



**OFFICE OF THE COMMISSIONER OF CUSTOMS (EXPORT)**

EDI SECTION, 1<sup>ST</sup> FLOOR, NEW BUILDING,  
NEW CUSTOM HOUSE, BALLARD ESTATE, MUMBAI- 400001

F. No. Gen/EDI/UPLD/1/2021-EDI-O/o-Commr-Cus-Exp-Zone-1-Mumbai

Date: 26.02.2021

DIN No. 2021037700000001590D

SCN No. 34/EDI/NCH/MUMBAI dated 26.02.2021

Subject : Show Cause Notice issued for Non-compliance of Sea Cargo  
Manifest and Transhipment Regulations (SCMTR), 2018 – reg.

1. M/s KAMAXI INDIA PAN No. having office address at SPECIAL ECONOMIC ZONE, PLOT NO 250, UNIT 428, SACHIN, SURAT (hereinafter referred to as 'the Noticee'), is carrying out operations as an Authorized Carrier in the jurisdiction of Commissioner of Customs (Export), NCH, Mumbai Customs Zone-I.
2. The data available with this office shows that the noticee has not registered under the Sea Cargo Manifest and Transhipment Regulations (SCMTR). The noticee has not uploaded messages/manifests under SCMTR as mandated by SCMTR and Circular No 43/2020-Customs dated 30.09.2020 and Public Notice 74/2020 dated 11.11.2020 issued by the Commissioner of Customs (Export), NCH, Mumbai.
3. The Sea Cargo Manifest and Transhipment Regulations, 2018 (hereinafter referred to as SCMTR) were notified vide Notification No 38/2018-Customs dated 11.05.2018 as amended through Notification No 54/2019-Customs dated 01.08.2019, Notification No. 78/2019-Customs dated 31.10.2019 and Notification No.94/2020-Customs dated 30.09.2020.
4. The SCMTR seeks to bring about transparency, predictability of movement, advance collection of information for expeditious clearance. The new Regulations stipulate for advance notice by authorized carriers for goods arriving in or being exported out of India through gateway ports and further movement between customs stations. They stipulate the obligations, roles and responsibilities for the various stakeholders involved in movement of import/export goods.
5. Considering disruptions caused due to COVID-19 Pandemic and non-readiness of stakeholders, Board had issued Notification No 94/2020-Customs (N.T) dated 30.09.2020 vide which transitional provisions under Regulation 15(2) had been extended from 1<sup>st</sup> October, 2020 till 31<sup>st</sup> March, 2021 to enable submission of manifests under erstwhile regulations. However as per Regulation 15(1), mandatory filing of different declarations in the new format in a phased manner is provided for as per the Annexure A to Circular No 43/2020-Customs dated 30 September 2020 and Public Notice 74/2020 dated 11.11.2020 issued by the Commissioner of Customs (Export), NCH, Mumbai. Different timelines were prescribed so that trade has sufficient time to comply with the new regulations in a phased manner. Further, vide Regulation 15(2),

mandatory compliance requirements for submissions of declarations and manifests under the said regulations shall be applied in full effect from 1<sup>st</sup> April, 2021.

6. Advisories & FAQs on Registration and Application Process for all Stakeholders, Message Implementation Guide for filing of Messages/Manifests with the Customs under SCMTR by different stakeholders were made available on ICEGATE website under the Sea Cargo and Manifest Regulations link. (<https://ww.icegate.gov.in/SeaManifestRegulation.html> )

7. Public Notice 71/2020 dated 22.10.2020 and Public Notice 74/2020 dated 11.11.2020 was issued by Commissioner of Customs (Export), NCH, Mumbai Zone-I detail the requirement of priority on boarding/registration of various stakeholders (ASC, ASA, ANC and ATP) & messages/manifests that would be required to be filed with Customs under SCMTR, and the process to be followed in this regard. For assistance in complying with SCMTR and for registration and filing of messages/manifests the stakeholders could approach the Help desk at EDI, 1<sup>st</sup> Floor Annex Building, New Custom House.

