hereinafter referred to as the Custom Broker or CB) holding CB license no. 03/90 issued by the Hyderabad Customs Commissionerate, is operating in Mumbai Customs Zone I, II and III under Regulation 9(2) of the Customs House Agents Licensing Regulations, 2004 [Now 7(3) of Customs Broker Licensing Regulations, (CBLR) 2018].

2. Based on the investigation done by SIIB (I), a Show Cause Notice vide SCN No.667/2020-21/SIIB(I)/JNCH dated 30.12.2020 under Section 124 of the Customs Act, 1962 read with section 28(4) of the customs act, 1962 was received, from Additional Commissioner of Customs, SIIB(I), NS-V, JNCH regarding investigation into goods imported by M/s. Sanya Sales Corporation vide Bill of Entry No.4752796 dated 03.09.2019.

3. Brief facts of the case are as follows: -

3.1 On the basis of detection by the Container Scanning Division (CSD), Jawaharlal Nehru Custom House, Nhava Sheva on 19.09.2019, the container No. CAIU9555526 showed some suspicious images during scanning, thereafter was forwarded to docks for 100% examination. The said container was imported by the importer M/s Sanaya Sales Corporation (IEC-0511036981) under Bill of Entry No. 4752796 dated 03.09.2019 through their Customs Broker, M/s Sita Shipping (CHA No. ABHFS0579ECH002) for the clearance of various items under different tariff headings. The declared assessable value of the goods covered under the said bill of entry was Rs.10,23,966.13/- and declared gross weight of the goods was 15,600 kgs. The said goods were examined by docks officers and discrepancies were found with respect to mis-declaration/concealment and excess quantity of the declared goods. The case was then forwarded to SIIB (I), JNCH on 03.10.2019 for further investigation.

3.2 The goods imported vide Bill of Entry no. 4752796 dated 03.09.2019 were examined by the officers of the SIIB (import) in the presence of independent panchas and the representative of the importer under panchanama dated 31.01.2020 and a detailed inventory was made.

3.3 During investigation it was found that, the goods imported by the importer were found mis-declared in terms of description and brand, and was found in excess quantity and were imported contrary to the import policy, hence, there was reason to believe that the said goods were liable for confiscation under Section 111(d), 111(l) and 111 ( m) of the Customs Act, 1962 and therefore, the impugned goods were seized under Seizure Memo dated 14.10.2019.

3.4 Summons dated 28.11.2019 was issued to Shri Brighu Dhall, Director of M/s Sanaya Sales Corporation for tendering evidence in the matter. The importer authorized Shri Ankit Dua for the purpose and his statement was recorded on 29.11.2019 under Section 108 of the Customs Act, 1962. He inter-alia stated that he had no information about imports made by the importer and that he was sent by Shri Brighu Dhall, Director of M/s Sanaya Sales Corporation by saying that 2-3 normal questions would be asked by the SIIB (I) officers. He stated that he didn't know the actual quantity and goods which were undeclared.

3.5 Further Summons Nos. NJ/959/2019-20 dated 13.12.2019 was issued to Shri Brighu Dhall, Director, M/s. Sanaya Sales Corporation (Importer) and NJ./960/2019-20 dated 13.12.2019 to M/s Sita Shipping (Customs Broker). However, the importer as well as the customs broker did not comply with the summons. Moreover, one Shri Sumit Chadha appeared on 23.12.2019 for recording of his statement under Section 108 of the Customs Act, 1962 wherein he inter-alia stated that, he is the relative of the importer, Shri Brighu Dhall/Director. He further stated that, M/s Sanaya Sales Corporation has been doing the business of imports for 6-7 years and after importing they sell goods in Delhi market and TGC Corporation, which is run by his cousin. He accepted that all the declared and undeclared goods in the bill of entry no. 4752796 dated 03.09.2019 were ordered by him and he intended to clear the un-declared goods without paying customs duty.

3.6 During the examination of the said goods, total 76 items were found which were dutiable and restricted. A total of 25 restricted items were found which required compliances of Bureau of Indian Standards, Intellectual Property Rights and Wireless and Planning Coordination certification. Investigation revealed that no supporting documents were tendered by the importer at the time of import. Thus, it was concluded in the investigation report that, the import of these items are in violation of Foreign Trade policy and thus were liable for confiscation under Section 111 (d) of the Customs Act, 1962.

