



सीमा शुल्क के प्रधान आयुक्त कार्यालय (सामान्य)
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/74/2022/CBS

Date:23.06.2022

DIN:20220677000000521300

SHOW CAUSE NOTICE No. 11/2022-23
UNDER REGULATION 17 OF THE CUSTOMS BROKER LICENSING
REGULATION, 2018

M/s Husain Kasam Mukadam & Sons, having office address at 89, P. D'mello Road, 1st Floor, R.N.12 Shree Krishna Bhavan, Mumbai-400-009 [hereinafter referred to as the Customs Broker/CB], bearing PAN based Registration No. AABFH3370HCH001 are holding a regular Custom Broker License No 11/194 issued by Commissioner of Customs, Mumbai under Regulation 10(1) of the Customs House Agents Licensing Regulations (CHALR), 1984 [Now regulation 7(2) of Customs Broker Licensing Regulations (CBLR, 2018)] and as such they are bound by the regulation and condition stipulated therein.

2. An offence report vide letter dated 08.03.2022 was received from SIIB(I), JNCH stating that Pune Customs initiated an enquiry against Importer M/s K K Traders (IEC No. AXAPK3372Q) in respect of goods imported vide BE No 7580019 dated 21.02.2022, stuffed in container No. WHLU5762951. The said container after out of charge and gated out from CFS (M/s Take Care Logistics) was intercepted and examined under Panchnama on 25/26.02.2022 and found Cashew Kernels (Broken) concealed behind the declared cargo i.e. Raw Cashew Nuts in shell.

3. The Examination order in the subject BE was, 'open and examine (100% at item level) and look for concealment' and as per the examination report entered by Docks Officer in system, all packages

were opened and examined in presence of CHA and the goods were found as declared. However, after out of charge the same container containing the subject goods was intercepted and examined by Pune Customs (Preventive) and goods were found mis-declared as mentioned in para 2 above. The matter is under investigation by Pune Customs in collaboration with SIIB(I) JNCH. Another container of same importer involving similar mis-declaration has been detained by SIIB(I), JNCH in the same CFS and is under investigation by SIIB(I), JNCH.

4. The import of cashew kernel broken/whole into India is prohibited if the CIF value of the same is below Rs. 680/720 per kg respectively. Therefore, it is evident that this is the case of mis-declaration and smuggling of cashew nuts in terms of section 2(39) of Customs Act 1962 by the importer M/s K K Traders (IEC No. AXAPK3372Q) in connivance with their CB M/s Husain Kasam Mukadam & Sons holding CB License No.11/194 and Docks officer, to evade the legitimate Customs Duty and violation of applicable regulations.

5. During the course of investigation, statement of Shri Krishana Shankar Kadam-Proprietor of M/s K. K. Traders (Importer), Shri Dhanaji Bhosle-Import Executive of M/s Shri Ninai Shipping Agency, Shri Vipin Singh @ Suraj Singh-Import Clearing Agent and Shri Abdul Rehman Dalvi of CB M/s Husain Kasam Mukadam & Sons were recorded under Section 108 of Customs Act, 1962.

5.1 Shri Krishana Shankar Kadam-Proprietor of M/s K. K. Traders (Importer), in his statement dated 26.02.2022 inter alia stated that he is engaged in the import business of Cashew Nuts and Ginger; that BE no. 7580019 dt. 21.02.2022 was filed by CB M/s Husain Kasam Mukadam & Sons but as far as his knowledge Shri Chetan Yadav from M/s Shri Ninai Shipping Agency was his CHA and he was not aware of the name of CB M/s Husain Kasam Mukadam & Sons; that Mr. Chetan Yadav helped him as unofficial partner for Customs Clearance and documentation etc.; that he mis-declared the goods to evade higher customs duty, the item is actually called as Baby Bits-A(BB-A); that Mr. Manish Ronaldo- an official of Shri Chetan Yadav prepared all the documents.

