



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

कस्टम ब्रोकर अनुभाग, नवीन सीमाशुल्क भवन,
CUSTOMS BROKER SECTION, NEW CUSTOM HOUSE,
बेलाड इस्टेट, मुंबई - I
BALLARD ESTATE, MUMBAI - I

संचिका सं./ F. No. S/6-344(A)/89-Admn
GEN/CB/LIC/F/60/2021-CBS

आदेश दिनांक/Date of Order: 28.06.2022

CAO No. 28/CAC/PCC(G)/SJ/CBS

जारी दिनांक/Date of issue: 29.06.2022

DIN: 2022067700000072247C

Issued By : **SUNIL JAIN**
Principal Commissioner of Customs(General),
New Custom House,
Mumbai - 400 001.

मूल आदेश

1. यह प्रति व्यक्ति के उपयोग के लिए निशुल्क: स्वीकृत है, जिसके लिए यह जारी किया जाता है।
2. इस आदेश के विरुद्ध अपील क्षेत्रीय पीठ, केंद्रीय उत्पाद, सीमाशुल्क एवं सेवा कर अपीलीय अधिकरण को की जा सकती है।
3. अपील सीमाशुल्क (अपील) नियमों, 1982 के नियम 6 में उपलब्ध एवं साथ संलग्न फॉर्म सी ए.3.)C.A.(3 में प्रस्तुत की जानी चाहिए। अपील चार प्रतियों में इन प्रपत्रों के साथ होनी चाहिए।
 - i. अपील के आधार और तथ्यात्मक विवरणों के साथ अपील को आदेश की प्रतियों की समान संख्या के साथ चार प्रतियों में दायर किया जाना चाहिए (जिनमें से) न्यूनतम किसी एक को प्रमाणित होना चाहिए।
 - ii. अपील सीमाशुल्क अधिनियम, 1962 की धारा 129 ए)6) के तहत निर्धारित फीस के साथ प्रस्तुत हो और उस स्थान पर स्थित किसी भी राष्ट्रीयकृत बैंक की शाखा पर अधिकरण पीठ के सहायक पंजीयक के पक्ष में तैयार एक रेखांकित बैंक ड्राफ्ट के माध्यम से भुगतान किया जाएगा, जहां पीठ स्थित है।
4. अपीलपीठ के पंजीयक अथवा इस हेतु उनके द्वारा प्राधिकृत किसी अधिकारी के समक्ष व्यक्तिगत रूप से अथवा पंजीयक या उस अधिकारी को संबोधित पंजीकृत डाक से प्रस्तुत की जा सकती है।

ORDER-IN-ORIGINAL

- 1) This copy is granted free of charge for the use of persons to whom this is issued.
- 2) An appeal against this Order lies with the Regional Bench, Customs Excise & Service Tax Appellate Tribunal, Mumbai.
- 3) An appeal is required to be filed as provided in the Rule 6 of the Customs Appeal Rules, 1982 in form C.A. (3) appended to those Rules. An appeal should be in quadruplicate and shall be accompanied by:
 - i) The appeal including the statement of facts and the grounds of appeal shall be filed in quadruplicate accompanied by equal no of copies of the order (any of which at least should be certified).
 - ii) The appeal shall be accompanied by such fees as prescribed under section 129 A(6) of the Customs Act, 1962 and shall be paid through a crossed bank draft drawn in favour of the Asstt. Registrar of the Bench of the Tribunal on a branch of any nationalised Bank located at the place where the Bench is situated.
- 4) An appeal shall be presented in person to the Registrar of the Bench or any Officer authorized in this behalf by him or sent by Registered Post addressed to the Registrar of such Office.



BRIEF FACTS OF THE CASE

M/s. Damco India Pvt Ltd., (PAN No. AAHCA6078Q), having registered office at 401 & 402, Godrej Two, Pirojshanagar, Eastern Expressway Highway, Vikhroli (East), Mumbai - 400 079 (hereinafter referred as the 'Customs Broker/CB') is holder of Customs Broker License No. 11/1058, issued by the Commissioner of Customs, Mumbai under Regulation 10 (1) of CBLR, 1984, (Now regulation 7(2) of CBLR, 2018) and as such they are bound by the regulations and conditions stipulated therein. The validity of the license No. 11/1058 held by M/s. Damco India Pvt Ltd. is up to lifetime.

2. As per the available records with Customs Broker Section of New Custom House, Mumbai, M/s. Damco India Pvt Ltd., (PAN No. AAHCA6078Q) (CB license No. 11/1058) consists of the following Directors:

- i. Ms. Mamta Gupta
- ii. Ms. Katyayani Krishna
- iii. Mr. Stevan Mark Felder

3. On perusal of the records, it is observed that a SCN dated 05.03.2020 was issued to the said CB M/s. Damco India Pvt Ltd., (CB license No. 11/1058) by the then Pr. Commissioner of Customs, NCH for the violation of Regulation 7(2)(b) of CBLR, 2018 with regard to delay in intimation of addition of the above listed Directors mentioned at Sr. No. 2 by the CB. The matter was adjudicated vide CAO No. 11/CAC/CC(G)/PS/CBS(Adj) dated 25.06.2020 wherein a penalty of 25,000/- (Rs. Twenty Five Thousand) was imposed on the Custom Broker.

