

सीमा शुल्क के प्रधान आयुक्त कार्यालय (सामान्य)  
**OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (GENERAL)**  
कस्टमब्रोकरअनुभाग, नवीनसीमाशुल्कभवन,  
**CUSTOMS BROKER SECTION, NEW CUSTOM HOUSE,**  
बेलार्डइस्टेट, मुंबई - I  
**BALLARD ESTATE, MUMBAI - I**

F.NO. GEN/CB/294/2024/CBS

Date: 21.06.2024

DIN: 2024067700000011161A

**ORDER NO. 26/2024-25**

M/s. Satyam Worldwide Clearing Forwarding and Transport Agency, (PAN No. APMPK7637N), having address registered at Office No. 405, Grohitham premises Co-operative Housing Society, Plot No. 14B, Sector 19 Sanpada, Navi Mumbai-400705 (hereinafter referred as the Customs Broker/CB) is holder of Customs Broker License No. 11/2264, issued by the Commissioner of Customs, Mumbai under regulation 7(1) of CBLR, 2013, [Now regulation 7(2) of CBLR, 2018] and as such they are bound by the regulations and conditions stipulated therein.

2. An offence report with respect to the role of the CB, M/s. Satyam Worldwide Clearing Forwarding and Transport Agency (CB No.11/2264) is received in this office on 03.05.2024 from the CIU, JNCH, Nhava Sheva, Zone-II wherein it is informed that :-

2.1` Based on specific information, a consignment of goods declared as 'Empty Storage Box, Eva Mat, Inflatable Ball, Buggy for Kids, Kids Keychain, Wired Earphone, Kids Umbrella, Mini Green Laser Pointer, Plastic Lens (Part of Binocular), Navigator (Part of Binocular), Skipping Rope, Colour Learning Set, Cake Decorative Material, Pen Set, Serving Spoon, Cleaning Bush, Mini Kaleidoscope, Empty Storage Bottle etc.' imported vide Bill of Entry No. 6264148 dated 04.06.2023 by M/s. Little Joy (IEC -BYRPS5553C)(hereinafter referred to as the importer), through their authorized Customs Broker M/s Satyam Worldwide Clearing Forwarding and Transport Agency (PAN No. APMPK7637N) (CB No.11/2264) in 833 cartons in a 1\*40 feet container No. MSMU7110768 were put on hold by CIU, JNCH vide Hold No. 448/2022-23 dated 07.06.2023. The goods were having a declared assessable value of Rs. 10,85,905.48/- and duty of Rs. 3,82,820/-.

2.2 Subsequently, the goods covered under the subject Bill of entry were examined under Panchanama dated 09.06.2023 in presence of the F-card holder of Custom Broker M/s Satyam Worldwide Clearing Forwarding and Transport

ii. Items declared at Sr No. 6 and 8 declared as inflatable Ball and inflatable Chair appears to be toy prima-facia and needs to be verified on toy angle which required BIS registration under Toy Quality Control Order 2020.

iii. Item declared at Sr No. 9 as kids keychain appeared to be laser light.

iv. Item declared at Sr No. 20 of the Bill of Entry were found to be in 1 carton instead of declared in 5 cartons, hence short by 4 cartons. However, the quantities of the same were found to be same as declared in the Bill of Entry.

v. Item declared at Sr No. 24 and 26 of Bill of Entry was found in only 1 carton instead of declared in 2 cartons, hence short by 1 carton, however the quantity was found to be same. Sr No. 24 of the Bill of Entry declared as cleaning cloth, however on goods description was found as facial oil absorbing paper.

**2.3.** The goods were examined under Panchnama dated 09.06.2023 and on examination, it was observed that various mis-declared goods were found. Therefore, the subject goods were placed under seizure, under the provision of section 110 (1) of the Customs Act, 1962, under the reasonable belief that they are liable to confiscation under the provisions of section 111 of the Customs Act, 1962 vide Seizure Memorandum dated 12.06.2023 issued vide DIN No.20230678NU000000BE84.

**2.4** Search was conducted at the importer's address as declared in the Bill of Entry under search Panchnama dated 12.06.2023, wherein it was observed that the building of the said premises appeared to be a residential. At the gate of the said flat, a sticker was affixed on the gate as "Little Joy". The photograph of the same has been incorporated in the said Panchnama. Various documents as mentioned in the Panchnama were taken over along with a pen drive in which the relevant data of the two computers was copied for further investigation purpose.

**2.5** Search was conducted at the premises of the Customs Broker M/s Satyam Worldwide Clearing Forwarding and Transport Agency i.e. Office No. 405, Grohitham premises Co-operative Housing Society, Plot No. 14B, Sector 19 Sanpada, Navi Mumbai-400705 under Panchnama dated 12.06.2023, wherein, it was observed that the said CB firm had been operational from there since 2017. The proprietor of the CB firm is the owner of the said office premises measuring 100 sqft and had purchased the same in 2017. The Xerox copy of the relevant ownership documents was taken over. Further, no incriminating data could be found from two email account of the said firm i.e. [satyamworldwide1415@gmail.com](mailto:satyamworldwide1415@gmail.com) and [satyamops1@gmail.com](mailto:satyamops1@gmail.com). Further, Xerox



