



Date: 27.01.2023

ORDER NO. 73 / 2022-23

- i. Panchnama dated 18.10.2022 for the examination of the goods imported vide DTA Bill of Entry 2021679 dated 15.09.2022.
- ii. Panchnama dated 19.10.2022 for the examination of the goods imported vide DTA Bill of Entry 2024006 dated 07.10.2022.
- iii. Panchnama dated 27.10.2022 for the examination of the goods imported vide DTA Bill of Entry 2024015 dated 07.10.2022 wrt Inbond Bill of Entry 1016546 dated 14.09.2022.
- iv. Panchnama dated 28.10.2022 for the examination of the goods imported vide DTA Bill of Entry 2024009 dated 07.10.2022.
- v. Panchnama dated 12.11.2022 for the examination of the goods imported vide DTA Bill of Entry 2024009 dated 07.10.2022, 2024007 dated 07.11.2022 and 2021680 dated 15.09.2022.
- vi. Panchnama dated 15.11.2022 for the examination of the goods imported vide DTA Bill of Entry 2024011 dated 07.10.2022 and 2021681 dated 15.09.2022.

vii. Panchnama dated 16.11.2022 for the examination of the goods imported vide DTA Bill of Entry 2024011, 2024016 and 2024017 all dated 07.10.2022.

3. Based on the NCTC alert dated 11.10.2022, goods being imported vide DTA Bill of Entry No. 2024008 dated 07.10.2022 filed by CB M/s MAC Transoceanic on behalf of importer M/s Giriraj Corporation (IEC AAFPP0396P) against Inbond Bill of Entry Number 1016547 dated 14.09.2022 through Container Number ZCSU7510665 which were being cleared at M/s Arshiya Ltd, FTWZ, were examined by CIU officers on 13.10.2022 after obtaining due permission from Development Commissioner, Arshiya, FTWZ.

4. During the examination of the consignment, it was found that the goods have been grossly mis-declared in terms of quantity, description and nature with intent to evade the applicable customs duty in the DTA bill of entry filed by the CB M/s MAC Transoceanic on behalf of importer M/s Giriraj Corporation (IEC AAFPP0396P). The Modus Operandi of the gross mis-declaration was explored and it was found that the Importer/CB has declared more than one type of Fabric in the Bill of Entry, one having unit in weight basis and one having measurement basis, further, the item having less BCD was declared in huge quantity and the item having comparatively higher BCD were declared in nominal quantity, however, on examination it was found to be vice-versa. Thereafter, 16 other consignments of fabric, having similar modus operandi, lying at Arshia, FTWZ pending for clearance under DTA Bills of Entry filed by CB M/s Mac Transoceanic Pvt Ltd on behalf of three different importers were scrutinized and kept on hold. All the consignments have been examined and gross mis-declaration in terms of quantity, description and types of fabric has been found in each consignment which results to the duty evasion of applicable customs duty and same modus operandi has been observed.

5. It has been also reported that a past import consignment having Bill of Entry Number 2123479 dated 23.08.2022 pertaining to M/s Infinity Fabric Hub LLP (IEC-AAIFI7682J) was dealt by the CB M/s MAC Transoceanic for clearance of item 'fabric' This consignment contained undervalued and grossly mis-declared goods with mis use of DFIA License with an intention to evade applicable customs duty.

6. Further, search was conducted at the premises of the Customs Broker M/s Mac Transoceanic Pvt Ltd on 29.11.2022 and during the search a 'TRI PARTY SERVICE AGREEMENT' between the Customs Broker M/s Mac Transoceanic Pvt Ltd and M/s Arshiya Panvel Logistics Pvt Ltd, a unit of Arshiya Ltd, FTWZ was recovered. From the said agreement it appears that the Customs Broker is a registered client at M/s Arshiya Panvel Logistics Pvt Ltd to carry out business related to Sale of Fabric in Domestic Tariff area of India and outside India and prima facie it appears that the CB is sponsoring the importers to import Fabric from M/s Arshiya Ltd, FTWZ and helping them in mis - declaring the goods in terms of quantity and description.



