



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/ACTN/216/2022/CBS Pt 1

Date: 29.05.2023

DIN: 202305770000000BF34

ORDER NO. 14 /2023-24

1. M/s Ghanshyam Patel Freight Forw. Pvt. Ltd. bearing PAN based Registration No. AAACG5078RCH001, holding a regular Customs Broker License No. 11/581 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 such they are bound by the regulation and condition stipulated therein.
2. On the basis of specific intelligence, the consignment covered under Shipping Bill No. 8102800 dated 23.01.2021, filed by the said exporter was put on hold by the Officers of the SIIB(X), ACC, Mumbai on the reasonable belief that the declared FOB value of the goods was grossly overvalued to claim undue Drawback and other export benefits.
3. The goods covered under the abovementioned Shipping Bill were examined under Panchanama dated 25.01.2021 by the Officers of SIIB(X), ACC, Mumbai in the presence of the representative of the CB. During the course of examination, prima facie by visual appearance it appeared that the goods were highly overvalued in terms of the quality of the subject goods. Also, the quantity of the goods was not in accordance with the Shipping Bill & Packing List. The goods covered under the above mentioned Shipping Bill were seized under Section 110(1) of Customs Act, 1962 on 10.02.2021 with

a reasonable belief that the same were liable to confiscation under the provisions of Customs Act, 1962. The representative sealed samples were also drawn from the subject consignment for valuation and test analysis for determination of applicability of drawback.

4. After investigation, as per DYCC report it was found that goods covered under said shipping Bill No 8102800 dated 23.01.2021 was mis-declared in respect of description. On the basis of market enquiry, it was found that goods were also overvalued to avail the undue benefit of Drawback. A separate SCN covering live consignment was issued on 22/01/2022.

5. The data of past 5 years regarding exports of M/s Ankur Trading was retrieved from ICES 1.5 systems and in past exporter has exported goods through 46 shipping Bills having Total FOB value Rs. 1400.66 Lakhs and claimed Drawback Rs. 24.22 Lakhs, ROSCTL of Rs 8,22,819/- and RODTEP of Rs. 2,63,334/-. Total drawback Rs.23.50 has been disbursed to the exporter as per ICES 1.5 system.

6. During the course of investigation, Summons were issued to Shri Manoj Tiwari, proprietor of M/s. Ankur Trading (IEC: BPTPT8386R) on 12.02.2021 and 23.02.2021 but IEC holder did not turn up in response of summons issued by this office. The summons were returned by postal authorities undelivered wither mark "UNCLAIMED". Search was also conducted at the firm address "033, Evershine Mall CHS Ltd, Chincholi Bunder Road, Malad(W), Link Road, Mumbai-400604" of the subject IEC holder i.e, M/s Ankur Trading on 28.01.2021 in order to collect evidences, documents in relation to this case and for further investigation of the case. During the search, it was found that the office premises was found locked and hence search could not be executed.

7. Further officers of SIIB(X) went for verification of residential address at the location "S/o Rama Shankar Tiwari, R/S/7/8, Gaibanshah Dargha Road, Near Sanik Petrol Pump, Guru Nanak Nagar, Mumbai-400 086" mentioned in AADHAR card submitted by the exporter as KYC documents to

the Bank at the time of opening the Current Account. The said address was found to be non-existing.