**2.6** Subsequently the Voluntary Statement of Shri Gitesh V Kelbaikar F-Card holder of Custom Broker M/s. Satyam Worldwide Clearing Forwarding and Transport Agency (CB No. APMPK7637NCH001) was recorded under section 108 of the Customs Act, 1962 on 13.06.2023 wherein he *inter alia* stated that:

i. it is a proprietorship firm established in 2017 at Mumbai by him. They are operative in Mumbai through Mumbai port, JNPT and Air Cargo, Mumbai. Their office address is 405, Grohitham Premises Co-operative Housing Society Plot No. 14B Sector 19, Sanpada, Navi Mumbai- 400705. They have already submitted the copy of Leave and License agreement of the same.

ii. Their Company has clients i.e. importers and exporters of manufacturing, consumer and industrial goods etc.

iii. He is F-card holder of the CB firm. In Mumbai, they have 12 employees. He looks after all the works related to customs and get the works done through our employees.

iv. The firm was established by him in 2017. They file around 70 import and 10-15 export documents in a month.

v. The work of filing of B.E. is done by the back office under his supervision.

vi. On being asked how he came in contact with importer, he *inter-alia* stated that Mr Rohit Omprakash Sharma (Nickname-Ricky bhai) contacted him in the first week of April. He told him that his reference had been given by one of our mutual friend i.e. Shri Vivek Dalmia. Shri Ricky told him that he is searching for CHA for clearance of the goods and Shri Vivek Dalmia has referred him. After KYC verification, proper document verification and after visit of the address they filed documents of M/s Little joy in the last week of April.

vii. On being asked whether he has verified KYC of importer, he *inter-alia* stated that all the KYC documents of importer was handed over to him by the importer i.e. Sh Rohit Omprakash Sharma. They have verified the KYC of the said IEC holder. They checked the documents provided by him like IEC certificate, GST Registration Certificate, PAN card, MSME registration certificate, Bank signatory authorisation certificate. He sent his employee i.e. Mr Mahesh L Kundekar to the address of importer which is located in Mira road. His employee visited the place, he has also clicked the photos of the office of M/s Little Joy and shown to me, which he submitted to this office. They have taken due diligence in the verification of the KYC of the importer as per CBLR, 2018.

since how long they are handling their work; he stated that as informed by their manager Shri Dinesh Mehta, he knew the proprietor of M/s Little Joy i.e. Shri Rohit Omprakash Sharma since last two years. However, he told him about his import in Jan 2023. They shared each other's contact number. He along with his manager visited the premises of M/s Little Joy in last week of Jan 2023. They had been handling their clearance related work since then. The current document was the fourth one. All the earlier documents were cleared in Mumbai.

x. On being asked whether they had verified the KYC of IEC holder M/s Little Joy as per the obligation under CBLR, 2018 and how did they verified the same; he stated that they have verified the KYC of the said IEC holder. Once the importer told about his import deliveries to their manager, they asked him to verify his address, to which, he told them to meet at his premises near Dreamland Cinema, Lamington Road. He along with his manager went to the said place. Shri Vikram was there at that place and handed over the related documents to them. The signboard of M/s Little Joy was there. They checked the documents provided by him like IEC certificate, GST Registration Certificate, PAN card, ITR documents, MSME registration certificate, CPCB certificate etc.

xi. On being asked what and how do you proceed when the importer tell about his consignment or import deliveries; he stated that they ask them the documents related to the consignment like invoice, packing list, BIS or any other relevant documents. On the basis of that, they check their importability.

xii. On being asked what all documents did they ask from the importer for the goods imported vide B.E. No. 6264148 dated 04.06.2023 and whether they raised any query or given advice to them with respect to the goods to be imported vide aforementioned B.E.; he stated that in the instant case, the importer provided them invoice, bill of lading, packing list, he raised query on 04.06.2023 regarding inflatable chair which he submitted to this office. The importer said that the inflatable chair can be used as a chair. They verified the same and filed bill of entry accordingly.

xiii. On being asked how they proceed with custom clearance, he stated that they register the goods from icegate portal. Then representative from their firm goes to the docks where container is kept. They, present there with the officer for the assistance in the examination of the goods. After examination the goods are allowed OOC and after clearance of dues to CFS and Shipping line they take the delivery out and handover the container to Importer.

division. As informed by his staff H-card holder who was present during examination, they have taken allow for 100% examination as per CSD image by AC Docks on 06.06.2023. However, the seal cutting was not allowed as it was already evening. Seal cutting was done in the presence of docks appraiser on 07.06.2023. Examination commenced at around 05.45-06.00 PM on 07.06.2023.

xv. On being asked how the examination was carried out he stated that Container was hold by Scanning Division. The same was intimated to AC/Docks and AC/Docks on the hard copy of the BE has instructed to examined the goods 100% as per CSD Image. The Seal cutting permission was taken on 06.06.2023, however due to logistic issues the container grounding was delayed and hence the container seal was not cut on 06.06.2023. On the next day, i.e. 07.06.2023 Container seal was cut and open in the presence of AO/Docks. The examination was started around 05.45- 06.00 PM on 07.06.2023. AC/Docks supervised the examination of the goods which were de-stuffed from the CSD suspicious area, nothing found objectionable and AC left the examination instructing the AO to continue the examination of the remaining cargo. AO/Docks continued the examination and no queries were raised by him and the goods were given OOC.

