



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/398/2023 CBS

Date: 25.04.2024

DIN: 20240477000000712137

SHOW CAUSE NOTICE No. 03/2024-25.
UNDER REGULATION 17 OF THE CUSTOMS BROKER LICENSING
REGULATION, 2018

M/S. Worldwind Shipping Services. (Licence No. 11/1717), CB Code AIPB4243LCH001), 26 Balaji Tower, Sector 30A Vashi Navi Mumbai, District-Thane, Pin code- 400705, State- Maharashtra (hereinafter referred as the Customs Broker/CB) is holder of Customs Broker License No. (11/1717), issued by the Commissioner of Customs, Mumbai under Regulation 8 of CHALR, 1984, [Now regulation 7(2) of CBLR, 2018] and as such they are bound by the regulations and conditions stipulated therein.

2. On the basis of intelligence gathered by CIU, ACC it was found that M/s Moving Collection (IEC-13VHPK3349B) (hereinafter referred to as "the importer") imported consignments of Ready-Made Garments and appeared to have mis-declared the goods imported vide Bill of Entry No. 8004724 dated 11.09.2018 in terms of description, value & quantity having a bearing on duty through their CHA, M/s Worldwind Shipping Services, having Custom Broker License No. (11/1717).

3. During the course of examination dated 14.09.2018, CIU, Mumbai Zone III found some of the items which were not declared by the importer at the time of filing the Bill of Entry (Table-I).

Table-I

M/s Moving collection B/E No. 8004724 dt 11.09.2018				
	Name of the Item declared	Quantity	Name of the Item found on examination	Quantity found
1	Ladies Skirt	254	Ladies Skirt	283
			Ladies Short Skirt	15
2	Ladies Tops	6890	Ladies Tops Woven	2231
			Ladies Tops Knitted	3917

3	Ladies Dress	767	Ladies Dress	605
4	Ladies Jeggings	196	Ladies Jeggings	170
5	Ladies Shrugs	631	Ladies Shrugs	277
6	-	0	Ladies Pullover with Headphone	135
7	-	0	Ladies full sleeve padde jacket with hody	135
8	-		Ladies Pants	33
9	-	0	Ladies Pants Pullover	333
10	-	0	Ladies stole(Scarf)	190
11	-	0	Denim Top	70
12	-	0	Denim Jacket with hoody	20
13	-	0	Ladies overcoat	24
	Total quantiy declared	8738	Total quantiy	8438

4. The examination revealed that 50% of the goods were not declared or wrongly classified to evade customs duty. The goods were re-examined by the Appraising Gr. III, which revealed that re-determined assessable value was Rs. 12,46,421/-whereas the declared value was Rs 10,02,428/- and total re-determined duty was Rs 774151/- whereas duty paid at the time of filing B/E was Rs 3,41,519/-.

5. The officers from CIU, Mumbai Zone III verified the address of the importer Shri Uttam Kisan Katarnavare, in whose name IEC was issued. At the time of visit he said that he had not applied for issuance of IEC. This fact, prima facie confirmed that the addresses mentioned in the IEC was in existence but no such firm existed at the given address.

6. Statement of Shri Uttam Kisan Katarnavare, aged 51, who was staying at the declared address, was recorded on 18.09.2018 , in which he inter alia stated that:

- I. He is a retired Western Railway employee;
- II. He had never applied to DGFT or requested anybody to apply on his behalf for issuance of IEC in his name or in the name of any company;
- III. He has not placed any order for import of any item till date and hence not paid for import or sale of such items;
- IV. He is not even remotely related to such transactions and if somebody doing anything in his name then it is wrong.

7. Thereafter CIU ACC received a letter, which was written in Marathi language, dated 19.09.2018 from Shri Uttam Katarnavare, which was

addressed to the Commissioner of Customs (General) and (Imports), ACC, Mumbai, the translated version of the letter is reproduced herein-below for ready reference:

" I, Uttam Katarnavare, Proprietor of Moving Collection, wish to inform that yesterday (18th September, 2018) I was called on a short notice for recording a statement in Customs CIU Department. Since I was not conversant with the Customs Procedures, I out of fear gave a wrong statement but I want to inform that the work related to my imports is handled by Shri Tushar Pedenekar from M/s Worldwind Shipping Services and that I am aware that Ladies Readymade Garments have been imported.

I am not fully conversant with the Customs and Import procedures and because I was brought on a short notice, I could not contact Shri Tushar Pedenekar and as a result I gave an incorrect statement for which I am very sorry and shall not repeat the mistake.

All my Customs and Import related work is handled by Shri Tushar Pedenekar and that Shri Tushar Pedekar had handled and shall handle my work in future as well and if any inquiry related to Customs work is to be done then the same may please be confirmed from Shri Pedenekar."

