



प्रधानआयुक्त, सीमाशुल्क (सामान्य) का कार्यालय
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (GENERAL),
नवीन सीमाशुल्क भवन,बेलाई इस्टेट, मुंबई- 400 001.
NEW CUSTOM HOUSE, BALLARD ESTATE, MUMBAI - 400 001.

संचिका सं /F. No.- GEN/CB/321/2024-CBS

आदेश दिनांक/Date of Order: 04.06.2024

CAO No. 14/CAC/PCC(G)/SJ/CBS-Adj

जारी दिनांक/Date of issue: 04.06.2024

संख्या:

DIN : 2024067700000031363A

द्वारा जारी : सुनील जैन
प्रधान आयुक्त, सीमाशुल्क(सामान्य)
मुंबई -400 001

Issued By : Sunil Jain
Pr. Commissioner of Customs(Gen.),
Mumbai - 400 001.

ORDER-IN-ORIGINAL मूल आदेश

ध्यान दीजिए/ N.B. :

1. यह प्रति उस व्यक्ति को निजी उपयोग हेतु निःशुल्क प्रदान की जाती है, जिसे यह जारी की जा रही है।

This copy is granted free of charge for the private use of the person to whom it is issued.

2. इस आदेश के विरुद्ध अपील माँगे गए राशी के 7.5% के भुगतान पर सीमाशुल्क अधिनियम, 1962 की धारा 129A(1B)(i) के संबंधमें सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण में स्वीकार्य है, जहाँ शुल्क या शुल्क एवं जुर्माना विवादित हों, या जुर्माना, जहाँ सिर्फ जुर्माना ही विवादित हो। यह अपील इस आदेश के संप्रेषण की तारीख के तीन महीने के अंदर दायर की जाएगी। यह अपील सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण (कार्यविधि) नियमावली, १९८२, के प्रावधानों के अंतर्गत, यथातखंडपीठ में स्वीकार्य है।

An appeal against this order lies with the Customs, Central Excise and Service Tax Appellate Tribunal in terms of section 129A(1B)(i) of the Customs Act, 1962 on payment of 7.5% of the amount demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute. It shall be filed within three months from the date of communication of this order. The appeal lies with the appropriate bench of the Customs, Central Excise and Service Tax Appellate as per the applicable provisions of Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982.

3. यह सूचित किया जाता है की इस आदेश के अमल में आते ही, न्याय निर्णयन अधिकारी का अधिकार क्षेत्र समाप्त होता है और सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण, पश्चिम क्षेत्री यखंडपीठ, के M/s Knowledge Infrastructure Systems Pvt. Ltd. & Others vs ADG, DRI, Mumbai के संदर्भ में जारी आदेश क्रमांक A/86617-86619/2018 दिनांक 31.05.2018 के अनुसार न्यायिक आदेश तदोउ प्रांत न्याय निर्णयन अधिकारी 'functus officio' बन जाता है

It is informed that the jurisdiction of the Adjudicating Authority stands alienated with the conclusion of the present adjudication order and the Adjudicating Authority attains the status of 'functus officio' as held by Hon'ble CESTAT, Mumbai in its decision in the case of M/s Knowledge Infrastructure Systems Pvt. Ltd. & Others vs ADG, DRI, Mumbai vide Order No. A/86617-86619/2018 dated 31.05.2018.

4. यदि एक ही प्रकरण में उसी पक्षकार के विरुद्ध कई कारण बताओ नोटिस लगाकर आदेश पारित किया जाता है तो प्रत्येक प्रकरण में अलग अपील दायर की जाए।

In case where an order is passed by bunching several show cause notices on an identical issue against the same party, separate appeal may be filed in each case.

5. यह अपील फॉर्म C.A.-3 में दायर की जानी चाहिए जो कि सीमाशुल्क (अपीलस) नियमावली, १९८२ के नियम 6 के तहत निर्धारित है एवं उसी नियमावली के नियम 3 के उपनियम 2 में उल्लेखित व्यक्ति द्वारा हस्ताक्षरित एवं सत्यापित की जाएगी।

The Appeal should be filed in Form C.A.-3 prescribed under Rule 6 of the Customs (Appeals) Rules, 1982 and shall be signed and verified by the person specified in sub-rule 2 of rule 3 rules ibid.