xvi. On being shown the Panchnama dated 09.06.2023 wherein Sr no 6 and Sr no 8 of the bill of entry i.e. he has seen the said Panchnama and RSS. In this regard, he stated that we had filed the Bill of Entry on the basis of documents submitted by the importer. He has raised query on 04.06.2023 regarding inflatable chair which he submitted to this office. The importer said that the inflatable chair can be used as a Chair, Regarding inflatable ball, as per his understanding it is to submit that the same is classifiable under 9506 'other inflatable ball" and the same appears not classifiable under 9503. He has discussed the same with many customs officer and it was also informed that during NAC meeting, it was agreed that the inflatable ball is classifiable under 9506. We have filed the Bill of Entry on the basis of document submitted by Importer and whatever query was raised by me vide letter dated 04.06.2023, the answer given by the importer. As per their explanation, we filed the Bill of Entry. During assessment of the Bill of Entry, no query was raised by the assessing officer regarding inflatable ball. He does not have anything more to say in this regard.

xvii. On being shown panchnama dated 09.06.2023 wherein item Sr No. 10 in 30 cartons were found to be wireless headphone instead of declared

examination noticed the wireless headphone he replied in negative and said that he has asked his employee about the same. The said commodity was not noticed by his employee. As the goods are mainly examined by the docks officer/ AC, our H card holder is present there for assisting the Customs officer and provide logistic support and for clarification of any doubt in shipment. The goods were examined properly under AC supervision. There was no query raised by docks officer regarding any commodity and hence given out of charge by the docks officer.

xix. On being asked some of the cartons found short in item Sr no. 24 and 26, he stated that he was present during examination by CIU officers, he observed and informed by the officer that some of the cartons were short, however the quantity was same as declared in the invoice.

xx. On being asked how many consignments of M/s Little Joy was cleared earlier by their firm he stated that Four consignments of M/s Little joy has been filed by our firm. Three consignments has been cleared after examination by docks officer. The details of Bill of Entry is as follows:

- a. 5659318 dated 24.04.2023- 100% examination was conducted by docks officer.
- b. 5893063 dated 10.05.2023- 100% examination was conducted by docks officer
- c. 5948798 dated 14.05.2023- 100% examination was conducted by, docks officer

xxi. On being asked what all items were there in previous consignments he stated that earlier three consignments has been filed by us of the said importer vide Bills of Entry nos. 5659318 dated 24.04.2023, 5893063 dated 10.05.2023 and 5948798 dated 14.05.2023. He could not recollect the exact goods, but they were mixed consumable items. He recollects that headphone, inflatable ball/ Chairs have not been imported in the previous Bills of Entry. He has already submitted the documents related to this during search of my office.

xxii. On being asked whether the goods were examined 100%, he stated that the said consignment was already given out of charge by the Docks Officer. As informed by my employee Shri Balshiram Vishnu Gadhave, AO was the Docks Officer. The goods were examined 100% as per examination order. The de-stuffing started in the afternoon in presence of Docks Officer and the examination was started around 05.45-06.00 PM on 07.06.2023. As stated



xxiii. On being asked whether he has intimated importer about the mis-declaration he stated that yes sir, during the examination by CIU, as soon as the mis-declaration was found, he has asked the importer about the mis-declaration. He is submitting the whatsapp chat with the Importer for reference.

**2.7** Voluntary statement of Shri Rohit Omprakash Sharma, Proprietor of M/s. Little Joy (BYRPS5553C) having official address and residing at 1304, Bldg 349, Type A3, Shrushti Complex, Sector-3, Mira Road (East), Thane, Mira Road Thane, Maharashtra-401107, aged 36 years recorded under Section 108 of the Customs Act, 1962 on 26.06.2023 wherein he *interalia* stated that:-

i. On being asked about his designation; he stated that he was the Proprietor of the company.

ii. On being asked about the present official address of his firm; he stated that his official address is 1304, Bldg 349, Type A3, Shrushti Complex, Sector-3, Mira Road (East), Thane, Mira Road Thane, Maharashtra-401107.

iii. On being asked about employees work in his firm; he stated that there are 05 persons who work in his firm.

iv. On being asked when did he start the firm; he stated that he started the firm in 2016.

v. On being asked what all customs related things he was looking after in the firm; he stated that all work relating to import documentation, purchases, sales etc was being looked after by him.

vi. On being asked how many consignments had he imported since inception; he stated that the firm was formed in 2016. He had imported around 60-100 consignments till then.

vii. On being asked what all goods did he import; he stated that they normally import Empty Storage bags, EVA Mat, Purse, cleaning brush, stationery items etc.. They are registered wholesalers/distributors of toys and the GSTIN is 27BYRPS553C2ZX.

viii. On being asked how did he give order of his consignment to the overseas supplier and how did he come in contact with them; he stated that he gave orders to their suppliers on voice calls. Sometimes he visited Chin? For meeting new clients and placing orders.

ix. On being asked how did he manage funds for importing the goods; he stated that according to the requirements of the customers, he place orders overseas. Since he had to pay the overseas supplier within the 90 to 180 days of the delivery of the imported goods. He remitted the same normally after selling the

xi. On being asked about what were the payment terms of the imported consignments; he stated that the terms of payment of 90-180 days after the delivery had been agreed by the supplier.