Since Shri Uttam Katarnavare in his statement dated 15.03.2021 had denied his signature on authority letter dated 08.04.2018, therefore original documents i.e. authority letter dated 08.04.2018 and letter dated 19.09.2018 for changing of statement had been forwarded to CFSL, Pune to determine the authenticity of handwritten signatures. As per the CFSL, Pune report dated 16.02.2023, "The enclosed signatures stamped and marked X-1 to X-9 all were written by one the same person". This means that signatures on the said documents were made by the IEC holder Sh. Uttam Katarnavare. However, during investigation it appeared that Shri Tushar Pedenekar had placed order for import and he had paid customs duty or other charges

8. Statement of Shri Tushar Dinanath Pedenekar, employee of the CB handled the above consignment of RMG was recorded on 19.09.2018 wherein he inter alia stated that:

- I. He had handled clearance of the consignment imported in the name of the importer covered under Bill of Entry No. 8004724 dated 11.09.2018;
- II. The orders were placed by him;
- III. The import documents in the subject BE were received by him directly from the supplier M/S. Guangdong Sky Ocean Logistics Company Limited, Guangzhou, China and the documents received included Air Way Bill, Invoice and Packing List;

- IV. Authority letter from the IEC holder was not received at the time of receipt of the import documents but had initially been handed over after duly signed by the Prop. of the importing firm;
 - V. His office had handled 27 consignments, including the present consignment, of Readymade Garments on behalf of the importer. He handed over a table indicating the list of B/E handled by his company on behalf of the importer duly signed by him with date;
 - VI. The information had always been given by him to his office about the import consignments handled in the name of CB firm;
 - VII. None of the payments against the 27 consignments had so far been made by him or by the importing company. But payments would be made by him to the overseas companies as soon as payments would be received from the retail shops;
 - VIII. Duty against the above 27 imports had been paid online by him from the loan obtained from friends but amount was paid from different accounts held in the name of different persons;
 - IX. After Customs clearance, vehicle was used to be arranged by him and the goods under import were dispatched to the retail shops.
 - X. He did not have the information about the addresses to which the goods were dispatched;
 - XI. The payment for the arranged vehicle was used to be made by him at the time of booking the vehicle for dispatch;
 - XII. The Customs Broker agency charges were paid by him to the Customs Broker, Worldwind Shipping Services, whenever any consignment was handled by him in the name of the importer;
 - XIII. The owner of the CB firm for which he worked was not aware of the fact that he was importing directly from the overseas companies in the name of proxy IEC;
 - XIV. The IEC holder was not aware of the fact that RMGs were imported in the name of the firm, M/S. Moving Collection but was certainly been informed about the fact that imports will be made against the said firm, M/S. Moving Collection.
9. Statement of Shri Thomas Bose, the Proprietor of the Custom Broker M/S Worldwind Shipping Service was recorded on 30.03.2021 wherein he inter alia stated that:
- I. The said Bill of Entry was filed by M/S Worldwind Shipping Services on behalf of the importer M/S Moving Collection;
 - II. The clearance from Customs of these items were being looked after by Shri Tushar Pedenekar, H-Card holder in the Customs Broker;

- III. After some problems with Customs Department in ACC, Sahar, Andheri (East), Mumbai-400 099, he discontinued his service from his office;
- IV. Shri Tushar Pedenekar had brought some importers namely M/S. Parle G, Khushyant Medicals, Moving Collection, and City Cloths;
- V. He had verified KYC details, authority letter, bank signature, AD code letter, PAN Card, GST and IEC copy of the importer through their employee Shri Tushar Pedenekar;
- VI. Agency payment of Rs. 3500/- per consignment was made in cash, these payments were not reflected in their books in any manner, these payments were spent for office expenses and maintenance;
- VII. Their company has handled around 27 consignments (since 12.04.2018) including the present consignment of the firm under investigation.

10 . CIU JNCH received a letter dated 17.09.2018 from Sh. Pendekar wherein he stated that he has not done any thing wrong, hence consignment may be released to him, Goods were released to him vide letter dated 01.10.2018 on paying PP Bond and security deposit, again PP Bond and security deposit was not paid from the accounts of the importer.

11. During investigation the bank accounts of the importer and Sh. Pendekar were searched which revealed that the goods were imported and sold by Sh. Pedenekar himself and Before the current consignment Sh. Pendekar had already cleared 26 consignments having declared assessable value of RS 2,67,30,737/-.