8. Further, it is found that all the above said 46 Shipping Bills and the live Shipping Bill No. 8102800 dated 23.01.2021 were cleared by Customs Broker (Hereinafter referred to as 'CB') M/s Ghanshyam Patel Freight Forwarders. Accordingly, a statement of Shri Jayesh G. Patel, Director of CB firm M/s. Ghanshyam Patel Freight Forwarders Pvt. Ltd, was recorded under Section 108 of the Customs Act, 1962 on 03.02.2021 wherein he inter-alia stated that they had verified the KYC details of the Exporter M/s. Ankur Trading; that one person namely Shri Jaywant Sawant contacted them through a common friend. Shri Jaywant offered them customs clearance work of 2-4 clients namely M/s. Aura Multitrade, M/s. Ankur Trade & M/s. Remora etc. Shri Jaywant Sawant told them that the exporter Shri Manoj Tiwari wanted to export Ready Made Garments. Then, he met Shri Manoj Tiwari only one time in the month of October at his office. Shri Manoj Tiwari told him that they are doing export of ReadyMade Garments and they want to export the RMG, if he is interested. Then, they offered him Rs. 2500-3000/- per shipping bill for clearance of the goods; that they receive export documents on e-mails from the exporter or Shri Jaywant Sawant regarding export of goods. Based on the same, they prepare the checklist as per the invoice and packing list provided by the exporter or Shri Jaywant Sawant and share the checklist with the exporter for approval. Then, documents were uploaded on ICEGATE upon Export's approval.

9. Further vide his statement dtd 15.07.2021 Shri Jayesh G. Patel, Director of CB firm M/s. Ghanshyam Patel Freight Forwarders Pvt. Ltd, stated that he was authorized by the exporter to handle the goods for clearance of export goods and also submitted the authorization letter; that he signed all the documents related to export of the goods on behalf of CB; that for export of the goods from Air Cargo Complex, first time export permission in terms of Public Notice No. 21/2015 dated 08.12.2015, is required. However, he has failed to get the first time export permission from the department as the exporter Shri Manoj Tiwari told him that they are

already doing export through their previous CB; that on behalf of CB, his staff had personally visited the address of the firm as mentioned in the IEC and verified the same physically. They also received the KYC documents from the office premise. However, they never verified the antecedents of the exporter Shri Manoj Tiwari; that he has informed to Shri Manoj Tiwari to appear before Customs Department but Shri Manoj Tiwari informed him that he will not be able to visit the office of Customs as he was found COVID positive. Shri Manoj Tiwari assured him to visit the office soon. That thereafter nowadays, Shri Manoj Tiwari was not picking up his call. Shri Manoj Tiwari informed him that he has gone to his village in UP state; that all the export documents were received on e-mail from Shri Jayawant Sawant on behalf of the exporter for filling of Shipping Bill. Sometimes, the exporter also forwarded the export documents on mail for filling of the Shipping Bill; that they will submit all the export documents for the past export made by M/s. Ankur Trading as soon as possible; that they also agreed to that they were unable to verify genuineness of the exporter M/s. Ankur Trading in terms of Customs Brokers Licensing Regulations (CBLR), 2018.

10. Further, Summons sent to Shri Jayesh G. Patel, Director of CB firm M/s. Ghanshyam Patel Freight Forwarders Pvt. Ltd on 31.12.2021 to submit all the export documents for the past exports made by M/s. Ankur Trading, were returned by post authority with remark "Left".

11. Further statement of Shri Jaywant Sawant, was recorded under Section 108 of the Customs Act, 1962 on 15.07.2021 wherein he inter-alia stated that he met one person namely Shri Samir Sawant 3 years ago at Masjid Bunder, Mumbai who was doing business of export of readymade garments. Shri Samir Sawant has proposed him to do work of export of readymade garments for him (Shri Samir Sawant). He (Shri Samir Sawant) has told him that one firm M/s. Ankur Trading wants to export of Readymade Graments. Then, he (Shri Jaywant Sawant) introduced Shri Samir Sawant to Shri Jayesh Patel, Director of M/s Ghanshyam Patel Freight Forwarders Pvt. Ltd.in the month September, 2020; that he never