xii. On being asked whether the payment had been made in respect of the current consignments; he stated that the payment had not been made till then.

xiii. On being asked why did he enter the import business; he stated that he had been dealing in small trading business and was looking for new opportunities. As there were little margin in the local trade he started his own company in 2016 and started importing goods.

xiv. On being asked whether he had any warehouse; he stated that they directly distribute to the customers.

xv. On being asked whether he had the copy of purchase order placed to the supplier; he stated that he did not have the copy of purchase order placed to the supplier, as they communicate and place order only through calls.

xvi. On being asked how he received the documents forwarded by the supplier, he stated that he received the documents such as invoice, Bill of lading, packing list etc, forwarded by the supplier through courier.

xvii. On being asked how he sold the goods and to whom he supplied the imported goods; he stated that he sold the goods to the wholesalers/retailers. They supply mainly the goods in Mumbai and nearby areas.

xviii. On being asked how he came in contact with the CB M/s Satyam Worldwide Clearing Forwarding and Transport Agency; he stated that one of his friend Sh Vivek Dalmiya introduced him to Shri Gitesh V Kelbaikar, owner of M/s Satyam Worldwide Clearing Forwarding and Transport Agency.

xix. On being asked whether CB came or call him for KYC verification; he stated that he had handed over the KYC documents to Sh Gitesh V Kelbaikar. Further, his employee had visited his office address for verification.

xx. On being asked how much did he paid for the clearance of the consignments to Custom Broker M/s Satyam Worldwide Clearing Forwarding and Transport Agency, he stated that they pay Rs 8000 plus taxes per consignment for clearance work.

xxi. On being asked whether he knew that goods imported by him vide Bill of Entry No. 6264148 dated 04.06.2023 found to be in violation of Customs Act, 1962, he stated that as informed by CB, the some of the goods had not been found as declared.

xxii. On being shown panchnama dated 25.01.2023 and asked whether he agree with the finding of the same; he stated that he agree with the same.



as wired earphone and asked regarding the same; he stated that as soon as, he was informed by CB that while CIU examination, 30 cartons of wireless earphones had been found, he contacted the overseas supplier about the discrepancies. Supplier vide email had intimated that due to mistake by loading team, item was shipped and expressed sorry for that. He had ordered wired earphone only however, due to supplier mistake, the wireless earphones had been sent.

xxiv. On being shown the Panchnama dated 09.06.2023 wherein it had been found the Sr No 6 and 8 of the Bill of Entry i.e. inflatable Ball and inflatable Chair appears to be toys and asked regarding the same, he stated that he had seen the said Panchnama and RSS. In this regard, he stated that the inflatable chair could be used as a Chair for kids. He was in the impression that the goods were rightly classifiable under 9506. Assessing officer had also not raised query regarding that. Inflatable ball was the beach ball and he submitted that the same was classifiable under 9506 'other inflatable ball' and the same appeared not classifiable under 9503. It was known to him that during NAC meeting, it was agreed that the inflatable ball was classifiable under 9506. Accordingly, he had classified the same under 9506 in other inflatable ball.

xxv. On being asked regarding item declared at Sr No. 9 as kids keychain appeared to be a kind of laser light; he stated that the item is kids keychain only, the same had also been written on the goods.

xxvi. On being asked that some of the cartons were found short in item Sr No. 24 and 26; he stated that it might be the supplier mistake, however the quantity had been found to be correct as stated by CB.

xxvii. On being asked when was the container imported vide Bill of Entry No. 6264148 dated 04.06.2023 examined by docks officer, he stated that he didn't have idea about that as the clearance related work was seen by his Custom Broker.

xxviii. On being shown the statement of Customs Broker wherein CB had stated that he had made query w.r.t the inflatable Chair through letter dated 04.06.2023 and asked regarding the same, he stated that the CB had raised query on inflatable chair vide his letter dated 04.06.2023. As the same could be used as chair, he was in impression that the same to be classifiable under 9506. He had clarified the same to CB.

xxix. On being asked whether he want to say anything else; he stated that the wireless earphone had been sent by supplier by mistake and he had accepted his mistake vide email. Further, the inflatable chair were much disputed to be

instant consignment against the declared wired Earphones, the valuation provided by the importer does not appear to be sustainable and liable to be rejected under Rule 12 of the Customs Valuation Rules, 2007. Therefore, value was re-determined as per Customs Valuation Rules, 2007.-

i. Declared value of the Goods in the consignment was Rs. 10,85,906/- However, the same is re-determined after market enquiry as Rs. 22,64,531/- Duty Calculation sheet is placed below. The relevant details are tabulated as below in Table C.