3.1 Now, the CB vide their letter dated 14.02.2022 informed about the further changes in the Directorship of the company viz. addition of Mr. Vikash Agarwal as Director & deletion of Mr. Steven Mark Felder from the Directorship of the company.

3.2 The said CB further made a submission dated 04.04.2022 alongwith the effective date of the addition/deletion of the following directors:

Table-A

SL. No.	Name of Directors	Date of Appointment	Date of Resignation
1	Minal Mane	11.01.2019	15.05.2019
2	Ashutosh Dixit	23.07.2018	11.01.2019
3	Mohit Rai	18.04.2018	23.07.2018
4	Ishita Sen Deane	03.07.2017	11.01.2019
5	Hans Erik Stefan	19.12.2014	21.07.2017



	Begtsoon		
6	Milind Manohar Laad	24.12.2013	19.12.2014

3.3 From the above paras, it appeared that CB has undergone several changes in the Directorship of the company without making intimation within the stipulated time line to the department. Therefore, a letter dated 08.04.2022 was issued to CB directing them to bring all such addition/deletion of Directors to the notice of the Department.

3.4 A reply letter dated 20.04.2022 was submitted by CB wherein they intimated about the following addition & deletion in the Directorship of the company till date:

Table-B

SL. No.	Name of Directors	Date of Appointment	Date of Resignation
1	Minal Mane	11.01.2019	15.05.2019
2	Ashutosh Dixit	23.07.2018	11.01.2019
3	Mohit Rai	18.04.2018	23.07.2018
4	Ishita Sen Deane	03.07.2017	11.01.2019
5	Hans Erik Stefan Begtsoon	19.12.2014	21.07.2017
6	Milind Manohar Laad	24.12.2013	19.12.2014
7	Lars Ostergard Sorensen	20.03.2009	24.05.2014
8	Jesper Cyril Jorgensen	20.03.2009	24.12.2013

3.5 After undergoing the above mentioned changes in the Directorship, the CB company is presently operating with the following Directors:

- i. Ms. Mamta Gupta
- ii. Ms. Katyayani Krishna
- iii. Mr. Vikash Aggrawal

4. On scrutiny of the documents submitted by the CB, in respect of (i) Minal Mane, (ii) Ashutosh Dixit, (iii) Mohit Rai, (iv) Ishita Sen Deane, (v) Hans Erik Stefan Begtsoon, (vi) Milind Manohar Laad, (vii) Lars Ostergard Sorensen & (viii) Jesper Cyril Jorgensen, it is observed that the appointment and resignation were made between 2009 to 2019. However, the intimation to the Department regarding the said addition and deletion was submitted by CB in



April, 2022. Hence, the intimation about the appointment & resignation of abovementioned Directors is delayed by more than 03 years, which is in contravention of the provisions of Regulation 7(2)(b) of CBLR, 2018.

5. By the above act of omissions, it appears that the Customs Broker, M/s. Damco India Pvt Ltd., (CB No.11/1058), (PAN No. AAHCA6078Q), has violated the provisions of Regulation 7(2)(b) of CBLR, 2018, which states that:

“Provided further that where a company or a firm which has been granted license under this regulation undergoes any change in the directors or managing director or partner such change shall forthwith be communicated by such license to the Pr. Commissioner of Customs or Commissioner of Customs, as the case may be, within one month of such change.”

With respect to addition/deletion delay caused is as under:

Table-C

Sl. No.	Name of Director	Date of Appointment	Intimation delayed by (Approx in Years)	Date of Resignation	Intimation delayed by (Approx in Years)
1	Minal Mane	11.01.2019	3	15.05.2019	3
2	Ashutosh Dixit	23.07.2018	4	11.01.2019	3
3	Mohit Rai	18.04.2018	5	23.07.2018	3
4	Ishita Sen Deane	03.07.2017	4	11.01.2019	4
5	Hans Erik Stefan Begtsoon	19.12.2014	7	21.07.2017	5
6	Milind Manohar Laad	24.12.2013	8	19.12.2014	7
7	Lars Ostergard Sorensen	20.03.2009	13	24.05.2014	8
8	Jesper Cyril Jorgersen	20.03.2009	13	24.12.2013	8

6. In view of the above, the Customs Broker M/s. Damco India Pvt Ltd., (CB No.11/1058), (PAN No. AAHCA6078Q) was called upon vide Show Cause



Notice No. 06/2022-23 dated 20.05.2022, to show cause as to why "Penalty under Regulation 18 of CBLR, 2018 should not be imposed for contravention of provisions under Regulation 7(2) (b) of CBLR, 2018. M/s. Damco India Pvt Ltd., (CB No.11/1058), (PAN No. AAHCA6078Q) was granted an opportunity of personal hearing on 23.06.2022 before the Principal Commissioner of Customs through video conferencing facility.

