



**OFFICE OF THE PR. COMMISSIONER OF CUSTOMS
(GENERAL),
CUSTOM BROKER SECTION, NEW CUSTOM HOUSE,
BALLARD ESTATE, MUMBAI - 400 001.
Email-Id: cbsec.nch@gov.in**

F.No.GEN/CB/113/2024-CBS/NCH

Date: 11.06.2024

DIN No. 2024067700000000F528

ORDER No. 20/2024-25

**UNDER REGULATION 16 OF THE CUSTOMS BROKER LICENSING
REGULATION, 2018**

M/s Global Clearance & Logistics (AAWFG7760P) (CB No. 11/2730) having address at office No. 308, 3rd Floor, Building No. 4, Sangrila CHS, Near Punjab National Bank, 90 Feet Road, Sakinaka, Andheri (East), Mumbai-400 072, (hereinafter referred as the Customs Broker/CB) is holder of Customs Broker License No. 11/2730 (PAN No.AAWFG7760P), issued by the Commissioner of Customs, Mumbai under Regulation 7(2)(b) of the CBLR, 2018, and as such they are bound by the regulations and conditions stipulated therein.

2. An Offence Report (SCN No. 447/2023-24 dated 22.02.2024) with respect to the role of the CB, M/s Global Clearance & Logistics (AAWFG7760P) (CB No. 11/2730) was received by CBS, NCH from SIIB, Import, Air Cargo Complex, Mumbai Zone-III, wherein, inter-alia, following has been informed:

2.1 On the basis of a specific Intelligence received from DRI, MZU, a consignment of Propylene Glycol imported vide Bill of Entry No. 7558202 dated 28.08.2023 by M/s. Global Mind (IEC code 0314062882), having address Shop No. B-03, Ekdant CHS Ltd. Plot No. 66, 67 & 68, Sector 1 Sanpada, Navi Mumbai-400705, was kept on hold by SIIB Import, Air Cargo Complex, Mumbai Zone-III. The said Bill of Entry was filed through Custom Broker, M/s. Global Clearance and Logistics (CB No. AAWFG7760P). The said goods were examined by the officers of SIIB Import under Panchanama dated 01.09.2023. The said goods were imported from Hong Kong. The declared assessable value of the goods of the said Bill of entry was Rs.5,66,325/- and the declared duty payable thereon was Rs.1,57,069/-.

2.2 Examination of Goods and drawal of representative samples

An input was received from DRI, MZU that the goods covered under Bill of Entry No. 7558202 dated 28.08.2023 imported by M/s. Global Mind (IEC 0314062882) filed by M/s. Global Clearance and Logistics (CB) to be insecticide/pesticide instead of Propylene Glycol as declared. Therefore, goods covered under Bill of Entry No. 7558202 dated 28.08.2023 were put on hold by SIIB, Import, ACC, Mumbai Zne-III vide hold letter dated 31.08.2023. The said

consignment was examined 100% vide Panchanama dated 01.09.2023. The details of the goods found during examination is as below:

Sr No.	Drum No.	Goods Found	Packing Type	Total Quantity Found	Marks and Numbers Found	Remarks
1	1 to 5 and 8 to 18	Goods in white Powdered Form	25 Kgs in a single transparent Polythene	400 kgs	PGL, Propylene Glycol, Gr. Wt. 28 Kgs & Net Weight - 25 Kgs	Total 16 drums of such packing found
2	6 & 7	Goods in white Powdered Form	25 Black polythene containing single transparent polythene each of 1 kg	50 Kgs	PGL, Propylene Glycol, Gr. Wt. 28 Kgs & Net Weight - 25 Kgs	Total 02 drums having total of 50 black polythene were found.

Representative samples were drawn in triplicate from each drums. The said samples were forwarded to Central Insecticides Laboratory (CIL), Faridabad. Haryana vide letter F. No. CUS/SIIB/MISC/597/2023-SIIB(I) dated 21.09.2023 to ascertain the exact nature & composition of the goods imported vide Bill of Entry no. 7558202 dated 28.08.2023.

2.3 Warehousing of goods under Section 49 of Customs Act, 1962: -

The facility of warehousing of goods under provisions of Section 49 of Customs Act, 1962 was offered to importer M/s Global Mind. The same was availed by the importer and the goods imported vide Bill of Entry no. 7558202 dated 28.08.2023 were forwarded from Air Cargo Complex, Andheri, Mumbai to M/s Goodwill Logistics warehouse on 27.10.2023 under preventive escort.