<b>Table-C</b>				
Declared Value (in Rs.)	Re-determined Value (in Rs.)	Duty Paid (in Rs.)	Duty payable as per re-determined value (in Rs)	Differential Duty (in Rs.)
10,85,906/-	22,64,531/-	3,82,820/-	8,41,540/-	4,58,720/-

## **2.9 Summary of the Investigation:**

**2.9.1** M/s. Little Joy (IEC-BYRPS5553C) had filed Bill of Entry No. 6264148 dated 04.06.2023 for the import of Empty Storage Box, Eva Mat, Inflatable Ball, Buggy for Kids, Kids Keychain, Wired Earphone, Kids Umbrella, Mini Green Laser Pointer, Plastic Lens (Part of Binocular), Navigator (Part of Binocular), Skipping Rope, Colour Learning Set, Cake Decorative Material, Pen Set, Serving Spoon, Cleaning Bush, Mini Kaleidoscope, Empty Storage Bottle etc. During the course of investigation, following discrepancies were found:

i. Goods declared at Sr No. 10 of the Bill of Entry was found mis-declared. The same was declared as Wired Earphone, however on examination, the goods found to be Wireless Earphone. WPC and BIS compliances was not fulfilled.

ii. Items declared at Sr No. 6 and 8 declared as inflatable Ball and inflatable Chair appears to be toy prima-facia and needs to be verified on toy angle which required BIS registration under Toy Quality Control Order 2020.

iii. Item declared at Sr No. 9 as kids keychain appeared to be laser light. However, the same were found to be kids keychain while carefully observing the samples.

iv. Item declared at Sr No. 20 of the Bill of Entry were found to be in 1 carton instead of declared in 5 cartons, hence short by 4 cartons. However, the quantities of the same were found to be same as declared in the Bill of Entry.

**2.9.2.** The declared value of all the goods imported vide Bill of Entry No. 6264148 dated 04.06.2023 appears liable to be rejected under Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and

assessable value of the goods are Rs. 10,85,906/- and Rs. 22,64,531/- respectively. The Importer has not provided purchase order or any communication from the supplier regarding valuation. Therefore, the declared goods of the invoice does not corroborate with the declared value, hence the same appears liable to be confiscated under Section 111 (m) of the Customs Act, 1962.

**2.9.3** Further, CIU, JNCH vide letter of even no. dated 29.08.2023 sought clarification from Scientist-F, Director & Head (Mumbai Branch Office-I) regarding applicability of BIS on inflatable ball and chair wherein vide email dt. 08.09.2023 they have replied that the requirement applies to all toys i.e. any product or material designed or clearly intended for use in play by children under 14 years of age. They are applicable to a toy as it is initially received by the consumer and in addition, they apply after a toy is subjected to reasonably foreseeable conditions of normal use and abuse unless specifically noted otherwise, hence it appears that the subject items are toys which requires mandatory certification as notified under Toys quality control order, 2020. Importer has neither provided the required certificates nor mandatory marks were found on the goods. Hence, it appears that the goods mentioned in the Table-IV are liable for confiscation under section 111 (d) of the customs act, 1962.

<b>Table-IV</b>			
Sr. No.	Description	Quantity	Re-assessed Value
1.	Inflatable Ball	50000 pcs	Rs. 3,60,000
2.	Inflatable Chair	750 pcs	Rs. 1,20,000

**2.9.4** Item declared at Sr No.10 of B/E was found to be Wireless Earphone, However the same was declared as Wired Earphone in the Bill of Entry. Importer has neither provided BIS certificate "Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2021" and WPC NOC nor any mandatory marks (under a license from the Bureau of Indian Standards as per Scheme-II of Schedule-II of Bureau of Indian Standards (Conformity Assessment) Regulations, 2018) were found on the goods. Accordingly, it appears that the goods mentioned in Table-V are liable for confiscation under Section 111(m), 111(1) and 111 (d) of the Customs Act, 1962.

<b>Table-V</b>			
Sr. No.	Description	Quantity	Re-assessed Value



**2.9.5** It is to be noted that as per section 46(4) of the Customs Act 1962, the importer while presenting a bill of entry is required to make and subscribe to a declaration as to the truth of the contents of such Bill of Entry, invoice and other related documents. Therefore, it appears that the importer M/s. Little Joy (IEC BYRPS5553C) has submitted a false declaration regarding truth and accuracy of the invoice and packing list as against the provisions of section 46(4) of the Customs Act 1962. Further as per section 46(4A), it is the duty of the Importer to ensure the accuracy, completeness of the information furnished in the B/E and to ensure the authenticity and validity of the documents supporting this information. However, in the present case it appears that the Importer, M/s. Little Joy (IEC BYRPS5553C) has not declared the actual goods i.e. 'wireless headphone' & mis-declared the same as 'wired headphone" Further, the Importer has not declared the actual price and attempted to import the goods in violation to BIS requirements as per BIS rules and regulations. Hence, in view of the above, it is evident that the importer, M/s Little Joy (IEC BYRPS5553C) has failed to comply with the provisions of Section 46(4A) of the Customs Act 1962.

**2.10** The Customs Broker M/s Satyam Worldwide Clearing Forwarding and Transport Agency have rendered themselves, liable for penalty under Section 112(b) and Section 114AA of the Customs Act, 1962 in as much as it appears that they have not performed due diligence and not intimated the proper officer about the undeclared and restricted goods found at the time of examination.

**3.** Based on the facts on record and applicable laws, Rules and Regulations, prima facie it appears that the CB M/s. Satyam Worldwide Clearing Forwarding and Transport Agency (11/2264) failed to comply with the provisions of regulation 10 (a), 10 (d) ,10(e), 10(m), 10(n) and 13(7) of CBLR, 2018.