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5.2 Search of premises of M/s Shri Ninai Shipping Agency at shop No. 151, Agarwal Trade Centre, Plot No. 62, Sector-11, CBD Belapur Navi Mumbai - 400614 was conducted under Panchnama dated 28.02.2022 and during the search copy of the subject B/E No. 7580019 dated 21.02.2022 along with three other documents was recovered and the statement of Shri Dhanaji Bhosale of M/s Shri Ninai Shipping Agency was recorded on 28.02.2022 wherein he inter alia stated that he is import executive in M/s Shri Ninai Shipping Agency and his cousin brother Shri Sambhaji Bhosle is proprietor of this firm; that three documents for clearance of raw cashew nuts found during the search of premises of M/s Shri Ninai Shipping Agency were given by Shri Chetan Yadav, and that out of three documents, two were related to M/s K. K Traders and one to M/s Shanaya Blossoms; that Shri Chetan Yadav is his friend and they are from same district; that Shri Chetan Yadav instructed to generate the Tax Invoice in the name of S. S. Logistics.

5.3 Shri Suraj Singh @ Shri Vipin Singh in his statement dated 02.03.2022 inter alia stated that BE No. 7580019 dated 21.02.2022 and related documents were given to him by Shri Chetan Yadav and he was going to CFS Take Care Logistics for delivery process and at that point met Mr. Mustakin Siddiqui. He entered the CFS without one-day pass and started the work of customs clearance of goods related to BE no. 7580019 dated 21.02.2022; that he had been paid Rs. 1000/- for delivery of the goods, then he took delivery of Container No. WHLU5762951 of M/s K. K. Traders; that he did not know the owner of the goods.

5.4 Shri Abdul Rehman Dalvi, Authorized Representative of CB M/s Husain Kasam Mukadam & Sons in his statement dated 19.04.2022 inter alia stated that BE no. 7580019 dt. 21.02.2022 was filed by their CB M/s Husain Kasam Mukadam & Sons (11/194); that the said party was introduced to them by a broker Shri Sambhaji Bhosle of M/s Shri Ninai Shipping Agency who actively works for M/s Husain Kasam Mukadam & Sons (11/194); that KYC verification was done by them and where Shri Abdul Rehman Dalvi & Shri Sambhaji Bhosle had personally visited the importer premises on 13.02.2022 at Satara,

Maharashtra-415 002; that after KYC they agreed to undertake work of M/s K K traders; that the KYC documents were received on 21.02.2022 by M/s Shri Ninai Shipping Agency'; that Shri Sambhaji Bhosle brings work for them, but they have not authorized him and issued any Customs Pass on behalf of CB Husain Kasam Mukadam & Sons: that the entire examination of goods was carried in presence of Shri Mustaqeem Siddiqui (H-Card holder on behalf of CB) with assistance of Shri Suraj Singh as Shri Mustaqeem Siddiqui was not physically well; that Shri Suraj Singh was unofficial employee having no Pass issued on behalf of CB and Shri Suraj Singh was told by Shri Mustaqeem Siddiqui to take one-day pass to enter the premises; that CB was not aware about the mis-declaration during the examination of the goods.

6. From the above facts and applicable rules and regulations, prima facie it appeared that Customs Broker M/s Husain Kasam Mukadam & Sons, (AABFH3370HCH001) having Customs Broker Licence No. 11/194 did not exercise due diligence in discharging their obligation as required under provisions 10(e), 10(n), 10(q), 13(3), 13(4), 13(7) & 13(12) of CBLR, 2018. As a result, CB Licence was suspended vide order no. 01/2021-22 dtd. 01.04.2022. The Suspension was continued vide order no. 08/2022-23 dated 23.05.2022.

7. On carefully going through the facts on record and laws, rules, regulations applicable in the case, it appears that Customs Broker M/s Husain Kasam Mukadam & Sons (11/194) have violated some provisions of Customs Broker Licensing Regulations, 2018 in import of goods vide bill of entry no. 7580019 dated 21.02.2022 with an intention to aid and abet smuggling of restricted Cashew Kernels (Broken).

7.1 Pune Customs initiated an enquiry against Importer M/s K K Traders (IEC No. AXAPK3372Q) in respect of goods imported vide BE No 7580019 dated 21.02.2022 stuffed in container No. WHLU576295, and found the case of mis-declaration and smuggling of Cashew Kernels (Broken) in terms of section 2(39) of Customs Act 1962 by the importer M/s K. K. Traders (IEC No. AXAPK3372Q) in connivance with

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their CB M/s Husain Kasam Mukadam & Sons holding CB License No.11/194 and Docks officer, to evade the legitimate Customs Duty.