met with the exporter Shri Manoj Tiwari, Proprietor of M/s. Ankur Trading. Shri Samir Sawant has offered him Rs. 3,000/- per Shipping Bill as a handling charges; that he collected the documents from the employee of Shri Samir Sawant. Then, he scanned all the documents i.e. Invoice, Packing List and he used to forward the same to Shri Jayesh Patel, Director of M/s Ghanshyam Patel Freight Forwarders Pvt. Ltd. by e-mail. Most of all export documents pertaining to export made by M/s. Ankur Trading were forwarded by him to CB for filling the Shipping Bill. On being asked about Shri Samir Sawant, he stated that his mobile no. is 8657651819. His residential address is 19/20, C Wing, 2nd Floor, Choksey Bldg, Next Gamdevi Telephone Exchange 1, Gamdevi Road, Grant Road, Mumbai, Maharashtra-400 007. His office is situated at Masjid Bunder who deals in export business of readymade garments; that the goods are purchased from local market by Shri Samir Sawant for export of the same. He has no idea where the export documents were prepared and by whom. His role is as a middle man between Shri Jayesh Patel, Director of M/s Ghanshyam Patel Freight Forwarders Pvt. Ltd. and Shri Samir Sawant. He used to book air line for shipment pertaining to export of M/s. Ankur Trading on direction of Shri Samir Sawant.

12. Further vide his statement dtd 20.12.2022 Shri Jaywant Sawant, stated he is in regular contact with Shri Samir Sawant and has visited him many times at his residential address as stated in his statement. Upon being asked that this office has issued several summonses to Shri Samir Sawant for recording of his statement under section 108 of Customs Act, 1962 however, he has not appeared before customs to give his statement, to which he replied that he has never told him that he was issued Summonses by this office. He can't say why he is not appearing to record his statement. On being asked that a total of 46 Shipping Bills were filed by M/s Ankur Trading during the period of September 2020 to January, 2021. All exports were made to Sudan, Nigeria and Hong Kong. However, no Foreign Remittance has been received in any of the Exports made by M/s Ankur Trading, to which he replied that he has no idea about the Remittance

involved. He just acted as a middle man between Shri Samir Sawant and CB. On being asked who prepared the Invoices of M/s Ankur Trading, he replied that he didn't know the exact person who prepared the Invoices related to M/s Ankur Trading, but all the documents including the Invoices came from Shri Samir Sawant's office only. He had 4-5 employees working under him. His office is situated in Masjid Bunder. On being asked if he had the copies of Invoices and Shipping Bills pertaining to the previous exports of M/s Ankur Trading, to which he replied that he doesn't have any documents in this regard. On being asked how many CBs have filed these 46 Shipping Bills in the past pertaining to the exports of M/s Ankur Trading, he replied most of the Shipping Bills were filed by CB M/s Ghanshaym Patel Freight Forwarders Pvt. Ltd in the past. However, he doesn't remember the exact no. of Shipping Bills and CBs.

13. Despite multiple summons issued to Sh Samir Sawant, he did not appear before investigating agency for recording of his statement and submitting relevant documents pertain to export made by M/s Ankur Trading.

14. Role of exporter and all concerned in clearance of export consignments:-

14.1 Role of Sh. Samir Sawant: As per statement of Shri Jaywant Sawant dated 20.12.2022, it can be ascertained that Shri Samir Sawant is deliberately trying to avoid appearing before Customs to record his statement and thus not cooperating with the Investigation. It appears that Shri Samir Sawant is the main conspirator of the fraudulent activities in availing drawback by creating fictitious/dubious firms in the name of one Shri Manoj Tiwari, Proprietor of M/s Ankur Trading, who is yet to be produced before Customs. Shri Samir Sawant used to procure goods from the local markets and raised the High overvalued Invoices at the time of Export to avail inadmissible drawback and other export incentives. He used the services and connections of Shri Jaywant Sawant by luring him for some

monetary consideration so that his name does not pop out in any of the documents and he can remain silent and earn the profits.

14.2 Role of Sh. Jaywant Sawant: Shri Jaywant Sawant acted as the middle man between the CB and Shri Samir Sawant and used to provide all the documents to the CB to file Shipping Bills. Shri Jaywant Sawant never met the proprietor of the firm as per his statement dated 15.07.2021. He was very well aware of the activities of Shri Samir Sawant but went on working for him in lieu of some monetary consideration. Shri Jaywant Sawant deliberately provided the documents to the CB without even verifying for himself as whether the Invoices, KYC and the Exporters are fake/dubious. It appeared that Shri Jaywant Sawant had aided and abetted the wrong doing of the exporter.