**Legal Provision of the CBLR, 2018:-**

***Regulation 10 (a) of the CBLR, 2018:-*** “A Customs Broker shall obtain an authorisation from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Broker and produce such authorisation whenever required 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

**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 (n) of the CBLR, 2018:-** “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;”

**Regulation 13 (7) of the CBLR, 2018:-** 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 thereunder.

4. In view of the above facts, the CB License held by M/s. Satyam Worldwide Clearing Forwarding and Transport Agency (11/2264) was suspended by the Pr. Commissioner of Customs (General) vide Order No. 18/2024-25 dated 27.05.2024 and personal hearing was granted to the CB on 04.06.2024 at 12.30 PM.

5. **RECORD OF PERSONAL HEARING OF THE CB :-** In pursuance to regulation 16(2) of the CBLR, 2018, opportunity of personal hearing was granted to the CB M/s. Satyam Worldwide Clearing Forwarding and Transport Agency (11/2264). Shri Gitesh V Kelbaikar F-Card holder of CB alongwith Shri D.H. Nadkarni (Advocate) authorized representative of CB appeared for PH on 04.06.2024. They submitted their written submission on 04.06.2024 and reiterated the same. They also requested to revoke the suspension of the CB licence. In his submission CB submitted the following:-

i. CB submitted that present action is initiated on the basis of investigation conducted by CIU in connection with Bill of Entry No.6264148 dated 04.06.2023 and the suspension order was passed on 27.05.2024. CB submitted that investigation after filing of Bill of Entry had taken place, wherein statements were recorded and documents were seized but from the date of filing of Bill of Entry

reliance is placed on the decisions/judgements as follows.

- a. NATIONAL SHIPPING AGENCY-2008(226) ELT 46 (BOM)
- b. A.S. VASAN & SONS-2018(362) ELT 272 (T)
- c. ORIENT CLEARING & FORWARDING AGENCY-2001(136) ELT 3 (CAL)
- d. P. CAWASJI & CO. -2018(364) ELT 871(T)
- e. R.S. KANDALKAR & CO.-2014(299) ELT 360(T)

**ii. In defence of the violation of regulation 10(a) of the CBLR,2018:-**

CB submitted that they have completed KYC formalities as stipulated in CBLR,2018. CB also submitted that Shri Gitesh V Kelbaikar, Proprietor of CB along with his Manager visited the premises of the Importer. In addition, they have procured IEC Certificate, GST Registration Certificate, Aadhar Card, PAN Card, ITR documents, MSME Registration Certificate, Bank details etc. In other words, all the required documents in connection with completion of KYC formalities were collected from the Importer i.e. M/s. Little Joy before initiation of acceptance of import work. CB further submitted that said fact was stated by Shri Gitesh V Kelbaikar, Proprietor of CB in his statement dated 25.05.2023 recorded by the SIO, CIU, JNCH that in the statement dated 26.06.2023 of Shri Rohit Omprakash Sharma, Proprietor of M/s Little Joy, the importer (recorded by the SIO, CIU, JNCH ), he has stated that CB visited his office for verification and he has handed over the KYC documents to Shri Gitesh V Kelbaikar, Proprietor of CB. CB submitted that both statements were recorded at different time but it corroborates the fact of completion of KYC formality by the CB. CB submitted they had complied with the Regulation 10(a) of CBLR,2018.

**iii. In defence of the violation of regulation 10(d) of the CBLR,2018:-**

The CB submitted that, based on the invoice supplied by the Importer, they had filed the Bill of Entry. CB also submitted that on perusal of the Commercial Invoice issued by the foreign supplier, M/s. Yiwu Quanxin Trading Company Limited, it would be clear that description mentioned as "WIRED HEADPHONE" but when goods were examined it was found to be in non-compliance with WPC. The CB asked Shri Rohit Omprakash Sharma, Proprietor of M/s. Little Joy, the Importer (through whatsapp chat), who after inquiring with supplier stated that supplier vide email had intimated that due to mistake by loading team, item was shipped and said supplier expressed sorry for that. The said Shri Rohit Omprakash Sharma, Proprietor of M/s. Little Joy, the Importer further stated



CB further submitted that with regards to the import of Inflatable Chair, they raised the query with Shri Rohit Omprakash Sharma, Proprietor of M/s. Little Joy, vide his letter dated 04.06.2023. The said Importer replied that said Chair could be used as a chair for kids and as per him said Chair is classifiable under CTH 9506. He further stated that Assessing Officer has not raised any query. The said fact is getting fortified from the statement of Shri Rohit Omprakash Sharma, Proprietor of M/s. Little Joy recorded on 26.06.2023. CB submitted that both statements were recorded on different time but it corroborates the fact of CB sought clarification about aforementioned aspects, hence, it would be clear that CB initiated clearance work based on the documents supplied to him by the Importer and has always advised the Importer to comply with the provisions of the Act and during investigation the said aspect is established.