7. Relevant provisions of law applicable in this case: -

**Regulation 10 of CBLR, 2018: Obligations of CB**

**7.1 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";*

In the instant case, from the documents on the record, it appears that the said CB has contravened the provisions of Regulation 10(d) as they did not advise his client to comply with the provisions of the Act and the rules and regulations. They did not advise their client (importer) for following the due procedure and to declare the correct quantity and UQC for different fabrics in the DTA bills of entry. The packing list submitted along with DTA bills of entry was not proper and do not contain specific quantity and UQC fabric wise. During the Examination of the Goods being imported by M/s Infinity Fabric Hub LLP the Customs Broker provided the actual and detailed packing list and wherein quantity of goods was mentioned which was found during the examination, however the same was not provided to the Customs while filing DTA Bills of Entry which led to gross mis declaration. CB failed to produce detailed packing list rather they filed the DTA bills of entry with improper packing list which shows that the CB was aware of the mis-declaration and they appear to have connived with the importer to evade the applicable customs duty by way of undervaluation and mis-declaration in terms of description, quantity and type of fabrics.

**7.2 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";*

In the instant case, from the documents on the record, it appears that the said CB have contravened the provisions of Regulation 10(e) as they have failed to exercise due diligence to ascertain the correctness of the information that they were imparting to their client (importer). It was the responsibility of the CB to exercise due diligence while filing the DTA bills of importer by declaring the true and correct value, description, quantity and UQC. It appears that without any due diligence, the CB has filed the DTA bills of entry on the basis of invoice and packing list which contain vague description and improper quantity. The CB has failed to ascertain the exact quantity and type of fabrics as per their UQC rather filed the DTA bills of entry with improper packing lists. From the gross misdeclaration found in all the consignments of M/s Giriraj Corporation, M/s Dixon

Healthcare Nutrients & Supplements Pvt Ltd and M/s Infinity Fabric Hub LLP, it appears that the CB was in hand and gloves with the importer in the misdeclaration of consignments with an intent to evade the applicable customs duty. Further, Regulation 10(e) of CBLR, 2018 obliges the CB to exercise due diligence in ascertaining the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo and baggage. The correct information was not imparted to the Customs Authorities by the CB or its clients which contravenes the Regulation 10(e) of CBLR, 2018.

8. From the above facts, it appears that prima facie, Customs Broker M/s. Mac Transoceanic Pvt Ltd (CB No. 11/2661) has violated Regulation 10(d) and 10(e) of CBLR, 2018. It is apprehended that the Custom Broker may commit similar offence in future consignments and department cannot remain oblivious to the danger posed by such an eventuality.

9. Accordingly, I pass the following Order: -

#### ORDER

9.1 I, Principal Commissioner of Customs (General), in exercise of powers conferred upon me under the provisions of Regulation 16 (1) of CBLR, 2018 hereby suspend the licence of M/s. Mac Transoceanic Pvt Ltd (CB No. 11/2661) with immediate effect, being fully satisfied that the Customs Broker has prima-facie not fulfilled their obligations as laid down under Regulation 10(d) and 10 (e) of CBLR, 2018.

9.2 However, I offer the Customs Broker M/s. Mac Transoceanic Pvt Ltd (CB No. 11/2661) an opportunity of personal hearing on 13/2/2023 at 1200 hrs through video conferencing facility. Any written representation against this order should reach the undersigned before the date of hearing.

9.3 M/s. Mac Transoceanic Pvt Ltd (CB No. 11/2661) [ PAN: AAMCM7388QCH001] is directed to surrender all the original Custom Passes issued to their employee/partner/director/Proprietor immediately.

9.4 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

M/s. Mac Transoceanic Pvt Ltd (CB No. 11/2661)

Copy to:

1. The Principal/Chief Commissioner of Customs, Mumbai I, II, III Zone
2. The Commissioner of Customs, CIU, JNCH, Nhava Sheva
3. CIU's of NCH, ACC & JNCH
4. The Commissioner of Customs, Mumbai I, II, III Zone
5. EDI of NCH, ACC and JNCH
6. The Bombay Custom House Agent Association
7. Office copy
8. Notice Board