7.2. Shri Krishnat Kadam, Proprietor of M/s K. K. Traders(Importer) in his statement dated 26.02.2022 stated that as far as his knowledge is concerned, Shri Chetan Yadav from M/s Ninai Shipping Agency, Mumbai was the CHA and also stated that he was not aware of the name of M/s Husain Kasam Mukadam & Sons and he did not sign any affidavit in the name of M/s Husain Kasam Mukadam & Sons. However, he added that he had given 4-5 signed blank letter head & 5-6 signed blank cheques to Shri Manish Ronaldo (office staff of Shri Chetan Yadav) at Belapur, Mumbai. They might have used signed blank letter head for appointing M/s Husain Kasam Mukadam & Sons as the CHA.

Further, Shri Krishnat Kadam admitted that he thought that there was higher duty involved, hence he mis-declared the goods. Mr. Chetan from Ninai Shipping Agency helped him with all the clearance. Therefore, it appears that Proprietor of M/s K. K. Traders did not authorize CB M/s Husain Kasam Mukadam & Sons and CB M/s Husain Kasam Mukadam & Sons never imparted correct information to Importer related to Customs clearance of cargo via any means of communication. Hence, it appears that CB M/s Husain Kasam Mukadam & Sons have failed to exercise due diligence and thereby appears to have violated Regulation 10(e) of CBLR,2018 which reads as under: -

Regulation 10(e) of CBLR, 2018: 10(e): *A Customs 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.*

7.3 Shri Abdul Rehman Dalvi from CB, has stated that The KYC verification was done by CB where he along with Shri Sambhaji Bhosle personally visited the importer's premises. After KYC they agreed to undertake work of M/s K K traders. The KYC documents were received on 21.02.2022 by M/s Shri Ninai Shipping Agency. However, Shri Krishnat Kadam, Proprietor of M/s K. K. Traders (Importer) has

admitted that as per his knowledge Shri Chetan Yadav from M/s Shri Ninai Shipping Agency was his CHA and he was not aware of the name of CB M/s Husain Kasam Mukadam & Sons. Therefore, it appears that CB did not verify correctness of Importer Exporter Code, GSTIN number, identity and functioning of his client by using reliable, independence, documents, data, information. CB M/s Husain Kasam Mumadam & Sons received all the documents from mediator M/s Shri Ninai Shipping Agency who were not their clients. Hence, CB appears to have violated Regulation 10(n) of CBLR, 2018 which reads as under: -

Regulation 10(n) of CBLR, 2018: *10(n)- A Customs Broker shall 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.*

7.4 It is observed from the statement of Shri Vipin Singh @ Suraj Singh that BE No. 7580019 dated 21.02.2022 related documents were given to him by Shri Chetan Yadav and while going to CFS Take Care Logistics for delivery process he met Mr. Mustakin Siddiqui. He entered the CFS without one-day pass and started the work of customs clearance of goods related to BE no. 7580019 dated 21.02.2022. I find that no competent person i.e. F/G category customs pass holder from the CB appeared during the examination of the goods. During the examination, H Category Customs Pass holder Shri Mustakin Siddiquie was present however, his health condition was not good and he took assistance of unauthorized person Shri Suraj Singh. Therefore, it appears that CB did not co-operate promptly during the examination as no authorized person of CB i.e. F/G Card Holder was present during the examination of goods. Hence, CB appears to have violated Regulation 10(q) of CBLR, 2018 which reads as under: -

Regulation 10(q) of CBLR, 2018: *A Customs Broker shall co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees.*

7.5 Shri Abdul Rehman dalvi, Authorised Representative of CB M/s Husain Kasam Mukadam & Sons holding CB License No.11/194 recorded on 19.04.2022 before SIIB (Import), JNCH has stated that said BE No 7580019 dated 21.02.2022 was filed by them on behalf of importer M/s K. K. Traders. The said importer was introduced to them by a broker Shri Sambhaji Bhosle, proprietor of M/s Ninai Shipping Agency who actively brings work to CB. M/s Ninai Shipping Agency is a sub-broker who works for commission. The KYC verification was done by CB where Shri Abdul Rehman Dalvi and Shri Sambhaji Bhosle personally visited the importer's premises.