2.4 Test report received from Central Insecticides laboratory (CIL):

2.4.1 Vide letter F. No. CUS/ SIIB/ MISC/597/ 2023-SIIB(I) dated 21.09.2023, total 18 samples were forwarded to central insecticides laboratory

to ascertain the exact nature and composition of the goods imported vide Bill of Entry No. 7558202 dated 28.08.2023. Report of 02 out of 18 samples were received on 28.12.2023 forwarded by Central Insecticides Laboratory vide letter F No. 04/Chem/CIL/2023-24/ Investigational Samples dated 28.12.2023. The outcome of the report established the presence of Matrine- 95.16% and 97.13% respectively, which are classified as Insecticides.

2.4.2 Report of remaining 16 samples were received on 30.01 2024 from Central Insecticides Laboratory vide letter F. No. 04/Chem/CIL/2023 24/ Investigational Samples dated 30.01.2024. The outcome of the report established the presence of Uniconazole- 95.48%, 95.79 %, 95.16%, 95.89%, 96%, 95.97 %, 95.94%, 96.01%, 95.82%, 95.59 %, 95.76%, 95.29 %, 95.50%, 95.14 %, 95.61% and 95.31% respectively.

2.4.3 It may be noted that Matrine is not registered for the use in the country under import, export or manufacturing categories. Therefore, its import, manufacturing, transport, sale, use and distribution etc. are not permitted without possessing a valid certificate of registration issued by Secretariat of Central Insecticides Board and Registration Committee (CIB & RC).

2.5 Observations/Findings of Test. report received from Central Insecticides laboratory (CIL): -

Central insecticides laboratory vide test report mentioned in para 2.4.1 & 2.4.2 above confirmed the presence of "Matrine and Uniconazole", which is a high potency insecticide and it falls under Schedule of the Insecticides Act, 1968 and the Rules 86 Regulation made hereunder. Such insecticides, their source and their supplier are required to be registered with the Central Insecticides Board (CIB), in terms of section 9 of the Insecticides Act, 1968, prior to its importation into India. Therefore, mis-declaring the goods as "**Propylene Glycol**", the importer M/s Global Mind has violated policy restriction imposed under Section 9 of the Insecticides Act, 1968 and Section 17 of the said Act. Further, the import or manufacture of such insecticides is governed by Section 17 of the Insecticides Act, 1968, are also prohibited goods for the purpose of Section 17 of the Insecticides Act, 1968 and Section 2(33) of the Customs Act, 1962 and the goods appeared to be liable for confiscation under Section 111(d), 111(m) and 111(o) of the Customs Act, 1962, read with Section 9 and 17 of the Insecticides Act, 1968.

2.6 Seizure of the goods: -

Since the consignment imported vide Bill of entry no. 7558202 dated 28.08.2023 was found to be mis-declared in terms of description therefore the said consignment vide the said bill of entry are liable for confiscation under

Section 111(d), 111 (m) and 111 (o) of the Customs Act, 1962 and accordingly, said goods were seized under Seizure Memo dated 09.01.2024 (RUD-5).

2.7 Classification of Goods: -

The goods imported vide impugned Bill of entry no. 7558202 dated 28.08.2023 was classified under CTH 29153999 as Propylene Glycol. However, it has been ascertained from the report of Central Insecticides Laboratory that the goods imported vide impugned Bill of Entry was insecticide i.e. Matrine & Uniconazole, which are rightly classifiable under CTH 38089990.

2.8 Valuation of the goods: -

The Importer has mis-declared the description of the goods as "Propylene Glycol" in place of insecticide i.e. "Matrine and Uniconazole". Therefore, the declared value appeared to be liable for rejection, in terms of Rule 12 of the Customs Valuation (Determination of Price of Imported Goods) Rules, 2007 (CVR, 2007), read with Section 14(1) of the Customs Act, 1962 and the value was re-determined in accordance with the CVR, 2007.