RECORDS OF PERSONAL HEARING AND SUBMISSIONS OF CB

7. Shri Ajay Srivastava, Authorized Employee of the CB firm M/s. Damco India Pvt Ltd., has appeared before the Commissioner of Customs (G), NCH, Mumbai for personal hearing on 23.06.2022 and submitted in their written submissions dated 21.06.2022 that-

- i. They had voluntarily submitted a list of all the addition/deletion of directors till 21.06.2022 vide letter dated 21.03.2022 & 20.04.2022. Since there was a change in administrative staff of their CB company, the said non-compliance of Regulation 7(2)(b) of CBLR, 2018 was inadvertent and not to resort to evasion of the Regulation.
- ii. The compilation of this information took time due to Covid-19 pandemic situation and also due to relocation of their office premises, which had been intimated to this office in July, 2020 and all the office records and files were retrieved only recently.
- iii. The delay in intimation regarding addition/deletion of the directors was neither wilful nor wonton and they further requested to take a lenient view in the instant matter.

8. During the virtual Personal Hearing, Shri Ajay Srivastava on behalf of his company further submitted that they admitted their mistake. He further submitted that in Table-C of the SCN there have been mentioned about 8 lapses regarding addition/deletion of directors. However, according to him, there are 6 lapses. He added that in 2015 the CB company had intimated about deletion of two directors mentioned at Sr. No. 7 & 8 of Table-C in the SCN and the same had been approved by this office.

DISCUSSIONS & FINDINGS

9. I have carefully gone through the case records and written submission made by the Customs Broker, M/s. Damco India Pvt Ltd., (CB No.11/1058), (PAN No. AAHCA6078Q).

10. I find that initially the CB vide their letters dated 14.02.2022 & 04.04.2022 has informed about the addition/deletion of directors in their company as mentioned in Para 3.1 & 3.2.



11. Further communication with the CB by this office resulted in exposure of several changes in the Directorship of the CB company as mentioned in Table B & Table-C above.

12. I find that all the changes in the Directorship of the CB company were made between 2009 and 2019. However, the CB company has intimated about the addition/deletion of directors in the beginning of 2022.

13. I find that the intimation about the appointment & resignation of abovementioned Directors is delayed by more than 03 years, which is in contravention of the provisions of Regulation 7(2)(b) of CBLR, 2018.

14. I have perused the written submissions of the CB during personal hearing wherein they submitted that the delay in intimation was not intentional and they have admitted their lapses. They further submitted that the delay happened due to change in administrative staff in the CB company, Covid-19 pandemic situation and relocation of their office premises in July, 2020. They started intimating about all the changes in the Directorship of the CB company when all the records have been retrieved recently. They further submitted that in the Show Cause Notice 8 lapses have been mentioned. However, there are only 6 lapses. The directors mentioned at Sr. No. 7 & 8 in Table-C above were already deleted with the approval of the Competent Authority of this office.

15. I find that the Customs Broker should have the knowledge of the provisions of CBLR, 2018. In the instant matter, the intimation about the addition/deletion of directors in the CB company has been delayed by more than 3 years and hence they have contravened the provisions of Regulation 7(2) (b) of CBLR, 2018.

16. In view of the above, I hold the Customs Broker M/s. Damco India Pvt Ltd., (CB No.11/1058), (PAN No. AAHCA6078Q) liable for consequences for violation of Regulation 7(2)(b) of CBLR, 2018. Accordingly, I pass the following order:-

ORDER

17. I, Commissioner of Customs (Gen), in exercise of powers conferred under Regulation 18 of Customs Brokers Licensing Regulations, 2018, hereby impose a penalty of **Rs. 25,000/- (Rupees Twenty Five Thousand Only)** on the Customs Broker M/s. Damco India Pvt Ltd., (CB No.11/1058), (PAN No. AAHCA6078Q) for violation of provisions under Regulation 7(2) (b) of CBLR



2018. The Customs Broker is advised to be careful in future and not to repeat this act.

22. This order is 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.



AB
28/6/2022

(SUNIL JAIN)

PRINCIPAL COMMISSIONER OF CUSTOMS(G)
NEW CUSTOM HOUSE, MUMBAI ZONE I

To,

M/s. Damco India Pvt Ltd., CB No. 11/1058)
401 & 402, Godrej Two, Pirojshanagar,
Eastern Expressway Highway,
Vikhroli (East), Mumbai – 400 079

Copy to :

1. The Chief Commissioner of Customs, Mumbai I, II, III Zone
2. CIU's of NCH, ACC & JNCH.
5. EDI of NCH, ACC & JNCH.
6. BCBA.
7. Office copy.
8. Notice Board.
9. Licence File.