



सीमा शुल्क के प्रधान आयुक्त कार्यालय (सामान्य)
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS
(GENERAL)
कस्टम ब्रोकर अनुभाग, नवीन सीमाशुल्क भवन,
CUSTOMS BROKER SECTION, NEW CUSTOM HOUSE,
बेलार्ड इस्टेट, मुंबई - I
BALLARD ESTATE, MUMBAI - I

F.NO. GEN/CB/410/2022/CBS

Date: 13.02.2023

DIN: 2023027700000000D1C5

SHOW CAUSE NOTICE No. 35/2022-23
UNDER REGULATION 17 OF THE CUSTOMS BROKER LICENSING
REGULATION, 2018

M/s. Tulsidas Khimji Pvt. Ltd, having office address at 46, Veer Nariman Road, Fort, Mumbai - 400001 [hereinafter referred to as the Customs Broker/CB], bearing PAN based Registration No. AAAC4123GCH001 are holding a regular Custom Broker License No 11/34 issued by Commissioner of Customs, Mumbai under Regulation 10(1) of the Customs House Agents Licensing Regulations (CHALR), 1984 [Now regulation 7(2) of Customs Broker Licensing Regulations (CBLR, 2018)] and as such they are bound by the regulation and condition stipulated therein.

2. On the basis of specific information received by the DRI, MZU, Mumbai; investigation was conducted which revealed that various export firms including M/s. Simplex Fabware Pvt. Ltd. (IEC-0309016070) were procuring fake purchase bills against the export consignments from one Mr. Suhel Ansari, through fake firms floated by him. Searches were conducted at the premises of Suhel Ansari, which led to the recovery of copies of bogus bills in the names of several companies issued by him.

3. The office premises from where Shri Suhel Ansari was operating, situated at Room No. 30, 4th Floor, Chunnwala Building, 38-Kolsa Street, Pydhoni, Mumbai - 400003 was searched on 14.08.2015. During the

course of search of the said premises, certain records/documents, the laptops and one hard disk and various rubber stamps were recovered.

4. During the course of investigation, statement of Shri Suhel Parvez Ansari and Shri Shaikh Mohammed Arshad employee of Shri Suhel Parvez Ansari was recorded on 24.08.2015 by DRI, Mumbai where inter-alia they stated that they supplied fake invoices to various export firms including M/s Simplex Fabware Pvt. Ltd.

5. During the course of investigation; DRI, MZU, Mumbai had issued various summons to Shri Ramesh P Singh, Director of M/s Simplex Fabware Pvt. Ltd. In response to the summons, Exporter inter-alia stated that:

- In year 2009 he started proprietorship firm namely Aditya Investment and Exim Trade Co. for export of fabrics.
- He was further having 10 more firms including M/s Simplex Fabware Pvt. Ltd. He has procured Bill invoices from Shri Suhel Ansari without any materials for his firms because some of the suppliers refused to issue bills for the goods purchased by him and he was informed by his accountant that if purchase bills will not be available in the records, the income tax authorities will not permit the deduction on account of the expenses towards the purchase.
- He has made payment through RTGS against the fake invoices to Suhel Ansari;
- He was not able to produce the details of purchase and exports along with the bank statements of the firms mentioned in earlier statement and agreed to produce the same;
- He agreed to return the drawback amount wrongly availed by him to the department for the exports of M/s Simplex Fabware Pvt. Ltd for which purchase invoices have been procured from Shri Suhel Ansari without taking any material from him;
- He stated to return the DBK before 30.12.2015.

6. DRI vide its letter F. No. DRI/MZU/D/INT-31/2015/7766 dated 04.10.2016 mentioned that undue drawback is being claimed by the exporters by overvaluing the exports whereas cheaper material is exported and to justify the value of the goods, fake invoices from Shri. Suhel Ansari, are procured showing the higher purchase price. DRI further gave a list of exporters and stated that these exporters which included M/s Simplex Fabware Pvt. Ltd. may have also adopted a similar modus operandi and requested that the same may be investigated by SIIB(X), ACC, Mumbai.