2.9 During the course of further investigation, in order to gather evidences, the statement of Mr. Rupesh Mahesh Patade, Owner of M/s Global Mind, was recorded on 04.09.2023, wherein he *inter alia*, submitted as under:

- On being asked to introduce himself, Shri Rupesh Mahesh Patade *inter alia* stated that he is owner of M/s Global Mind and resided at B-1101, IRAISAA Society, Sanpada, Opp. Jio Petrol Pump, Navi Mumbai-400705, his mobile no. is 9867776275 and email ID is accounts.globalmind@gmail.com.
- On being asked about the firm M/s Global Mind and its business, he *inter alia* stated that his company, M/s. Global Mind was registered in December 2014 and dealing with hardware goods as Cutting Wheels, Power Tools and Buffing wheel etc. He further stated that his firm also import hardware goods from other ports.
- On being asked about the reason for import of Chemical product when M/s Global Mind dealt with hardware goods, he stated that his firm is in trading business hence imported chemical from China.
- On being asked to provide the purchase order, payment particulars & supplier details of the consignment imported vide Bill of Entry no. 7558202 dated 28.08.2023, he stated that this order was given by him on his personal visit to China and placed a verbal order to supplier M/s Nanjing Bestgreen Chemical Co. Limited, China. He further stated that he did not give any purchase order to the supplier.

- On being asked the reason for different packaging found during examination, whereas the product is only one i.e. Propylene Glycol, he inter-alia stated that the Shipment imported is not Propylene Glycol. He further stated that the shipment imported vide Bill of Entry No. 7558202 dated 28.08.2023 is 50 Kgs of Matrine insecticide (Drum No. 6 &7) and 400 Kgs Uniconazole insecticide (Drum No. 1 to 5 & 8 to 18) and the same are used in agricultural product.
- On being asked about the reason for mis-declaration of goods as Propylene Glycol, he inter-alia stated that he did not have CIB NOC or certificate for such products so the same was mis-declared as Propylene Glycol and mis-classified in terms of CTH. He further stated that the consignment was imported for further sale to M/s C. M. Biotech a Gujrat based company addressed at 3rd floor, 84 Samruddhi Bhavan, Gondal Road, Opp. Bombay Petrol Pump, Rajkot, Gujarat-360001 owned by Shri Mahendra Patel. Moreover, he stated that Mr. Praveen Madhavji Bhanushali, associate of CB Firm i.e. M/s Global Clearance & Logistics advised him to import insecticides in such manner.
- On being asked about the mode of communication with the overseas supplier he inter-alia stated that he regularly visits China for the purpose of his business of hardware and at that time he met with the overseas supplier regarding consignment of insecticides, his last visit to China was in August 2023. He further stated that he did not get any actual/concerned invoice of insecticides from overseas supplier, he got the overseas invoices for the item Propylene Glycol instead of insecticides and the payment was done through bank transaction which was equal to invoice value and freight.
- On being asked, about two past bills of entry i.e. 3967594 dated 30.12.2022 & 5765896 dated 02.05.2023 filed for clearance of Propylene Glycol, he inter alia stated that he had imported Propylene Glycol in the past Bills of Entry he also submitted local sale invoices for the same.
- On being asked about anyone else whom he contacted regarding importation of insecticides in the subject Bills of Entry he stated that there was no other person with whom he had dealings regarding importation of insecticides except Mr. Pravin Madhavji Bhanushali and M/s C. M. Biotech.

2.10 Vide letter F. No. CUS/SIB/MISC/597/2023-SIIB (I) dated 21.09.2023, total 18 samples were forwarded to Central Insecticides laboratory to ascertain the exact nature and composition of the goods imported vide Bill of Entry No. 7558202 dated 28.08.2023. Report of 02 out of 18 samples were received on 28.12.2023 forwarded by central insecticides

laboratory vide letter F. No. 04/Chem/CIL/2023-24/Investigational Samples dated 28.12.2023. Thereafter, report of remaining 16 samples were received on 30.01.2024 from Central Insecticides Laboratory vide letter F. No. 04/Chem/CIL/2023-24/Investigational Samples dated 30.01.2024. Thereafter, Mr. Rupesh Patade, Proprietor of M/s Global Mind was summoned on 02.02.2024 and his statement was recorded on 02.02.2024 for verification/acceptance of reports received from Central Insecticides Laboratory wherein he inter alia, submitted as under:

- On being asked about the authorization given to CB M/s Global Clearance & Logistics for filling the said Bill of entry No. 7558202 dated 28.08.2023 he stated that CB was authorised by him and Mr. Pravin Madhavji Bhanushali was the person who was in contact with him on behalf of Customs Broker firm.
- On being asked about the address of Mr. Pravin Madhavji Bhanushali and Broker Firm M/s Global Clearance & Logistics, he inter-alia stated that he didn't know the address of Mr. Pravin Madhavji Bhanushali and Customs Broker Firm M/s Global Clearance & Logistics.
- On being asked about the consignment cleared prior to Bill of Entry No. 7558202 dated 28.08.2023, he inter-alia stated that in past, only two consignments were cleared through Air Cargo Complex, Mumbai vide Bills of no. 3967594 dated 31.12.2022 & 5765896 dated 02.05.2023 for clearance of Propylene Glycol.
- On being asked to provide subsequent local sales invoice of Propylene Glycol cleared through Bills of entry no. 3967594 dated 31.12.2022 & 5765896 02.05.2023, he inter-alia stated that goods i.e. Propylene Glycol cleared through previous Bills of Entry was subsequently supplied to M/s C. M. Biotech, which is a Gujarat based company. He also submitted local sales invoices for the same.
- On showing him, the test report dated 28.12.2023 for Sample No. 6 and 7 received from Central Insecticides Laboratory stating that the goods is "Matrine" which is not registered for use in the country under import, export or manufacturing categories and its import requires a valid certificate of registration issued by the Secretariat of Central Insecticide Board and Registration Committee and being asked about his acceptance with the report received from above laboratory, he inter-alia stated that he accept the report received from Central Insecticides Laboratory.
- On showing him the test report dated 30.01.2024 for sample No. 1,2,3,4,5,8,9,10,11,12,13,14,15,16,17 and 18 received from Central Insecticides Laboratory stating that the goods is "Uniconazole" which is

not registered for use in the country under import, export or manufacturing categories and its import requires a valid certificate of registration issued by the Secretariat of Central Insecticide Board and Registration Committee and being asked about his acceptance of the report received from above laboratory, he inter-alia stated that he accepts the report received from Central Insecticides Laboratory.

- On being asked about the possession of certificate of registration issued by the Secretariat of Central Insecticide Board and Registration Committee for the purpose of importation of the items mis-declared and imported in the impugned BOE No. 7558208 dated 28.08.2023 he stated that he didn't possess any such certificate.
- On being asked whether he was aware that the imported consignment was insecticide i.e. Matrine & Uniconazole, he stated that he was aware about the consignment. He further stated that since CIB certificate, which was required for importation of insecticide was not available with him so he mis-declared it **in terms of CTH of propylene glycol as suggested by Custom Broker.**
- On being asked whether he was emphasized by anyone to import insecticide and declare the same as Propylene Glycol he inter-alia stated that he was not emphasized by anyone for import of insecticide.
- On being asked whether his CB M/s Global Clearance & Logistics advise him to import insecticide and mis-declare the same as Propylene Glycol he inter alia stated that Mr. Praveen Madhavji Banushali, an associate of CB firm i.e. M/s Global clearance and Logistics, advised him to mis-declare the said goods as propylene glycol in place of insecticide i.e. Matrine and Uniconazole.
- On being asked whether he was aware that license from CIB was required for import of insecticide he inter-alia stated that Yes, he was aware about the requirement of licence from CIB for importation of insecticide.
- On being asked whether he would like to say anything else to say he requested to allow the goods to be re-exported to its original supplier and exempt his mistakes. He also uttered that he would cooperate by all means as and when department needs him.

2.11 Summons to Customs Broker:

The Customs Broker M/s Global Clearance & Logistics having address at office No. 308, 3rd floor, Building No. 4, Sangrila CHS, Near Panjab National Bank, 90 feet Road, Sakinaka, Andheri(E), Mumbai-400072 was Summoned under Section 108 of the Customs Act, 1962 on 10.01.2024, 19.01.2024 and 05.02.2024 having DINNo. 202401790AO00081388C, 202401790A000016631B

and 202401790A000000C79F respectively. However, the Customs Broker M/s Global Clearance & Logistics didn't turn up to record their statement. Moreover, Mr. Pravin Madhavji Bhanushali, associate of Customs Broker M/s Global Clearance & Logistics was also summoned on 06.02.2024 and 20.01.2024 having DIN No. 202401790A000000C79F and 202401790A000000A84F respectively. However, Mr. Pravin Madhavji Bhanushali also didn't appear for recording his statement.

3. From the facts of the case, it appears that the CB, M/s. Global Clearance & Logistics (AAWFG7760P) (CB No. 11/2730) has failed to comply with the provisions of Regulation 10 (b), 10 (d), 10(e), 10 (m) and 10 (q) of CBLR, 2018.