**iv. In defence of the violation of regulation 10(e) of the CBLR,2018:-**

CB submitted that based on the invoice supplied by the Importer, they had filed the Bill of Entry. The CB further submitted that they asked Shri Rohit Omprakash Sharma, Proprietor of M/s. Little Joy, the Importer (through whatsapp chat), who after inquiring with supplier stated that supplier vide email had intimated that due to mistake by loading team, item was shipped and said supplier expressed sorry for that. CB submitted that Shri Rohit Omprakash Sharma, Proprietor of M/s. Little Joy, the Importer further stated that he has ordered wired earphones only but due to mistake of the supplier the wireless earphones had been sent. CB submitted that i.r.o import of Inflatable Chair, they raised the query with Shri Rohit Omprakash Sharma, Proprietor of M/s. Little Joy, the Importer vide his letter dated 04.06.2023. The said Importer replied that said Chair could be used as a chair for kids and as per him said Chair is classifiable under CTH 9506. He further stated that Assessing Officer has not raised any query. The said fact is getting fortified from the statement of Shri Rohit Omprakash Sharma, Proprietor of M/s Little Joy recorded on 26.06.2023. CB submitted that they had always advised the Importer to comply with the provisions of the Act and during investigation the said aspect is established.

**v. In defence of the violation of regulation 10(m) of the CBLR,2018:-**

CB submitted that there is no objection raised by anyone that they have not discharged duties with utmost speed and efficiency and without any delay. The charge of non-fulfillment of regulation 10(m) of CBLR,2018 is not sustainable in law. CB submitted that by making general statement without substantiation i.e. CB was not efficient while discharging their duties as per obligation under Regulation 10(m) of CBLR,2018 is not sustainable in law.

Certificate, GST Registration Certificate, Aadhar Card, PAN Card, ITR documents, MSME Registration Certificate, Bank details etc. In other words, all the required documents in connection with completion of KYC formalities were collected from the Importer i.e. M/s. Little Joy before initiation of acceptance of import work. CB further submitted that said fact was stated by Shri Gitesh V Kelbaikar, Proprietor of CB in his statement dated 25.05.2023 recorded by the SIO, CIU, JNCH. CB further submitted that Shri Rohit Omprakash Sharma, Proprietor of M/s. Little Joy, the Importer, in his statement dated 26.06.2023 stated that CB visited his office for verification and he has handed over the KYC documents to Shri Gitesh V Kelbaikar, Proprietor of CB. CB relied upon the decision of PERFECT CARGO & LOGISTICS reported in 2021 (376) E.L.T. 649 (Tri. - Del.), CB submitted that it is held that as long as documents verified for the KYC purpose are not forged and found to be genuine, there is no violation of CBLR, if the CB has not made physical verification but in the present proceedings, the CB has done physical verification of the Importer and his premises. The CB submitted that similar view was expressed in the matter of SETWIN SHIPPING AGENCY reported in 2010 (250) E.L.T. 141 (Tri. - Mumbai) that physical verification is not required. CB submitted that they had not violated the regulation 10(n) of the CBLR,2018.

**vii. In defence of the violation of regulation 13(7) of the CBLR,2018:-**

The CB submitted that during the course of examination of cargo, their employee Mr Nilesh B. Pednekar, H-Card holder was present and statement regarding this fact was stated by Shri Gitesh V Kelakar, Proprietor of CB in his statement dated 25.05.2023. The CB submitted that as per Regulation 13(7) of CBLR,2018, a Custom Broker shall authorize 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 or any other document generated in connection with the proceedings under the Act or the rules, regulations made thereunder, in this regard, it is to submit that the Bill of Entry was signed by Shri Gitesh V Kelbakar, Proprietor of CB and a G-cardholder, and as such there is no violation of Regulation 13(7) of CBLR,2018.

**DISCUSSION AND FINDINGS**

**6.1** I have carefully gone through the records of the case, the written submissions submitted by the Customs Broker and the submissions made

**6.2** The issues to be decided in the instant case is whether the suspension Order No. 18/2024-25 dated 27.05.2024 is required to be continued or revoked.

**6.3.** It is noticed that CB in his defence submitted that they had obtained all the required documents in connection with completion of KYC formalities from the Importer i.e. M/s. Little Joy before initiation of acceptance of import work. However, it is noticed that CB in his defence nowhere submitted that they had obtained the authorization from the importer as mandated in Regulation 10(a) of CBLR, 2018 and did not produce the same. Hence, it appears that there is no merit in the CB' submission. As per regulation 10(a) of the CBLR, 2018, CB shall obtain authorization from each of the companies or firm by whom he is for the time being employed as a Customs Broker. However, in the instant case, it appears that CB has failed to obtain the authorisation from the importer before accepting the job of clearance from the importer. Therefore, it appears that CB violated the regulation 10(a) of the CBLR,2018.

**6.4** From the offence report, it is noticed that Container No. MSMU7110768 for Bill of Entry No.2018186 dated 07.02.2024 was marked suspicious during CSD scanning, requiring 100% examination under AC/DC Docks supervision. On examination by CIU, JNCH, the goods in violation of non-compliance of WPC, BIS & BIS registration under Toy Quality Control Order 2020 as well as undeclared goods were found. During investigation importer failed to produce mandatory BIS certificate and WPC certificate for the imported goods. Therefore, CB failed to advise the importer regarding WPC and BIS Regulation and as the goods were found to be mis-declared. Hence, it is observed that the CB failed to advise the importer to comply with the provisions of the Act, other allied Acts and the rules and regulations. Further, the CB failed to bring to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs about the non-compliance of WPC and BIS rules and mis-declaration of goods by the importer. Therefore, it appears that CB failed to comply with the provisions of regulation 10 (d) of the CBLR, 2018.