7. During the investigation, the details of exports made by the exporter M/s Simplex Fabware Pvt. Ltd. were retrieved from the ICES System. During the period from 01.01.2012 to 31.12.2016, the exporter made total exports of 31 shipping bills with FOB value of Rs. 24.01 crores and availed total drawback of Rs. 1.15 lakhs.

8. Further SIIB(X) ACC Mumbai had issued various summons to Shri Ramesh P Singh, Director of M/s Simplex Fabware Pvt. Ltd. However, all of them were returned back to this office stating "Left". Thereafter, SIIB(X), ACC, Mumbai decided to verify the address and collect the necessary documents. Hence, the premises address as mentioned in IEC i.e Room 303, Jamnadas Tower, 3rd , floor, Jalarambapa Road, behind Roa hotel, LBS marg, Ghatkopar, West, Mumbai-86 was visited by SIIB(X) officer on 13.07.2022 and it was noticed that some other firm was occupying the said address and it has been informed that the exporter might have left the premises 5/6 years back.

9. Further, on scrutiny of the shipping bills filed by the exporter M/s Simplex Fabware Pvt. Ltd., it was found that the Customs Broker M/s Tulsidas Khimji Pvt. Ltd. had cleared the consignments/shipping bills of the said exporter.

10. During the course of investigation, statement of Shri Pawan Subhash Grover, authorised representative of M/s Tulsidas Khimji Pvt. Ltd. was recorded on 24.03.2022 wherein he inter-alia stated that:

- the company was established in 1895 approx. he has been working with this company since last 4 years only. he is working as branch head Manager (Air Freight Head) of Andheri Branch of this company. he looks after the operation work related to the Andheri branch of the said company which deals with the clearance of the goods related to export and import through ACC, Sahar;
- he has been told by the Director of the company that the exporter M/s Simplex Fabware Pvt Ltd. was engaged into exports of imitation Jewellery and fabrics and they came to them related to clearance of goods through ACC;
- they did the KYC of the Export company M/s Simplex Fabware Pvt Ltd and submitted documents to the department;
- they verified the address of the said exporter at that time as mentioned in the IEC as they do it for every exporter/Importer;
- he does not have any knowledge from where and whom the exporter used to purchase the goods. they had been provided with the invoices and packing lists on the basis of the same they used to file the checklist and after getting it approved it from exporter through mail they used to file shipping bills;
- they would not be able to provide the approved checklist copies to the department since it has been more than 9 years;
- the exporter submits the Invoice, Packing List, SDF Form and other required documents for filing of the shipping bill;
- Exporter himself prepared all the required documents such as Invoice, Packing List, RITC etc. they only prepare the checklist and filed the shipping bill according to the documents submitted by the importer/exporter.
- they verify the correctness of classification based on the details mentioned in invoice, packing list etc, but not the value of the goods as value of the goods is not part of them;
- they never objected the value of the goods;

they did not notice any such kind of discrepancy during the examination of goods;

- he does not know the correctness of the fictitious bills used by M/s Simplex Fabware Pvt Ltd issued by one of Shri Suhel Ansari who had admitted the same in his statement before DRI, MZU;
- they never noticed that the declared value of Ready-Made Garments/Jewellery was highly inflated;
- they do not have any business with them since 2013 neither they are in contact with them.

11. Further, on scrutiny of Bank Realization Certificate of M/s Simplex Fabware Pvt Ltd, it was found that FOB amount has not been realized in respect of 30 shipping bills with drawback amount of Rs. 65,927/-.

12. During the investigation DRI enquired with the Consulate General of India, Dubai, UAE who vide letter dated 08.03.2018 reported that from the scrutiny of the documents provided by Federal Customs Authority, Dubai it emerged that goods had been cleared and unit values had been much lower than what has been declared to Indian Customs. As per DRI the instant exporter has also adopted the similar modus-operandi.