Legal Provisions of the CBLR, 2018:-

Regulation 10 (b) of the CBLR, 2018:- “A Customs broker shall transact business in the Customs Station either personally or through an authorized employee duly approved by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;”

Regulation 10 (d) of the CBLR, 2018:- “A Customs broker shall advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, 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;”

Regulation 10 (e) of the CBLR, 2018:- “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;”

Regulation 10 (m) of the CBLR, 2018:- “A Customs broker shall discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay;”

Regulation 10 (q) of the 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”.

3.1 From the Offence Report, it is noticed that the importer, M/s Global Mind has mis-declared the description of the goods as Propylene Glycol to cover the import of insecticide i.e. Matrine and Uniconazole, vide impugned Bill of Entry and also violated policy restriction imposed under Section 9 of the Insecticides Act, 1968 and Section 17 of the said Act.

3.2 From the Offence Report, it is noticed that the Customs broker, M/s. Global Clearance & Logistics and Mr. Pravin Madhavji Bhanushali, associate of

Customs Broker M/s Global Clearance & Logistics aided and abetted the importer for mis-declaration of goods in description as Propylene Glycol in place of insecticide i.e. Matrine & Uniconazole in impugned Bill of Entry no. 7558202 dated 28.08.2023 and effected the import of insecticides in gross violation of the provisions of Insecticide Act, 1968.

3.3 From the Offence Report, it is noticed that the Importer, Shri Rupesh Mahesh Patade in his statements dated 04.09.2023 and 02.02.2024 stated that one Shri Praveen Madhavji Bhanushali, associate of CB Firm i.e. M/s Global Clearance & Logistics advised him to import insecticides in such manner; Mr. Pravin Madhavji Bhanushali was the person who was in contact with him on behalf of Customs Broker firm and there was no other person with whom he had dealings regarding importation of insecticides except Mr. Pravin Madhavji Bhanushali and M/s C. M. Biotech.

In view of the above, it appears that Shri Pravin Madhavji Bhanushali, who is neither Customs Pass Holder nor an Authorized employee of the CB firm, M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P), not only represented himself to the Importer, as an Associate of CB firm but also colluded with him in aiding and abetting the illegal importation of insecticide i.e. Matrine and Uniconazole. Moreover, the Importer was in contact with Mr. Pravin Madhavji Bhanushali on behalf of the Customs Broker firm. Therefore, it appears that the Customs Broker, M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P), has violated the Regulations 10 (b) of CBLR, 2018.

3.4 From the Offence Report, it is noticed that the importer, M/s Global Mind has mis-declared the description of the goods as Propylene Glycol in place of insecticide i.e. Matrine and Uniconazole, vide impugned Bill of Entry and also violated policy restriction imposed under Section 9 of the Insecticides Act, 1968 and Section 17 of the said Act. Moreover, the Importer, Shri Rupesh Mahesh Patade in his statements dated 02.02.2024 accepted that he was aware that there was requirement of license for importation of insecticide.

The Customs Broker, firm which was being represented to the Importer by an unauthorized person, one Shri Pravin Madhavji Bhanushali, in place of advising his client to comply with the provisions of the Customs Act, 1962 and Insecticides Act, 1968, indulged itself into actively conspiring, conniving and colluding by in smuggling of insecticides by mis-declaring the description of the goods. Therefore, the Customs Broker, M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P), who was entrusted with the responsibility of advising his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and to bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs,

in case of non-compliance- actually ended up conspiring and conniving with the importer in smuggling of prohibited goods and therefore, it appears that the CB failed to comply with the Regulation 10 (d) of CBLR, 2018.

3.5 From the Offence Report, it is noticed that the importer, Shri Rupesh Mahesh Patade in his statements dated 02.02.2024 stated that he was aware that the imported consignment was insecticide i.e. Matrine & Uniconazole, since CIB certificate, which was required for importation of insecticide was not available with him so he mis-declared it in terms of CTH of propylene glycol as suggested by the unauthorized and only representative of the Customs Broker, as far as the transaction with the Importer is concerned. Thus, it appears that the Customs Broker, instead of exercising due diligence in imparting the correctness of the information that the imported consignment, which was insecticide i.e. Matrine & Uniconazole, must not be imported without a valid certificate of registration issued by the Secretariat of Central Insecticide Board and Registration Committee, went one step further and advised the Importer to mis-declare it in terms of CTH of propylene glycol for hoodwinking the department. Therefore, it appears that the CB, which was entrusted with very important duty of imparting the correct information w.r.t the clearance of insecticides to the Importer, actually ended up in conceptualization of a modus operandi for smuggling of prohibited goods and aided and abetted the importer for effecting the same in gross violation of Insecticides Act, 1968 and Customs Act, 1962.