**6.5** From offence report, it is noticed that Container No. MSMU7110768 for Bill of Entry No.2018186 dated 07.02.2024 was marked suspicious during CSD scanning, requiring 100% examination under AC/DC Docks supervision. On examination by CIU, JNCH, the goods in violation of non-compliance of WPC, BIS and undeclared goods were found. During investigation importer failed to produce mandatory BIS certificate and WPC certificate for the imported goods. It



BIS goods and misdeclared goods would have been cleared. Therefore, it appears that CB did not exercise due diligence and failed to comply with the provisions of regulation 10 (e) of the CBLR, 2018.

**6.6** From the offence report, it appears that during examination goods in violation of non-compliance of BIS, WPC and undeclared and prohibited goods were found. The H-Card holder of the CB was present during examination of the goods covered under subject Bill of Entry but they did not inform about the undeclared and prohibited goods found at the time of examination to the appropriate authority in time. It was only after the examination by CIU, JNCH violation of BIS, WPC regulations as well as misdeclared goods were found. If CIU, JNCH had not intervened the misdeclared and non-compliant of WPC & BIS goods and misdeclared goods would have been cleared. It was CB's inefficiency so that the goods in violation of BIS, WPC regulations as well as misdeclared goods could not be detected during the examination by the docks officer. Hence it appears that CB failed to discharge his duties efficiently and violated the regulation 10(m) of CBLR, 2018.

**6.7** From the offence report it is observed that during the investigation search was conducted at the importers address wherein, it was observed that the building of the said premises appeared to be residential. Therefore, it appears that Customs Broker M/s. Satyam Worldwide Clearing Forwarding and Transport Agency failed to verify the identity and functioning of the Importer at the declared address by reliable and independent source. Thus it appears that CB did not verify the KYC documents of the importer and functioning of the importer at the declared address. Therefore, it appears that CB has violated the regulation 10(n) of the CBLR,2018.

**6.8** From the offence report, it appears that Shri Gitesh V Kelbaikar F-Card holder of Custom Broker M/s. Satyam Worldwide Clearing Forwarding and Transport Agency (CB No. 11/2264) in his statement recorded under section 108 of the Customs Act, 1962 on 13.06.2023 stated that during the examination of the goods, Shri Nilesh B. Pednekar, H-card holder was present. Therefore, it appears that the CB failed to send the G-card holder for presenting the goods covered under the Bill of Entry No. 8162485 dated 05.10.2023 for examination before the Docks Officer as mandated in Board Circular No. 09/2010 dated 08.04.2010. As per Paragraph 4.2 of Board Circular No. 09/2010- Customs issued vide F. No. 502/5/2008-Cus.VI dated 08.04.2010; the authorized signatory for the documents is the "G" category pass holder. A

appears that the CB failed to send the G card holder for presenting the goods for examination before the Docks Officer and violated the regulation 13(7) of the CBLR, 2018.

**6.9.** It is noticed that the CB in his defence submitted that since considerable time has passed from the filing of Bill of Entry, there was no need for Suspension of the CB Licence. In this regard, CB referred various case laws in his defence. However, it is observed that the Offence Report in the matter was received by CBS, NCH on 03.05.2024. On the basis of the gravity of the case and in order to prevent the CB from adopting similar modus-operandi in future consignments, immediate action was taken under Regulation 16(1) of CBLR, 2018 and the Licence of the CB was suspended w.e.f 27.05.2024. I have gone through the Case Laws referred by the CB in his submission dated 04.06.2024 and observed that the ratios of the judgment of said Case Laws are not squarely applicable in the instant case, as the facts and circumstances are different and clearly distinguishable.

**6.10.** 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 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 *has 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...”*

**6.11.** 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.), 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*

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.”

**6.12.** In view of the discussion held above, I have no doubt that the suspension of the CB licence vide Order No. 18/2024-25 dated 27.05.2024 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. Satyam Worldwide Clearing Forwarding and Transport Agency (CB No. 11/2264) appeared to have failed to fulfil their obligations under Regulation 10(a), 10(d), 10(e), 10(m), 10(n) & 13(7) of CBLR, 2018 and contravened the same. Therefore, for their acts of omission and commission as above, CB M/s. Satyam Worldwide Clearing Forwarding and Transport Agency (CB No. 11/2264) appeared liable and guilty. I find that the CB has failed to discharge duties cast on them with respect to Regulation 10(a), 10(d), 10(e), 10(m), 10(n) & 13(7) of CBLR, 2018.



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 the Customs Broker Licence of M/s. Satyam Worldwide Clearing Forwarding and Transport Agency (CB No.11/2264) (PAN No. APMPK7637N) ordered vide Order no. 18/2024-25 dated 27.05.2024 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.

  
21/6/2024  
(SUNIL JAIN)

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

To,

M/s. Satyam Worldwide Clearing Forwarding and Transport Agency  
(CB No.11/2264) (PAN No. APMPK7637N)  
Office No. 405, Grohitham premises Co-operative Housing Society,  
Plot No. 14B, Sector 19 Sanpada,  
Navi Mumbai-400705

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