8. Public Notice 113/2021 dated 13.02.2021 was issued by Commissioner of Customs (Export), NCH, Mumbai Zone-I drawing attention to Penal provisions (Regulation 13) of SCMTR in connection with non-registration, and not filing mandated messages/manifests under SCMTR.

9. Constant efforts and persuasion have been made by NCH, Mumbai Zone-I by way of meetings and webinar to facilitate registration and filing of mandatory messages/manifests. Despite these you have not registered yourself under SCMTR. You have also not uploaded messages/manifests under SCMTR as mandated by SCMT Regulations and Circular No 43/2020-Customs dated 30 September 2020 and Public Notice 74/2020 dated 11.11.2020 issued by the Commissioner of Customs (Export), NCH, Mumbai.

10. The following provisions are relevant in this case: -

Relevant Provisions of Customs Act, 1962

*SECTION 158: Provisions with respect to rules and regulations. - (1) All rules and regulations made under this Act shall be published in the Official Gazette.*

*(2) Any rule or regulation which the Central Government or the Board is empowered to make under this Act may provide -*

*(i) for the levy of fees in respect of applications, amendment of documents, furnishing of duplicates of documents, issue of certificates, and supply of statistics, and for rendering of any services by officers of customs under this Act;*

*(ii) that any person who contravenes any provision of a rule or regulation or abets such contravention or who fails to comply with any provision of a rule or regulation with which it was his duty to comply, shall be liable to a penalty which may extend to fifty thousand rupees.]*

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11. Relevant Regulations of Sea Cargo Manifest and Transhipment Regulations, 2018 as amended (SCMTR)

"2. Definitions: -

- (c) "authorised carrier" means an authorised sea carrier, authorised train operator or a custodian, registered under regulation 3 and postal authority;
- (f) "custodian" means a person approved by the Principal Commissioner or the Commissioner of customs, for the purposes of section 45 of the Act;
- (g) "departure manifest" means an integrated declaration required to be delivered by an authorised carrier before departure of: (i) a vessel carrying imported goods, export goods or coastal goods; or (ii) a train or truck carrying or imported goods or export goods;
- (i) "Form" means a Form appended to these regulations or the corresponding electronic form provided at the website <https://www.icegate.gov.in> in relation to filing of arrival and departure manifest;'

3. Registration. - (1) Any person who is required to deliver arrival manifest or departure manifest shall apply to the jurisdictional Commissioner of Customs for registration in the Form- I

7. Transhipment of imported goods or export goods. - An authorised carrier shall file a departure manifest before the departure of a train or a truck and arrival manifest upon arrival of the train or truck, as the case may be

9. Conditions governing transhipment or transit through a designated foreign route. - (1) The transhipment shall be allowed under the following conditions-

- a. the goods are mentioned in the arrival manifest or departure manifest, as the case may be, for transhipment to any customs station;
- b. such transhipment is by, a vessel, train or a truck or by a combination of two or more of these modes of transport;
- c. the authorised carrier executes a bond in Form-IX A or Form-IX B or Form-IX C or Form-IX D as applicable, with or without bank guarantee or surety;

11. Suspension of operations or revocation of registration of an authorised carrier. -

- (1) The jurisdictional Commissioner of Customs may revoke the registration of the authorised carrier, for failure to comply with any provisions of the regulations.

(2) The Commissioner of Customs of any customs station on reasonable belief that operations of such authorised carrier is detrimental to the interest of revenue, may suspend their operation in his jurisdiction by an order stating the grounds of suspension.

(3) The Commissioner of Customs shall, within fifteen days from the date of such suspension order, shall give an opportunity of hearing to the person and pass such order within fifteen days from the date of the said hearing, as he deems fit, either revoking the suspension or continuing it for a further period not exceeding ninety days from the date of suspension, as the case may be. Provided that where the suspension against the authorised carrier has been continued, the Commissioner of Customs concerned shall intimate to the jurisdictional Commissioner of Customs, about the order within fifteen days from the date of issue of such order.