Therefore, the Customs Broker, M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P), failed to comply with the Regulation 10 (e) of CBLR, 2018.

3.6 From the Offence Report, it is noticed that the Customs Broker M/s Global Clearance & Logistics was summoned under Section 108 of the Customs Act, 1962 on three different occasions by the Investigative Agency. However, the Customs Broker M/s Global Clearance & Logistics didn't turn up to record their statement. Moreover, Mr. Pravin Madhavji Bhanushali, the one representing the Customs Broker before the Importer was also summoned on two occasions. However, Mr. Pravin Madhavji Bhanushali also didn't appear for recording his statement. Such an act of the Customs Broker of not responding despite repeated summons hindered the natural pace and progression of the investigation.

Therefore, the Customs Broker, M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P), appears to have failed to discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay and failed to comply with the provisions of regulation 10 (m) of the CBLR, 2018.

3.7 From the Offence Report, it is noticed that the Customs Broker M/s Global Clearance & Logistics did not appear for recording of statement despite repeated summons. The Importer in his statement alleged one Pravin Madhavji Bhanushali of advising him with the modus to declare the Restricted Pesticides in terms of CTH of propylene glycol for hoodwinking the department. The said person as per the submission of the Importer, was the sole representative of the Customs Broker as far as the transaction with him was concerned. In such a scenario, wherein the very credibility of the CB is being questioned and is credited as a mastermind, the zero response and complete absence from the investigations reflects the non-adherence of the responsibilities, with which they are entrusted with under Regulation 10 (q) of the CBLR, 2018.

Therefore, the Customs Broker, M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P), which neither co-operated with the Customs authorities and nor joined investigation proceedings, appears to have violated Regulation 10 (q) of CBLR, 2018.

4. SUSPENSION OF CB LICENSE UNDER REGULATION 16 (1) OF CBLR, 2018

In view of the above facts, the CB License held by M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P) was suspended by the Pr. Commissioner of Customs (General) vide Order No. 04/2024-25 dated 17.04.2024 and personal hearing was granted to the CB on 25.04.2024.

5. PERSONAL HEARING AND WRITTEN SUBMISSION

In pursuance to the Regulation 16 (2) of CBLR, 2018, a personal hearing was granted by Principal Commissioner of Customs, NCH, Mumbai to Customs Broker on 25.04.2024. However, neither the CB nor his representative attended the Personal Hearing. Accordingly, the opportunities of Personal Hearing was given to the Customs Broker on two more occasions on 07.05.2024 and 15.05.2024. However, neither the Customs broker nor his representative attended the Personal Hearing on either of these occasions. Nothing was submitted by the Customs broker in their defence/reply of the Suspension Order even after providing sufficient time and opportunities. Hence, it appeared that they had nothing more to submit.

6. DISCUSSION AND FINDINGS

6.1 I have carefully gone through the records of the case. The facts of the case and finding of investigation have been mentioned in above Paras and are not being repeated for brevity.

6.2 The issues to be decided in the instant case is whether the suspension Order No. 04/2024-25 dated 17.04.2024 is required to be continued or revoked.

6.3 From the Offence Report, it is observed that the Importer, Shri Rupesh Mahesh Patade in his statements dated 04.09.2023 and 02.02.2024 admitted that one Shri Praveen Madhavji Bhanushali, associate of CB Firm i.e. M/s Global Clearance & Logistics advised him to import insecticides by mis-declaring as "Propylene Glycol"; Mr. Pravin Madhavji Bhanushali was the person who was in contact with him on behalf of Customs Broker firm and there was no any other person with whom he had dealings regarding importation of insecticides except Mr. Pravin Madhavji Bhanushali and M/s C. M. Biotech. Therefore, I find that Shri Pravin Madhavji Bhanushali, who is neither Customs Pass Holder nor an Authorized employee of the CB firm, not only represented himself to the Importer as an Associate of CB firm but also colluded with him in aiding and abetting the illegal importation of insecticide i.e. Matrine and Uniconazole. Moreover, the Importer was in contact with Mr. Pravin Madhavji Bhanushali only on behalf of the Customs Broker firm. Therefore, it appears that the Customs Broker, M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P), has violated the Regulations 10 (b) of CBLR, 2018.