12. In view of above, it appears that CB M/S. Worldwind Shipping Services (11/1717), Mumbai, has failed to comply with the following regulations of the Customs Brokers Licensing Regulations 2018: -

10(d) *"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;"*

During investigation it was found that goods were mis-declared in terms of classification, quantity and value, 50% of the goods were not declared or wrongly classified to evade customs duty. The goods were re-examined by the Appraising Gr. III, which revealed that re-determined assessable value was Rs 12,46,421/-whereas the declared value was Rs 10,02,428/- and total re-determined duty was Rs 774151/- whereas duty paid at the time of filing B/E was Rs 3,41,519/-. As per section 46(4A) of the Customs act 1962, it is stipulated that;

"4A The importer who presents a B/E shall ensure the following namely: -

(a) "the accuracy and completeness of the information given therein"

In the instant case the CB seems to have failed to advise his client regarding accuracy and completeness of the information given in the B/E. Due to CBs negligence the exchequer had to suffer import duty. The CB also failed to bring this fact to the notice of the Deputy Commissioner of Customs or the Assistant Commissioner of Customs, as the case may be. Hence it appears that they have violated the regulation 10(d) of CBLR.

10(n) "verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information;"

The CB was not cautious enough to check the address of the importing firm, and failed to know that no such firm in the name of M/s Moving Collection was working at the declared address. During the visit of the CIU officers at the declared address IEC holder Shri Uttam Kisan Katarnavare said that he had not applied for issuance of IEC. This fact, prima facie confirmed that the addresses mentioned in the IEC was in existence but no such firm existed at the given address. During investigation it was found that the goods were imported by the employee of the CB and not the IEC holder himself. As such they have violated regulation 10(n) of CBLR.

10(p) "maintain all records and accounts that are required to be maintained under these regulations and preserve for at least five years and all such records and accounts shall be made available at any time for the inspection of officers authorised for this purpose;"

Shri Thomas Bose, Proprietor of M/S. Worldwind Shipping Services has accepted in his statement recorded on 30.03.2021 that the agency payment of Rs 3500/- were paid in cash to them and the same was not reflected in their account books in any manner. By their act of not maintaining the records for five years it appears that they have also violated regulation 10(p) of CBLR 2018.

13(12) "The Customs Broker shall exercise such supervision as may be necessary to ensure proper conduct of his employees in the transaction of business and he shall be held responsible for all acts or omissions of his employees during their employment."

The customs broker has grossly failed to supervise his employee Shri Tushar Pedenekar to properly conduct as per CBLR 2018. The CB failed to supervise his employee regarding proper address verification. Further total 27 B/Es have been processed by Shri Tushar Pedenekar employee of the CB on behalf of proxy importer, and the CB was completely ignorant of the fact. This fact seems to be enough to prove that the CB has failed to supervise his employee, who was misusing the IEC and hence it appears that the CB has violated the regulation 13(12) of CBLR 2018.

13 In view of the above, as per provision of Regulation 17(1) of CBLR, 2018(Regulation 20(1) of CBLR 2013), Customs Broker M/S. Worldwind Shipping Services. (Licence No. 11/1717), PAN No. AIIPB4243L is hereby called upon to show cause within 30 days from the date of issue of this notice, **as to why** under Regulation 14 read with 17 & 18 of the CBLR, 2018 for their failure to comply with the provisions of CBLR, 2018 as elaborated in Para above of this show cause notice:

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

14 They are directed to appear for personal hearing on the date as may be fixed and to produce proof of evidence/documents, if any, in their defence to the Inquiry Officer, Shri S. Balanarayana, Asst Commissioner of Customs, Import II, Zone I who shall conduct inquiry under Regulation 17 of CBLR, 2018. If no reply is received within the stipulated time period, it will be presumed that they have no explanation to offer and it will be presumed that they do not want personal hearing and the issue will be decided on the facts available on records.

15. This notice is being issued without prejudice to any other action that may be taken against the CB or any other person(s)/firm(s) etc. under the provisions of the Customs Act, 1962 and Rules/Regulations framed there under or any other law for the time being in force.

(सुनील जैन)
5/4/2024
प्रधान आयुक्त सीमा शुल्क (जी)
एनसीएच, मुंबई - I

The documents/records relied upon are as under:

Sr No.	Description
1.	Investigation report forwarded to the Deputy Commissioner of Customs Gr. III, Air Cargo Complex by Deputy commr. Of Customs SIIB(I), Air Cargo Complex

To,
M/s. Worldwind Shipping Services (Licence no. 11/1717), CB Code AIIPB4243LCH001), 26 Balaji Tower, Sector 30A Vashi Navi Mumbai, District-Thane, Pin code- 400705, State- Maharashtra.

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. Bombay Custom House Agent Association
6. Office copy
7. Notice Board.