14.3 Role of Exporter: Shri Manoj Tiwari, proprietor of M/s Ankur Trading has provided his KYC documents to Shri Samir Sawant to create IEC in his name. Shri Manoj Tiwari had deliberately mis-declared the quantity, classification and grossly over-valued the goods vide above mentioned Shipping Bills and also tried to mislead Customs by submission of false declarations with an intention to avail undue export incentive in form of Drawback and other export incentives. Shri Manoj Tiwari never approached before Customs even after issuances of several Summonses. The address mentioned in the KYC documents were visited by the officers of SIIB (X) on 14.07.2021. But address “S/o Rama Shankar Tiwari, R/S/7/8, Gaibanshah Dargha Road, Near Sanik Petrol Pump, Guru Nanak Nagar, Mumbai-400 086” as mentioned in Aadhar Card of the exporter submitted at the time of opening of Current A/c IDFC Bank was also found non-existing on visiting of premises on 14.07.2021. It appears that Shri Manoj Tiwari deliberately provided fake addresses KYC documents for avoiding any suspicion.

14.4 Role of CB: Shri Jayesh Ghanshyam Patel, Director of CB firm M/s Ghanshyam Patel Freight Forwarders Pvt. Ltd. did not care to verify the documents submitted by Shri Jaywant Sawant. As per his statement dated 03.02.2021, Shri Jayesh Patel had met Shri Manoj Tiwari, Proprietor of M/s

Ankur Trading in the month of October-2020 at his office. However, Shri Jayesh Patel has failed to produce the proprietor before Customs till date. As per his statement dated 15.07.2021, Shri Jayesh Patel stated that all the export documents were received on E-mail from Shri Jaywant Sawant on behalf of exporter for filing of Shipping Bill and also stated that he will submit all the export documents for the past exports made by M/s Ankur Trading as soon as possible. However, even after issuance of another summon dated 31.12.2021, for submitting documents related to past exports of M/s Ankur Trading, Shri Jayesh Patel did not submit the relevant documents, neither did he appeared before customs till date. The provisions as laid down under CBLR, 2018 require the Customs Broker to exercise due diligence to ascertain the correctness of any information and to advise the client accordingly. The Regulations cause a mandatory duty upon the CB, who is an important link between the Customs Authorities and the Importer/Exporter. Any dereliction/lack of due diligence since has caused the Exchequer loss in terms of evasion of Customs Duty/Drawback. Therefore, under the fact and such circumstances, it appears that the CB has actively connived with exporters in claiming inadmissible drawback and other export incentives by Overvaluing the Export goods and mis-declaring the same in Shipping Bill. While coming with exporter they did not care to follow the obligation imposed through Regulation and Act.

15. In view of the above, prima facie, it appears that CB M/s. Ghanshyam Patel Freight Forwarders Pvt. Ltd. (11/581), Mumbai, has failed to comply with following regulations of the Customs Brokers Licensing Regulations 2018:-

15.1 Regulation 10(d) of CBLR, 2018: -

(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 exporter and actively connived with exporter in claiming inadmissible drawback and other export incentives by overvaluing the Export goods and mis-declaring the same in Shipping Bill and did not bring the matter 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.

15.2 Regulation 10(e) of CBLR, 2018: -

(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 with exporters in claiming inadmissible drawback and other export incentives by Overvaluing the Export goods and mis-declaring the same in Shipping Bill.