6.4 From the Offence Report, it is noticed that the importer, M/s Global Mind has mis-declared the description of the goods as Propylene Glycol instead of the actual description of the insecticide i.e. Matrine and Uniconazole, vide impugned Bill of Entry and also violated policy restriction imposed under Section 9 and Section 17 of the Insecticides Act, 1968. Moreover, the Importer, Shri Rupesh Mahesh Patade in his statements dated 02.02.2024 accepted that he was aware that there was requirement of license for importation of insecticide. Therefore, I find that the CB, which was being represented to the Importer by an unauthorized person, one Shri Pravin Madhavji Bhanushali, in place of advising his client to comply with the provisions of the Customs Act, 1962 and Insecticides Act, 1968, indulged itself into actively conspiring, conniving and colluding in smuggling of insecticides by mis-declaring the description of the goods. Hence, it appears that the Customs Broker, M/s. Global Clearance & Logistics, which was entrusted with the responsibility of advising his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and to bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, in case of non-compliance- actually ended up conspiring and conniving with the importer in smuggling of prohibited goods and therefore, has violated the Regulation 10 (d) of CBLR, 2018.

6.5 From the Offence Report, it is noticed that the importer, Shri Rupesh Mahesh Patade in his statements dated 02.02.2024 admitted that he was aware that the imported consignment was insecticide i.e. Matrine & Uniconazole, since CIB certificate, which was required for importation of insecticide was not

available with him, so he mis-declared it in terms of CTH of propylene glycol as suggested by the unauthorized and only representative of the Customs Broker, as far as the transaction with the Importer is concerned. Therefore, I find that the Customs Broker, instead of exercising due diligence in imparting the correct information that the consignment, which was insecticide i.e. Matrine & Uniconazole, must not be imported without a valid certificate of registration issued by the Secretariat of Central Insecticide Board and Registration Committee, went one step further and advised the Importer with some modus to declare it in terms of CTH of propylene glycol for hoodwinking the department. Hence, I find that the CB, which was entrusted with very important duty of imparting the correct information w.r.t the clearance of insecticides to the Importer, actually ended up in conceptualization of a modus operandi for smuggling of prohibited goods and aided and abetted the importer for effecting the same in gross violation of Insecticides Act, 1968. Therefore, it appears that the Customs Broker, M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P), failed to comply with the Regulation 10 (e) of CBLR, 2018.

6.6 From the Offence Report, it is noticed that the Customs Broker M/s Global Clearance & Logistics was summoned under Section 108 of the Customs Act, 1962 on three different occasions and Mr. Pravin Madhavji Bhanushali, the one representing the Customs Broker before the Importer was also summoned on two occasions for recording of their respective statements by the Investigative Agency. However, neither the Customs Broker, M/s Global Clearance & Logistics nor Mr. Pravin Madhavji presented themselves before the Investigative Agency for either recording of their statements or for furnishing of documents, vital for progress of investigation. I find that, such an act of Customs Broker of not responding despite repeated summons hindered the natural pace and progression of the investigation. Therefore, the Customs Broker, M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P), appears to have failed to discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay and failed to comply with the provisions of regulation 10 (m) of the CBLR, 2018.

6.7 From the Offence Report, it is noticed that the Customs Broker M/s Global Clearance & Logistics did not appear for recording of statement despite repeated summons. The Importer in his statement credited one Pravin Madhavji Bhanushali of advising him with some modus to declare the Restricted Pesticides in terms of CTH of propylene glycol for hoodwinking the department. The said person as per the submission of the Importer, was the sole representative of the Customs Broker as far as the transaction with him was concerned. Therefore, I find that in such a scenario, wherein the very credibility of the CB is being questioned and is credited as a mastermind, the zero response and complete

absence from the investigations on the part of the CB reflects the non-adherence of the responsibilities, with which they are entrusted with, under Regulation 10 (q) of the CBLR, 2018. Therefore, the Customs Broker, M/s. Global Clearance & Logistics, which neither co-operated with the Customs authorities nor joined investigation proceedings, appears to have violated Regulation 10 (q) of CBLR, 2018.

6.8 I also find that sufficient opportunities for personal hearing were given to the Customs Broker in compliance of Regulation 16 (2) of CBLR, 2018. However, the CB neither appeared for personal hearing nor made any submission. Hence, it appeared that the CB had nothing more to submit as far as availing of opportunity of Personal Hearing is concerned. Failing to appear for the personal hearing, it is assumed that a fair opportunity had been given to him as a measure of natural justice. Hence, being satisfied that the procedure for natural justice has been followed and there is nothing on record submitted by the CB to contradict the fact that the CB had violated Regulation 10(b), 10(d), 10(e), 10(m) and 10(q) of CBLR, 2018.

