



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

F.NO. GEN/CB/CHNG/51/2021-CBS  
DIN: 202311770000003353AB

Date: 20.11.2023

**ORDER NO. 36/2023-24**

M/s. SKY Shipping (Licence no. 11/690, CB code AANFS1270PCH001), 209, EMCA House, 289, SBS Road, Fort, Mumbai - 400 001 (hereinafter referred as the Customs Broker/CB) is holder of Customs Broker License No. 11/690, issued by the Commissioner of Customs, Mumbai under Regulation 8 of CHALR, 1984, [Now regulation 7(2) of CBLR, 2018] and as such they are bound by the regulations and conditions stipulated therein. The license No. 11/690 held by M/s. SKY Shipping having lifetime validity, and Mrs. Roshan Behram Irani is the Director of M/s SKY Shipping.

2. An offence report with respect to the role of CB, M/s. SKY Shipping is received in this office from CIU/JNCH (Investigating Agency), wherein it is informed that the examination order of RMS/EO was not followed by the concerned officer before granting Out of Charge in Bill of Entry No. 8162485 dated 05.10.2023. Out of Charge for the Bill of Entry No. 8162485 dated 05.10.2023 was granted on 09.10.2023 and before holding the containers, 6 containers were gated out from Ashte CFS, Rasayni Road, Panvel, Raigad. Remaining 15 containers were put on hold vide hold letter No. 455/2022-23 dated 13.10.2023 issued vide File No. SG/Misc-01/CIU, JNCH. CIU, JNCH. These were subsequently examined under panchanama dated 13.10.2023 and 14.10.2023.

3. Further, it was also informed that Tariff rates of Ashte Logistics Pvt. Ltd. **(RUD - 1)** for Customs Examination (rate per TEU) are as under:

|   |                                    |     |     |
|---|------------------------------------|-----|-----|
| 3 | Customs Examination (rate per TEU) | 20' | 40' |
|---|------------------------------------|-----|-----|

|    |                           |        |        |
|----|---------------------------|--------|--------|
| A) | Less than 25% examination | 1250/- | 2500/- |
| B) | More than 25% examination | 3000/- | 6000/- |

\* Note: TEU stands for Twenty Equivalent Unit, and one 20 feet container means 1 TEU and one 40 feet container means 2 TEU.

**4.1** Tax Invoice No. 513 of total Rs. 2, 26,501/- issued by M/s Ashte Logistics Pvt. Ltd to M/s Cigma Process Solutions Pvt. Ltd. for container handling services for their consignment of BL NO. EMAJEA20230063 having Twenty One, 20-feet containers duly endorsed by CFS manager (**RUD - 2**). The charges were paid by the importer vide cheque no. CIUBR52023101000401041 dated 10/10/2023 drawn on bank ICICI Bank.

**4.2** In the above mentioned tax invoice under the head Container handling services sub-heading 3, It is mentioned that the charge for cargo examination was taken for 3 TEU at the rate of Rs 1250/- per TEU and charged a total sum of Rs. 3750/-.

**4.3** From the tariff rates of Ashte Logistics Pvt. Ltd and Tax Invoice No. 513 it can be assumed that if all the 21, 20 feet container of BE no. 8162485 dated 05.10.2023 were examined 100%, the CFS would have charged at the rate of 3000 per container (more than 25% examination) and total charge of examination would have been Rs. 63,000/-.

**5** During the course of investigation, the movement of goods of the subject Bill of Entry was found as below:

|                                 |                       |
|---------------------------------|-----------------------|
| BE Assessment date and time     | 06/10/2023 at 1:21 PM |
| BE registration date and time   | 06/10/2023 at 3:06 PM |
| Seal Cutting time of containers | 09/10/2023 at 1:25 PM |
| Examination report time         | 09/10/2023 at 5:04 PM |
| Out of Charge time              | 09/10/2023 at 6:14 PM |

**6** Furthermore, the investigation also revealed that only 3 containers had been examined by the Examining Officer as per the CCTV recordings submitted under section 65B of Indian Evidence Act, 1872 by M/s Ashte CFS Logistics Pvt. Ltd.