Further, Shri Abdul Rehman Dalvi stated that Shri Sambhaji is not authorised by his CB and did not hold any Customs Pass on behalf of his CB. The entire examination of goods was carried in presence of Shri Mustaqeem Siddiqui (H-Card holder on behalf of CB M/s Husain Kasam Mukadam & Sons) with assistance of Shri Suraj Singh as Shri Mustaqeem Siddiqui was not physically well. Shri Suraj Singh was unofficial employee having no Pass issued on behalf of CB M/s Husain Kasam Mukadam & Sons and Shri Suraj Singh was told by Shri Mustaqeem Siddiqui to take one-day pass to enter the premises. CB took assistance in examination from unauthorised person i.e Shri Suraj Singh who was never issued any Customs Pass to work in Customs premises. CB M/s Husain Kasam Mukadam & Sons could not exercise supervision over the conduct of Shri Mustaqeem Siddiqui (H-Card holder of M/s Husain Kasam Mukadam & Sons) who took assistance of Shri Suraj Singh. Hence, it appears that CB M/s Husain Kasam Mukadam & Sons have violated Regulation 13(4), 13 (7) and 13(12) of CBLR,2018.

Regulation 13 of CBLR, 2018: Engagement or employment of persons—

13(3) *A Customs Broker may, having regard to the volume of business transacted by him, employ any number of persons other than an F card holder to assist him after verifying their antecedents and identity at the declared address by using reliable, independent, authentic documents, data or information:*

Provided that such an employed person shall possess the Aadhar number issued to him and that the minimum educational qualification of such persons so employed shall be 10+2, or equivalent.

13(4) Employment of a person referred to in sub-regulation (3) shall be made only after obtaining the approval of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, who shall in granting approval, take into consideration the antecedents and any other information pertaining to the character of such person.

13(7) A Customs Broker shall authorise only such employee who has been issued a photo identity card in Form F or Form G as the case may be to sign the declaration on the bills of entry, shipping bills, annexure thereof or any other document generated in connection with the proceedings under the Act or the rules or regulations made there under.

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.

8. The evidence on record and applicable rules & regulations clearly indicate that the CB was working in an absolute negligent manner and was in violation of the obligations cast upon them under the CBLR 2018. It also appears that an attempt of fraudulent imports had not been possible, if Customs Broker would have fulfilled his obligation bestowed on him under Regulations 10(e), 10(n), 10(q), 13(3), 13(4), 13(7) & 13(12) of CBLR, 2018 of CBLR 2018.

9. In view of the above, as per provision of Regulation 17(1) of CBLR, 2018, CB M/s Husain Kasam Mukadam & Sons is hereby called upon to show cause, as to why the Customs Broker license bearing no. 11/194 issued to them should not be revoked and security deposited should not be forfeited and/or penalty should not be imposed upon them 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 within 30 days from the date of issue of this notice. They are directed to appear for personal hearing on the date as may be fixed and to produce proof of

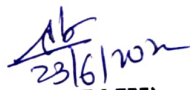
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evidence/documents, if any, in their defence to the Inquiry Officer, Shri Smt. /Ms. S. Shring Kumar, Asstt. /Deputy Commissioner, who shall conduct inquiry under Regulation 17 of CBLR, 2018. If no reply is received within the stipulated time period, 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.

10. 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 provision of the Customs Act, 1962 and Rules/Regulation framed there under or any other law for the time being in force.

11. The documents/records relied upon are as under: -

(i) Offence Report vide F. No. SG/MISC-576/2021-22/SIIB(I) dated 08.03.2022 along with RUDs provided vide even F.No. dated 22.04.2022.


(SUNIL JAIN)
Principal Commissioner of Customs (G)
NCH, Mumbai - I

To,

M/s Husain Kasam Mukadam & Sons (11/194),

89 P. D'mello Road, 1st Floor,

R.N.12 Shree Krishna Bhavan, Mumbai - 400-009

Copy to:

1. The Pr./Chief Commissioner of Customs, Mumbai I, II, III Zone
2. CIU's of NCH, ACC & JNCH
3. The Commissioner of Customs, Mumbai I, II, III Zone
4. EDI of NCH, ACC & JNCH
5. Bombay Custom House Agent Association
6. Office copy
7. Notice Board