13. Imposition of Penalty. -An authorised carrier who contravenes any provision of these regulations shall be liable to a penalty which may extend to rupees fifty thousand.

15. Transitional provisions. - (1) Notwithstanding anything contained in regulations 4, 5 and 7, the authorised carrier may deliver the cargo declaration in Form-VIA or Form-VIB and Form-VIIA or Form-VIIB or arrival and departure manifest in Form-VIII or Form-VIIIA, for the period of forty-five days from the date of commencement of these regulations.

(2) Notwithstanding anything contained in these regulations, the authorised sea carrier shall continue to deliver the cargo declaration in Form III of the Import Manifest (Vessels) Regulations, 1971 and Form I of the Export Manifest (Vessels) Regulations, 1976, in the manner as was applicable before the commencement of these regulations, till 1st November, 2019.”;

Relevant Regulations of Handling of Cargo in Customs Areas, Regulations, 2009 (as amended)

2. Definitions. -

(1) In these regulations, unless the context otherwise requires, -

(b) "Customs Cargo Services provider" means any person responsible for receipt, storage, delivery, dispatch or otherwise handling of imported goods and export goods and includes a custodian as referred to in section 45 of the Act and persons as referred to in sub-section (2) of section 141 of the said Act;

5. Conditions to be fulfilled by Customs Cargo Service provider

(5) Undertake to comply with the provisions and abide by all the provisions of the Act and the rules, regulations, notifications and orders issued thereunder

12. Procedure for suspension or revocation of approval and imposition of penalty:-

(8) If any Customs Cargo Service provider contravenes any of the provisions of these regulations, or abets such contravention or who fails to comply with any provision of the regulation with which it was his duty to comply, then, he shall be liable to a penalty which may extend to fifty thousand rupees.”

12. Whereas the Noticee M/s KAMAXI INDIA,

a) are mandated to obtain registration under SCMTR by applying to the jurisdictional Commissioner of Customs, along with submission of prescribed Bond, if applicable, as stipulated in Regulation 3 of SCMTR which they have failed to comply with.

b) are mandated to file manifests/messages with Customs under SCMTR as stipulated Regulation 4, 5 and 7 of SCMTR which they have failed to comply with.

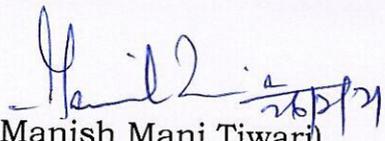
c) appear to be liable to penalty under Regulation 13 of SCMTR for each contravention separately, as discussed in preceding paras.

d) appear to be liable to penalty under Regulation 12(8) of Handling of Cargo in Customs Areas, Regulations, 2009 (as amended)

13. Now, therefore, the notice M/s KAMAXI INDIA is hereby called upon to show cause to the Commissioner of Customs (Export), NCH, Mumbai Zone-I within 10 days from receipt of this notice, as to why:

- a. Penalty under Regulation 13 of the Sea Cargo Manifest and Transshipment Regulations, 2018 (as amended), read with Section 158 (2)(ii) of the Customs Act, 1962, should not be imposed separately for every count of violation of provisions of SCMTR, 2018 (as amended).
- b. Penalty under Regulation 12(8) of the Handling of Cargo in Customs Areas, Regulations, 2009(as amended), read with Section 158 (2)(ii) of the Customs Act, 1962, should not be imposed separately for every count of violation of provisions of SCMTR, 2018 (as amended).

14. This notice is issued without prejudice to any other action that may be initiated against the noticee or any other person under the provisions of the Customs Act, 1962 or any other law for the time being in force.

  
(Manish Mani Tiwari)

Commissioner of Customs (Export)  
NCH, Mumbai Zone-I

To,

M/s KAMAXI INDIA

SPECIAL ECONOMIC ZONE,PLOT NO 250, UNIT 428, SACHIN, SURAT.

Copy to

1. The Assistant Commissioner of Customs, EDI, NCH, Mumbai Zone-I.