**7** During the course of investigation, statement of CB's representative Shri Balu R Zinjad was recorded under the provisions of Section 108 of

Customs Act 1962 on 14.10.2023 **(RUD-3)**. In his above recorded statement, Shri Balu R. Zinjad inter-alia, stated that:

- He works as a docks clearance work and looks for handling of shipment like examination and delivery of containers.
- He presented the Bill of Entry No. 8162485 dated 05.10.2023 for examination to docks officer as directed by his senior Shri Sandeep Aawate, G Card Holder.
- Bill of Entry was registered from the office after the assessment of Bill of Entry on 06.10.2023. He did not know the exact timing of registration.
- He took the seal cutting permission from Shri Chitanya Wankhede, Superintendent of Customs on Monday 09.10.2023 at around 1:00 PM.
- All 21 containers reached the CFS late night on 07.10.2023 and being holiday on 08.10.2023 (Sunday) seal cutting permission was not received in the CFS 'since the weather was cloudy that day and there were taken on 09.10.2023.
- Docks officer examined the goods at around 3 PM on 09.10.2023.
- He had shown the containers to the docks officer, the container contained Technical Grade Urea in 50 Kgs. white colored gunny bags. Docks officer directed him to cut the bag and show the inside content. There were small granules of white color. After taking the granules in hand docks officer was satisfied that the goods are of urea (TGU). The officer then inspected all the containers as the goods were of uniform packing the officer directed to draw sample in duplicate from one of the urea (TGU) bags placed in the container.
- As the weather was cloudy that day and there were high chances of rain and the goods imported vide the said Bill of entry were Urea (Technical Grade Urea) which are highly soluble in water so he requested the docks officer to examine the goods in the container itself.
- Samples were drawn by him in presence of docks officer and sample were then sealed and forwarded by docks officer for testing in RFCL, RFCL officer denied to accept the sample for



testing and replied it in writing on the back side of the Bill of Entry copy. After that he submitted the RSS to docks officer.

8. In view of the above statements and offence report in the case, prima-facie it appears that the CB failed to discharge his duties to present the goods before the Customs authority for 100% examination when ordered. The CB tasked with the responsibility to ensure that the trade and business is carried out within the realm of the Customs law to safeguard the economic as well as national security interests. This act by the Custom Broker of not presenting the goods for examining the goods 100% when ordered can attract unscrupulous elements which can cause financial loss to the country and also a threat to the national security. Therefore, the CB M/s. Sky Shipping (11/690), Mumbai, has failed to comply with following regulations of the Customs Brokers Licensing Regulations 2018:-

*10(d) 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;*

The CB appears to have not advised the importer and actively connived with importer to escape from 100% examination of the goods after getting RMS instruction 100% examination of the subject goods. Further, the CB did not bring the matter i.e. RMS instruction 100% examination of the goods is being escaped, to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs.

Thus, it appears that the CB has violated the provisions of Regulation 10 (d) of the CBLR, 2018.

*10(e) 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;*

The CB failed to exercise due diligence and under the fact and such circumstances, it appears that the CB has actively connived to escape RMS instruction i.e. 100% examination of the subject goods which may cause safeguard the economy as well as national security interests.

Thus, it appears that the CB has violated the provisions of Regulation 10 (e) of the CBLR, 2018.

*10(m) discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay;*

From the above, it is evident that the goods were registered at CFS on 06/10/2023 at 3:06 PM, however the seal of the container were cut on

09/10/2023 at 1:25 PM, 03 days later, further, the CB in his recorded statement could not submitted any satisfactory reply for reason of delay.

Thus, it appears that CB M/s Sky Shipping has deliberately delayed to present the goods for examination before the docks officer. Thus, it appears that the CB has violated the provisions of Regulation 10 (m) of the CBLR, 2018.