13. From the investigations, scrutiny of various documents retrieved and statements recorded by DRI, MZU, Mumbai, it appears that Shri Suhel Parvez Ansari was in the business of raising fictitious bills which involved just printing of bills in the names of the firms / companies which did not exist and no purchase and sale of the goods were effected as per details mentioned in the said bills and he got bills printed in the names of various fake firms; that no purchase of any kind of goods be it in the form of garments /imitation Jewellery had been made by him and the proprietors /directors of these firms/ companies were all his friends and no sale as shown on the bills had been made to any exporters shown on the bills. The same was admitted by the said Suhel Parvez Ansari in his statements recorded by DRI, MZU, Mumbai. This clearly shows that Shri Suhel Parvez Ansari had supplied fake bills in the name of a number of companies to the exporters including M/s. Simplex Fabware Pvt Ltd

without supplying any goods. It appears from exporter's (M/s Simplex Fabware Pvt Ltd) statement dated 09.09.2015 and 15.12.2015 that for supply of the goods for export effected by them invoices were not procured from actual supplier as it was not competitive therefore they procured fake invoices from Shri Suhel Parvez Ansari and accordingly they made payment through RTGS, cheque to Shri Suhel Parvez Ansari who deducted his commission and returned balance amount to the exporter.

14. It appears from investigation that goods were procured from Domestic Tariff Area (DTA) without any invoices so no details of its manufacturing, production, using imported material or excisable material therein were available so it could not be ascertained whether any duties has been paid or otherwise. During investigation exporter could not produced any such details in respect of manufacturing, production or use of any imported material in impugned export goods, though he was having enough opportunity as he presented himself for recording of his statement but he failed to produced any such details.

15. Further, Shri Ramesh P. Singh, the director of M/s Simplex Fabware Pvt. Ltd. has never appeared in SIIB(X), ACC for statement inspite of several summons has been issued to him by SIIB(X), ACC. Neither, he has submitted any documents related to exports. Hence, it appears that the goods exported by the exporter were deliberately over valued the goods at the time of export by using fake and bogus invoices, which were provided by Mr. Suhel Ansari.

16. From the foregoing investigation it appears that there was a well-organized smuggling syndicate operating to claim undue drawback from government exchequer by over valuing the declared value of export goods under the collusion of the exporter Shri Ramesh P. Singh the Director of M/s Simplex Fabware Pvt Ltd, Shri Suhel Ansari, Shri Karan Ranka etc. appear to be knowingly involved in all these activities and were active members of the fraudulent export without whose abetment the said export fraud could not have been committed. Further, it appears that the exporter M/s Simplex Fabware Pvt Ltd had indulged in fraudulent exports of cheaper varieties of export goods by inflating value of export goods on

the strength of forged / fabricated purchase invoices to avail duty drawback fraudulently. Further, it appears from the investigation that the goods were exported and purchased from local market without the actual invoices and it appears this compels the exporter to take the fake bills for the said goods to show that the said goods were covered under the fake invoices. These goods were later exported by the exporter as mentioned in the table above. As a result, it appears that there was no physical movement of the goods against the fake and bogus invoices generated by Shri Suhel Ansari which were used for purpose of export.

17. On perusal of the Offence Report, it appears that the CB did not advise the exporter and abetted the exporter by declaring the incorrect value of the goods in shipping bills against the fake invoices to avail undue drawback and did not bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs. Further, in terms of Boards Circular No. 5 of 2009 Customs dated 02.02.2009 vide F. No. 609/167/2003-DBK, the exporter is required to submit the proof of export realization to the Custom House within the stipulated time-limit. It further appears that CB did not guide the exporter with respect to realization of export proceeds within stipulated time frame allowed under Foreign Exchange Management Act, 1999 in order to claim drawback. As stated in the Offence Report, on scrutiny of Bank Realization Certificate (BRC) details of the Exporter M/s Simplex Fabware Pvt Ltd, it was found that FOB amount had not been realized in respect of 30 Shipping Bills with drawback amount of Rs. 65,927/-. In the subject case, it appears that CB did not advise the Exporter with respect to recovery of Drawback in case of non-realization of export proceeds as stated in second proviso to Section 75(1) of Customs Act, 1962.

Thus, the CB appears to have violated Regulation 10(d) of CBLR, 2018.

Regulation 10(d): "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."

18. It appears that CB failed to exercise due diligence and aided the exporter in availing the undue drawback by the exporters by overvaluing the exports, whereas cheaper material was exported, and to justify the value of the goods, fake invoices from Suhel Ansari, were procured showing the higher purchase price. On scrutiny of the subject case, it appears that CB did not exercise due diligence and did not impart the information relating to Drawback Rules. Thus, the CB appears to have violated Regulation 10(e) of CBLR, 2018.