4. Statement of Shri Sumit Chadha under Section 108 of the Customs Act, 1962 was recorded on 18.02.2020 wherein he reiterated his earlier statement

dated 23.12.2019 and inter alia stated that he handled the work for M/s Sanaya Sales Corporation in India. He admitted that the goods were mis-declared to evade the customs duty and was solely responsible for the decision for import. He stated that the importer was not aware of this import and that he is liable for any action initiated against M/s Sanaya Sales Corporation. He further stated that he was not an employee of M/s Sanaya Sales Corporation and that the list of goods was sent on his e-mail from which he used to choose the goods and thereafter the goods were selected from the list. He stated that he used to contact one Abhinav Malhotra on his mobile phone for the delivery of goods and that one of the goods found during examination is 'LED panels' only and not 'LCD display stand' as they had ordered for 'LED panels' only and that at the time of examination both earphone were found wired and wireless. He stated that the Bluetooth earphones were not mentioned in the invoice and packing list and that Samsung and I-phone mobiles were found in the container which were mis-declared to evade customs duty.

5. Further, summons no. SK/155/2020-21 dated 01.07.2020 was issued to Shri Meer Mohammed Ali Khan, Director of M/s Sita Shipping (Customs Broker). In his reply to the summons, vide letter dated 27.07.2020, Shri Meer Mohammed Ali Khan, Director of M/s Sita Shipping expressed his inability to appear for recording of his statement and that the Customs Broker parent license is in Hyderabad and he lives there and is very old and that their Mumbai office is completely closed due to the outbreak of Corona virus.

6. Shri Brighu Dhall, Proprietor of M/s Sanaya Sales Corporation failed to appear before customs for recording of his statement inspite of repeated summons, but instead, he first sent Shri Ankit Dua who didn't have any information about the said consignment. Further, he authorized one Shri Sumit Chadha who admitted of the ownership of the goods. However, the ownership of the goods could not be ascertained in absence of the statement of Shri Brighu Dhall (importer) in connection with the seized goods. The importer always avoided the investigation and didn't cooperate in the investigation which also proved his malafide intention of mis-declaring the goods to avoid applicable customs duty. He has willfully and intentionally not honoured the summons issued under Section 108 of the Customs Act, 1962. The omission and /or commission on the part of Shri Brighu Dhall by not appearing before the summoning officer, duly empowered under Section 108 of the Customs Act, 1962 to issue summons and call for documents pertaining to an enquiry for the purpose of the Customs Act, 1962 has rendered him liable for punishment under Section 174 and 175 of the Indian Penal Code, 1860, read with Section 108 of the Customs Act, 1962. Consequently, as per approval by the competent authority, a complaint was filed against Shri Brighu Dhall before Uran Court, Raigad District, Maharashtra. The matter is subjudice.

7. As per the investigation report, since the importer has mis-declared the quantity and description of the goods, the declared value is liable to be rejected in terms of Rule 12 of the Customs Valuation (Determination of value of imported Goods) Rules 2007, read with Section 14 (1) of the Customs Act, 1962 and in such case, the value needs to be re-determined in accordance with the CVR, 2007.

8. As the market survey could not be conducted due to covid-19 pandemic, the values of the goods have been determined through wholesale e-commerce platforms supplying the similar and identical goods in the Indian markets.

9. The total re-determined assessable value of the goods imported vide Bill of Entry No. 4752396 dated 03.09.2019 is worked out as Rs. 59,98,385.81/- and total applicable customs duty amounts to Rs. 21,44,834.48/-. As the importer has already paid Rs. 3,78,526/- at the time of import, the differential duty comes to Rs. 17,66,308.48/-.

10. The period of investigation and issuance of the Show Cause Notice was extended by the competent authority in terms of 1<sup>st</sup> proviso to Section 110 (2) of the Customs Act, 1962 for the reasons that the importer had not co-operated in the investigation and failed to appear and tender evidence in the subject case even after repeated summons issued under Section 108 of the Customs Act, 1962. This extension of time limit for issuance of show cause notice was intimated to the importer vide letter dated 26.06.2020 and he was directed to appear in person to tender evidence in the subject case. However, the importer didn't appear in person for tendering evidence.

11. The importer, Shri Brighu Dhall, always avoided the investigation and didn't cooperate in the investigation which also proved his malafide intention of mis-declaring the goods to avoid applicable customs duty. He has willfully and intentionally not honoured the summons issued under Section 108 of the Customs Act, 1962. Further, Customs broker was authorized by the importer and he is liable for penal action under the Customs Act, 1962. The Customs broker M/s. Sita Shipping has been made a noticee in the said Show Cause Notice dated 30.12.2020.