9. From the above facts, it appears that prima facie, Customs Broker M/s. SKY Shipping (License no. 11/690, CB code AANFS1270PCH001) had violated Regulation 10(d), 10(e) & 10(m) of CBLR, 2018. It is apprehended that the Custom Broker may adopt similar modus operandi in future consignments and department cannot remain oblivious to the danger posed by such an eventuality.

10. Custom Broker M/s. SKY Shipping (License no. 11/690, CB code AANFS1270PCH001) license was suspended vide Order No. 35/2023-24 dated 27.10.2023 and was given opportunity of personal hearing in this matter on 07.11.2023. Mrs. Roshan Irani, Partner of CB M/s. SKY Shipping and advocate Shri Sujay Kantawala & Ms. Manisha Karande appeared for personal hearing and submitted their submissions.

**RECORD OF PERSONAL HEARING:**

11. Custom Broker M/s. SKY Shipping (License no. 11/690, CB code AANFS1270PCH001) license was suspended vide Order No. 35/2023-24 dated 27.10.2023 and was given opportunity of personal hearing in this matter on 07.11.2023. Mrs. Roshan Irani, Partner of CB M/s. SKY Shipping and advocate Shri Sujay Kantawala & Ms. Manisha Karande appeared for personal hearing and submitted their submissions.

**WRITTEN SUBMISSIONS OF THE CUSTOM BROKER:**

12. CB firm in its written submissions dated 02.11.2023 submitted during the course of personal hearing that;

i. they denied all allegations contained in Order no. 35/2023 dated 27.10.2023. The said order is passed without giving them an opportunity to

put up a case or a hearing to deal with allegations. The said order has already presumed a prima facie violation of regulations by them without giving an opportunity to deal with allegations. The said order with its immediate action is drastic as seeks to deprive them and their staff of their livelihood for no fault of theirs.

ii. they are rather shocked to receive the said order as it is passed without even considering the immaculate track record since the inception of license granted by the Hon'ble Customs in their favour. Clearly the said order is passed in a mechanical manner, without giving proper or emergent reasons and does not consider all the facts and material available. The order does not even give proof of any allegations of alleged connivance to escape RMS 100% examination. As a Customs Broker they have always exercised due diligence and have done their work efficiently. They are aware of the role of a Custom Broker who acts as a bridge between the Customs and importer/exporter to look after both their interests. They would not do anything wrong that would deprive the Government of Revenue or do anything that would jeopardize their relationship with the Customs even in their wildest of imagination.

iii. they denied that as a Customs Broker M/s. SKY Shipping have failed to comply with the mentioned regulations of the Customs Brokers Licensing Regulations 2018 in the said order for the reasons alleged or at all. Even the department uses the word "appears" for all allegations made against them before drawing erroneous prima facie conclusion against them. All KYC of the importer was done by them before B/E were filed, there is no allegation of mis-declaration or undervaluation and they have complied with all concerned regulations as applicable to Customs Broker. As a Customs Broker they have been efficient in performing their duties and there is not a single complaint against them. They have done the due diligence in so far as the documents filed by them and have co-operated with the Custom Officials in even sending samples of the cargo in question to various agencies.



iv. they deny having deliberately avoided 100% examination as it sought to be made out. They deny that there was any connivance made with the importer for reasons alleged or at all. They deny having deliberately delayed the Examination of Cargo. Such allegations made vide the said order are baseless and has tarnished the image/reputation of their firm that has been built up over the years and its founding partner Mrs. Roshan Irani. The question of any modus operandi used by the Custom Broker cannot and does not arise.