Regulation 10(e): "A Customs Broker shall exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage."

19. It appears that CB did not inform the exporter about the instructions, circulars and public notice regarding the claiming of drawback. It appears that CB did not guide the Exporter M/s. Simplex Fabware Pvt. Ltd. with respect to furnishing declarations at the time of export in format annexed to Circular No. 16/2009-Customs dated 25.05.2009 issued under F. No. 609/137/2007 - DBK. It was the responsibility of the CB to ensure that Exporter M/s Simplex Fabware Pvt. Ltd. declares the name and complete address of the traders from whom goods has been purchased in order to claim Drawback. It appears that CB did not advise the Exporter to comply with Rule 3, Rule 16 and Rule 16A of Drawback Rules, 1995. It appears that CB has abetted the exporter by declaring the incorrect value of the goods in shipping bills against the fake invoices to avail undue drawback. Thus, the CB appears to have violated Regulation 10(f) of CBLR, 2018.

Regulation 10(f): "A Customs Broker shall not withhold information contained in any order, instruction or public notice relating to clearance of cargo or baggage issued by the Customs authorities, as the case may be, from a client who is entitled to such information;"

20. It is pertinent to mention the judgement of the Hon'ble Supreme Court in the case of Commissioner of Customs V/s. K. M. Ganatra and Co. in Civil Appeal no. 2940 of 2008 which approved the observation of Hon'ble CESTAT Mumbai in M/s. Noble Agency V/s. Commissioner of Customs, Mumbai [2002 (142) E.L.T. 84 (Tri. - Mumbai)]:-

The 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 viz. carriers, custodians like BPT as well as the Customs. The importer would find it impossible to clear his goods through these 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. To ensure appropriate discharge of such trust, the relevant regulations are framed. Regulation 14 of the CHA Licensing Regulations lists out obligations of the CHA. Any contravention of such obligations even without intent would be sufficient to invite upon the CHA the punishment listed in the Regulations....."

21. In view of the above, as per Regulation 17(1) of CBLR, 2018, CB M/s. Tulsidas Khimji Pvt. Ltd. is hereby called upon to show cause, as to why the Customs Broker license bearing no. 11/34 issued to them should not be revoked and security deposited should not be forfeited and/or penalty should not be imposed upon them under Regulation 14 read with Regulations 17 & 18 of the CBLR, 2018 for their failure to comply with the provisions of CBLR, 2018 as elaborated in Paras above of this show cause notice within 30 days from the date of issue of this notice. They are directed to appear for personal hearing on the date as may be fixed and to produce proof of evidence/documents, if any, in their defence to the Inquiry Officer, Shri Onil M Shivdikar, Asstt. Commissioner, who shall conduct inquiry under Regulation 17 of CBLR, 2018. If no reply is received within the stipulated time period, it will be presumed that they have no explanation to offer and it will be presumed that they do not want personal hearing and the issue will be decided on the facts available on records.

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

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

(i) Offence Report SCN No. 03/ADJ(X)/2022-23 issued vide F. No. SIIB/INV-70/2018-19 ACC(X) along with RUDs.

13/21/2023

(SUNIL JAIN)

Principal Commissioner of Customs (G)

NCH, Mumbai - I

*Review
SCN No. 35/2023
To, Mr. P.M. Khapate
11/34*

M/s. Tulsidas Khimji Pvt. Ltd (PAN No. AAAC4123G) (CB No. 11-34)
46, Veer Nariman Road,
Fort, Mumbai - 400001

Copy to:

1. The Pr./ Chief Commissioner of Customs, Mumbai I, II, III Zone
2. Shri Onil M Shivdikar, Assistant Commissioner, Audit appointed as Inquiry Officer in the SCN
3. CIU's of NCH, ACC & JNCH
4. Pr. Additional Director General, DRI, MZU.
5. EDI of NCH, ACC & JNCH
6. Bombay Custom House Agent Association
7. Office copy
8. Notice Board