6.9 I observe that the CB has a very important role in customs clearances and lot of trust has been placed by the Department on the CB. In a regime of trade facilitation and with more and more of the goods being facilitated by the Risk Management Systems without examination by the Customs, the role of CB has further increased so that economic frontiers of the country are well guarded. In this regard, I rely on the judgement of the Hon'ble Supreme Court in case of Commissioner of Customs vs M/s K.M. Ganatra & Co, wherein it has been held that:-

“the Customs House Agent (CHA) occupies a very important position in the customs house. The customs procedures are complicated. The importers have to deal with a multiplicity of agencies namely carriers, custodians like BPT as well as the Customs. The importer would find it impossible to clear his goods through its agencies without wasting valuable energy and time. The CHA is supposed to safeguard the interests of both the importers and the customs. A lot of trust is kept in CHA by the importers/exporters as well as by the government agencies...”

6.10 Further, I rely on the judgement of the Hon'ble High Court of Madras in case of Cappithan Agencies vs Commissioner Of Customs, Chennai-VIII, 2015 (326) E.L.T. 150 (Mad.), which has held that:

“...Therefore, the grant of licence to act as a Custom House Agent has got a definite purpose and intent. On a reading of the Regulations relating to the grant of licence to act as CHA, it is seen that while CHA should be in a position to act as agent for the transaction of any business relating to the

entry or departure of conveyance or the import or export of goods at any customs station, he should also ensure that he does not act as an Agent for carrying on certain illegal activities of any of the persons who avail his services as CHA. In such circumstances, the person playing the role of CHA has got greater responsibility. The very description that one should be conversant with the various procedures including the offences under the Customs Act to act as a Custom House Agent would show that while acting as CHA, he should not be a cause for violation of those provisions. A CHA cannot be permitted to misuse his position as CHA by taking advantage of his access to the Department. The grant of licence to a person to act as CHA is to some extent to assist the Department with the various procedures such as scrutinizing the various documents to be presented in the course of transaction of business for entry and exit of conveyances or the import or export of the goods. In such circumstances, great confidence is reposed in a CHA. Any misuse of such a position by the CHA will have far reaching consequences in the transaction of business by the customs house officials. Therefore, when, by such malpractices, there is loss of revenue to the custom house, there is every justification for the Respondent in treating the action of the Petitioner Applicant as detrimental to the interest of the nation and accordingly, final order of revoking his licence has been passed.”

6.11 In view of the discussion held above, I have no doubt that the suspension of the CB licence vide Order No. 04/2024-25 dated 17.04.2024 under Regulation 16 of the CBLR, 2018 was just and proper. The said regulation reads as: -

“ 16. *Suspension of license.* - (1) *Notwithstanding anything contained in regulation 14, the Principal Commissioner or Commissioner of Customs may, in appropriate cases where immediate action is necessary, suspend the license of a Customs Broker where an enquiry against such Customs Broker is pending or contemplated.*”

7. From the above facts, prima-facie, the Customs Broker, M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P), appeared to have failed to fulfil their obligations under Regulation 10(b), 10(d), 10 (e), 10(m) and 10(q) of CBLR, 2018 and contravened the same. The outcome of the investigation clearly brought out the role of the CB in illegal import and the non-cooperation of the CB hindered the investigation. Therefore, for their acts of omission and commission as above, the CB, M/s. Global Clearance & Logistics (CB No. 11/2730, PAN No. AAWFG7760P) appeared liable and guilty. Hence, all the charges sustain for the time being and are reasonable grounds for continuation of the order of suspension.

8. Accordingly, I pass the following order: -

ORDER

- I. I, Principal Commissioner of Customs (General), in exercise of powers conferred upon me under the provisions of Regulation 16(2) of CBLR, 2018 order that the suspension of Customs Broker License of M/s. Global Clearance & Logistics (AAWFG7760P) (CB No. 11/2730) ordered vide Order No. 04/2024-25 dated 17.04.2024 shall continue pending inquiry proceedings under Regulation 17 of CBLR, 2018.
- II. This order is being issued without prejudice to any other action that may be taken or purported to 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.


11/6/2024

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

To,

M/s Global Clearance & Logistics (AAWFG7760P) (CB No. 11/2730),
Office No. 308, 3rd Floor, Building No. 4, Sangrila CHS,
Near Punjab National Bank, 90 Feet Road, Sakinaka,
Andheri (East), Mumbai-400 072

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