v. there is not an iota of evidence that either they or their staff has instructed the Customs or its officer not to examine the cargo. The reliance placed on the statement of Mr. Balu Zinjad (H card employee) pertains to only as answer to one question. He did not instruct the concerned officer not to examine the cargo 100%. The statement made by him in answer to all questions should be considered as a whole and not one statement or answer to a particular question. They crave leave to refer to and rely upon the true intent and meaning of the statement. It is surprising that none of the owners/partners of the firm were called to give a statement by the Department. They are certain that a better explanation could have been given, so that there is no doubt or controversy created as regards their duties as a Custom Broker.

vi. as a Custom Broker they are not concerned with the business model of CFS Ashte. It is a known business fact that many CFS give concessional rates to Importers or Custom Brokers who do regular business with them.

vii. they reserve their right to send a detailed reply, if required. Since there is less time, they reserve their rights to add, alter and amend the submissions made therein. It is settled law that the opportunity given, must be real, reasonable and effective and not merely an empty formality. Relied on the judgment in the case of Commr. Of Cus. (Preventive), West Bengal Vs. Over Land Agency reported in 2006 9204) E.L.T. 554 (Cal.).

viii. the suspension of license merely on the apprehension that the Customs Broker may adopt similar *modus operandi* in future is arbitrary, wrong and beyond the intention of legislature behind the Regulation 16 of CBLR, 2018. There is no such evidence to suggest such a belief. The post track record proves their contention.

ix. their founding partner Mrs. Roshan Irani aged 75 years in the recent past has undergone spinal surgery and her movement are relatively impaired. Considering her track record the department ought to take a lenient/sympathetic view and revoke the order of suspension of license. This is not a case where immediate action of suspension of license is necessary hence, they urge to consider revoking the suspension.

x. considering the fact and considering the livelihood of a Custom Broker and their employees, they urged to take a lenient view and revoke order of suspension pending further inquiry, if required. The continuation of suspension of Custom Broker license shall not only deprive the Custom Broker of its bread and butter but will also jeopardize the future of its employees who also earn their livelihood from the professional assignments undertaken by the Custom Broker.

### **DISCUSSIONS AND FINDINGS**

13. I have gone through the facts of the case. The issue before me is limited to determining whether the continuation of suspension of the CB Licence is warranted or otherwise.

14. I find that the license of the Customs Broker M/s. SKY Shipping (Licence no. 11/690, CB code AANFS1270PCH001) license was suspended vide Order No. 35/2023-24 dated 27.10.2023 based on the Offence Report received from CIU, JNCH for violation of Regulation 10(d), 10(e) & 10(m) of CBLR, 2018.

15. I have carefully gone through the statement dated 14.10.2023 of Sh. Balu R. Zinjad, H Card holder of Customs Broker M/s. SKY Shipping wherein he has stated that he had presented the Bill of Entry No. 8162485 dated 05.10.2023 for examination to docks officer; that Bill of Entry was



registered from the office after the assessment of Bill of Entry on 06.10.2023; that he took the seal cutting permission on Monday 09.10.2023; that all 21 containers reached the CFS late night on 07.10.2023 and being holiday on 08.10.2023 (Sunday) seal cutting permission was taken on 09.10.2023; that docks officer examined the goods on 09.10.2023; that he had shown the containers to the docks officer, the container contained Technical Grade Urea in 50 Kgs. white colored gunny bags. Further, docks officer directed him to cut the bag and show the inside content. There were small granules of white color. On being satisfied that the goods are of urea (TGU), the docks officer then inspected all the containers as the goods were of uniform packing the officer directed to draw sample in duplicate from one of the urea (TGU) bags placed in the container; that as the weather was cloudy that day and there were high chances of rain and the goods imported vide the said Bill of entry were Urea (Technical Grade Urea) which are highly soluble in water so he requested the docks officer to examine the goods in the container itself; that samples were drawn by him in presence of docks officer and sample were then sealed and forwarded by docks officer for testing in RFCL, RFCL officer denied to accept the sample for testing and replied it in writing on the back side of the Bill of Entry copy. After that he submitted the RSS to docks officer.