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

15.3 Regulation 10(k) of CBLR, 2018: -

(k) maintain up to date records such as bill of entry, shipping bill, transshipment application, etc., all correspondence, other papers relating to his business as Customs Broker and accounts including financial transactions in an orderly and itemized manner as may be specified by the Principal Commissioner of Customs or Commissioner of Customs or the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

As per his statement dated 15.07.2021, Shri Jayesh Patel stated that he will submit all the export documents for the past exports made by M/s Ankur Trading as soon as possible. However, even after issuance of another summon dated 31.12.2021, for submitting documents related to past

exports of M/s Ankur Trading, Shri Jayesh Patel did not submit the relevant documents, neither did he appeared before customs till date.

It appears that CB M/s Ghanshyam Patel Freight Forw. Pvt Ltd has failed to maintain records of export documents pertaining to M/s Ankur Trading. Thus, it appears that the CB has violated the provisions of Regulation 10 (k) of the CBLR, 2018.

15.4 Regulation 10(n) of CBLR, 2018: -

(n) 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;

Shri Manoj Tiwari never approached before Customs even after issuances of several Summons. The address mentioned in the KYC document was visited by the officers of SIIB (X) on 14.07.2021. But address “S/o Rama Shankar Tiwari, R/S/7/8, Gaibanshah Dargha Road, Near Sanik Petrol Pump, Guru Nanak Nagar, Mumbai-400 086” as mentioned in Aadhar Card of the exporter was also found non-existing on visiting of premises on 14.07.2021. It appears that Shri Manoj Tiwari deliberately provided fake addresses KYC documents for avoiding any suspicion.

It appears that CB M/s Ghanshyam Patel Freight Forw. Pvt Ltd has not verified the antecedents of the exporter Sh Manoj Tiwari. Thus, it appears that the CB has violated the provisions of Regulation 10 (n) of the CBLR, 2018.

16. From the above facts, it appears that prima facie, CB M/s Ghanshyam Patel Freight Forw. Pvt. Ltd. (11/581), CB code AAACG5078RCH001) had violated Regulation 10(d), 10(e), 10(k) & 10(n) 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.

17. Further, the License of CB M/s Ghanshyam Patel Freight Forw. Pvt. Ltd. (11/581) in another matter was suspended vide order 36/2022-23 dated 18.10.2022 and suspension was continued vide Order No. 43 dtd 29.11.2022.

18. 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 (1) of CBLR, 2018 hereby suspend the licence of CB **M/s Ghanshyam Patel Freight Forw. Pvt. Ltd. (11/581)** with immediate effect, being fully satisfied that the Customs Broker has prima-facie not fulfilled their obligations as laid down under Regulation 10(d), 10(e), 10(k) & 10(n) of CBLR, 2018.

(ii). However, I offer the Customs Broker **M/s Ghanshyam Patel Freight Forw. Pvt. Ltd. (11/581)** an opportunity of personal hearing on **08.06.2023** at **11:30 AM** hours through video conferencing facility. Any written representation against this order should reach the undersigned before the date of hearing.

(iii). CB M/s Ghanshyam Patel Freight Forw. Pvt. Ltd. (11/581), CB code AAACG5078RCH001)is directed to surrender all the original Custom Passes issued to their employee/partner/director/Proprietor immediately.

(iv). 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.

(v). As the CB Licence of M/s Ghanshyam Patel Freight Forw. Pvt. Ltd (11/581) is already suspended vide Order No. 36/2022-23 dated 18.10.2022 and suspension was continued vide Order No. 43 dtd 29.11.2022 passed by the undersigned, the present order of suspension of the CB Licence will automatically become operative in the eventuality of the above order dated

29.11.2022, being set aside by any Appellate or higher Judicial Authority, as this order is being issued under independent and separate proceedings.

dr
29/11/2022

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

To,
M/s Ghanshyam Patel Freight Forw. Pvt. Ltd. (11/581),
16, Orion, Omer Park, 3rd Floor,
Warden Road, Mumbai - 400 036

EM 171706 236IN

Copy to:

1. The Pr./Chief Commissioner of Customs, Mumbai I, II, III Zone
2. CIU's of NCH, ACC & JNCH
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