12. As per Regulation 10(d) A Custom Broker Shall- advise his client to comply with the provisions of the Act 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;

In the present case, it appears that the Customs Broker has failed to perform his duties efficiently as he has failed to advise his client regarding the mis-declaration in terms of description and brand, and about the excess quantity. The said goods were imported contrary to the import policy. Also the CB

didn't cooperate in the investigation which also proved his malafide intention of mis-declaring the goods to avoid applicable customs duty. Therefore, it is evident that the Customs Broker has violated Regulation 10 (d) of CBLR, 2018.

13. As per Regulation 10(e) *A Custom Broker Shall-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;*

In the present case, the said container was imported by the importer M/s Sanaya Sales Corporation through their Customs Broker, M/s Sita Shipping for the clearance of various items under different tariff headings. A total of 25 restricted items were found which required compliances of Bureau of Indian Standards, Intellectual Property Rights and Wireless and Planning Coordination certification. It appears that no supporting documents were tendered by the importer at the time of import in respect of total 76 items which were found dutiable and restricted. The reply by Shri Meer Mohammed Ali Khan, Director of Customs Broker, M/s.Sita Shipping that he couldn't appear for recording of his statement due to his old age and that he is staying in Hyderabad, appears that he is avoiding the investigation and this shows the abetment of the Customs Broker in said mis declaration by the importer.

14. In view of the facts stated above, I come to the conclusion that prima facie, M/s. Sita Shipping, Customs Broker No. 11/1577 is liable for their acts of omissions and commissions leading to contraventions of the provisions under Regulation 10(d) and 10(e) of the Customs Brokers Licensing Regulations, 2018 which amounts to breach of trust and faith reposed on the CB by the Customs. The Customs Broker M/s.Sita Shipping have, therefore, prima facie, failed to fulfill their responsibilities as per provisions of regulation of CBLR 2018. Accordingly, I pass the following order:-


### **ORDER**

15. I, Pr. Commissioner of Customs (General), hereby order for withdrawal of the permission granted to the Customs Broker, M/s. Sita Shipping bearing number 11/1577 (PAN No. ABHFS0579E) to transact business in Mumbai Customs Zones I, II, III with immediate effect, being satisfied that the Customs Broker has prima facie not fulfilled their obligations as laid down under the provisions of Regulation 10(d) and 10(e) of the Customs Brokers Licensing Regulations, 2018.

15.1 The Customs Broker may approach the parent Commissionerate, i.e. Hyderabad Customs for further action including Personal hearing etc, if any, in the matter as the same is being forwarded to the Parent Commissionerate in terms of Para 5.2 of Board's circular No. 9/2010-Cus dated 08.04.2010 along with Show Cause Notice and all Relied upon documents.

15.2 M/s. Sita Shipping (CB No.11/1577) is directed to surrender all the original Custom Passes issued to their employee/partner/director/Proprietor immediately.

15.3 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( 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.

  
 1/3/21  
**(PRACHI SAROOP)**  
 Pr. Commissioner of Customs (General),  
 Mumbai Customs Zone I.

To,

1. M/s Sita Shipping, 20-3-122/3/8,  
ShibliGunj, Telangana State  
Hyderabad-500064.
2. Shri Meer Mohammed Ali Khan,  
Director, M/s Sita Shipping, 20-3-122/3/8,  
ShibliGunj, Hyderabad-500064,  
Telangana State
- 3) The Director,  
M/s. Sita Shipping,  
B-49, Ashoka Complex,  
1<sup>st</sup> Floor, Near Mafco Market,  
Sector-18, Plot-17, Vashi,  
Navi Mumbai-400 705.

Copy to:

1. The Chief Commissioner of Customs, Mumbai I, II, III Zone
2. All Commissioners of Customs, Mumbai I, II, III Zone.
3. The Principal Commissioner of Customs (Preventive), R&I wing, NCH, Mumbai.
4. The Deputy/Asstt. Commissioner of Customs (CBS)/Policy Section, Hyderabad Customs Commissionerate, Kendriya Shulk Bhavan, L.B. Stadium, Basheer Bagh, Hyderabad-500 004.
5. CIU's of NCH, ACC & JNCH.
6. EDI of NCH, ACC & JNCH.
7. ACC (Admn), Mumbai with a request to circulate among all departments.
8. Airport (Admn) with a request to circulate among all concerned.
9. Jawaharlal Nehru Custom House (Admn) (With a request to circulate among all Departments.
10. SIIB(I), JNCH
11. Mumbai Custom House Agent Association.
12. Office copy.
13. Notice Board.