16. I have carefully perused written and oral submission made by CB wherein they have cited various facts to substantiate that suspension of license is not warranted in the subject case.

17. I have carefully gone through the CB's submission that 'there is not an iota of evidence that either they or their staff has instructed the Customs or its officer not to examine the cargo. The reliance placed on the statement of Mr. Balu Zinjad (H card employee) pertains to only as answer to one question. He did not instruct the concerned officer not to examine the cargo 100%. The statement made by him in answer to all questions should be considered as a whole and not one statement or answer to a particular question. They crave leave to refer to and rely upon the true intent and meaning of the statement. It is surprising that none of the owners/partners of the firm were called to give a statement by the Department. They are certain that a better explanation could have been given, so that there is no doubt or controversy created as regards their

Custom Brokers who do regular business with them'.

18. I have carefully gone through the CB's submission that 'their founding partner Mrs. Roshan Irani aged 75 years in the recent past has undergone spinal surgery and her movement are relatively impaired. Considering her track record the department ought to take a lenient/sympathetic view and revoke the order of suspension of license. This is not a case where immediate action of suspension of license is necessary hence, they urge to consider revoking the suspension'.

19. I find that CB's responsibility was to present the goods covered under BE no. 8162485 dated 05.10.2023 to the Customs Official and the Customs Officer was to comply the RMS 100% examination instruction. In any circumstances CB's request to examine the goods in the container itself after getting RMS 100% examination instruction is not justifiable.

20. I find that the suspension order No. 35/2023-24 dated 27.10.2023 has alleged violation of Regulation 10(d), 10(e) & 10(m) of CBLR, 2018. At this stage, I would like the subject case to be inquired by the Inquiry officer in order to conclusively establish role of the CB.

21. I find that CB has a very crucial role in the clearance of goods through Customs which involve application of detailed procedures which are often complex. The very objective of CBLR, 2018 (Earlier CBLR, 2013) is to ensure that CB acts honestly and efficiently in the conduct of his business. It is not difficult to foresee the consequences that may arise if CB acts in a negligent manner. However, in the present scenario CB's request to examine the goods in the container itself after getting RMS 100% examination instruction could have been turned down by the Customs Officer, if he was not satisfied with the request.

22. From the above facts and submissions made by CB, I find that the CB did not attempt to influence the Customs Authority to conduct his work. However, escapement of 100% examination of the subject goods covered under Bill of Entry no. 8162485 dated 05.10.2023 may be ruled out, if the Customs officer denied the request of the CB that examine the goods in the container itself after getting RMS 100% examination instruction.

23. I find that the investigation in the case is in very preliminary stage and the action against the CB is being conducted on the basis of prima facie role defined in the offence report of CIU, JNCH. At this stage, continuation of suspension may not be warranted against the CB.

24. Keeping in mind the above findings and the principle of proportionality of punishment and considering the livelihood of CB and their employees, I find that the submissions made by the CB appear to be acceptable to the extent of not continuing the Suspension pending further Inquiry Proceedings as per CBLR, 2018. I reiterate that the Revocation of Suspension does not jeopardise further proceedings under CBLR, 2018.

25. Accordingly, I pass the following order:

### **ORDER**

25.1 I, Principal Commissioner of Customs (General), in exercise of powers conferred upon me under the provisions of Regulation 16 (2) of CBLR, 2018 hereby revoke the suspension of Customs Broker Licence M/s. SKY Shipping (Licence no. 11/690, CB code AANFS1270PCH001) license was suspended vide Order No. 35/2023-24 dated 27.10.2023, pending further Inquiry Proceedings under CBLR, 2018.

25.2 This order 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 provisions of the Customs Act, 1962 and Rules/Regulations framed there under or under any other law for the time being in force.

  
(SUNIL JAIN)

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

To,

M/s. SKY Shipping (Licence no. 11/690, CB code AANFS1270PCH001)  
209, EMCA House, 289, SBS Road,  
Fort, Mumbai-400-001



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