6. (i) यदि प्रतिवादित आदेश, जिसके विरुद्ध अपील की गई है, में शुल्क एवं मांगे गए ब्याजवलागाएगए जुमनि की राशि रु. पाँच लाख या इस से कम होतो रु. 1000/-, (ii) यदि यह राशि रु. पाँच लाख से अधिक हो किंतु पचास लाख से अधिक न होतो रु. 5000/- एवं (iii) यदि यह राशि रु. पचास लाख से अधिक होतो रु. 10000/- के शुल्क का भुगतान क्रॉस बैंक ड्राफ्ट के माध्यम से अधिकरण की खंडपीठ के सहायक पंजीयक के पक्ष में जिस स्थान पर खंडपीठ स्थित है, के किसी भी राष्ट्रीय क्रत बैंक की शाखा में किया जाए एवं डिमांड ड्राफ्ट अपील के साथ संलग्न किया जाए।

A fee of (i) Rs. 1000/- in case where the amount of duty and interest demanded and the penalty imposed in the impugned order appealed against is Rupees Five Lakhs or less, (ii) Rs. 5000/- in case where such amount exceeds Rupees Five Lakhs but not exceeding Rupees Fifty Lakhs and (iii) Rs. 10000/- in case where such amount exceeds Rupees Fifty Lakhs, is required to be paid through a crossed bank draft in favour of the Assistant registrar of the Bench of the Tribunal on a branch of any nationalized bank located at the place where the bench is situated and demand draft shall be attached to the Appeal.

7. अपील की एक प्रति में कोर्ट फी अधिनियम, 1870 की अनुसूची मद 6 के तहत निर्धारित रु. 50 का कोर्ट फी स्टैम्प लगा होना चाहिए एवं इसके साथ संलग्न इस आदेश की उक्त प्रति में रु. 50 का कोर्ट फी स्टैम्प लगा होना चाहिए। Once copy of the Appeal should bear a Court Fee Stamp of Rs. 50 and said copy of this order attached therein should bear a Court Fee Stamp of Rs. 50 as prescribed under Schedule item 6 of the Court Fee Act, 1870, as amended.

BRIEF FACTS OF THE CASE

M/s. Hind Ship Airways, (PAN No. AABFH5054N), having registered address at 13 A Masjid Building, 1st Floor, Old Bengalipura Street, Near Crawford Market hereinafter referred as the Customs Broker (CB) is holder of Customs Broker License No. 11/672, 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.

2. As per the license issued to the Customs Broker M/s. Hind Ship Airways, (CB license No. 11/672, PAN No. AABFH5054N) was having the following partners:

- i. Sh. Abdul Malik Surty,
- ii. Sh. Abdul Wahab Surty,
- iii. Mrs. Maherunnisa Abubakar Surty.

3. The Custom Broker filed an application No.100000032577 dated 06.03.2024 on CBLMS for acceptance of CBLMS profile. On perusal of the details submitted in the application, it is noticed that the CB has mentioned details of only two partners namely Sh. Abdul Malik Surty and Sh. Abdul Wahab Surty in the CB firm. On verification of the records, it is noticed that the CB has submitted a letter dated 12.10.2012 alongwith death certificate of their partner Mrs. Maherunnisa Abubakar Surty.

4. The Customs Broker M/s. Hind Ship Airways (CB license No. 11/672) vide their letter dated 12.10.2012 had intimated this office regarding the demise of one of their partner Mrs. Maherunnisa Abubakar Surty. Further, vide the said letter the CB informed that the death of their partner was happened on 17.04.2012 and had submitted death certificate for the same. The intimation of the death of the said partner was late by nearly 6 months, which is in contravention of the provisions of Regulation 7(2)(b) of the CBLR, 2018, which states that:

“Provided further that where a company or a firm which has been granted license under this regulation undergoes any change in the directors or managing director or partner such change shall forthwith be communicated by such license to the Pr. Commissioner of Customs or Commissioner of Customs, as the case may be, within one month of such change.”

5. The CB vide email dated 29/05/2024 requested to condone the delay and also requested waiver of SCN/PH on the matter.

DISCUSSIONS & FINDINGS

6. I have carefully gone through the case records and I find that the CB vide their letter dated 12.10.2012 has informed this office about the demise of Mrs. Maherunnisa Abubakar Surty, their partner.

7. On scrutiny of the documents submitted by the CB i.e. intimation letter dated 12.10.2012 and Death Certificate of Mrs. Maherunnisa Abubakar

Surty, it is observed that the death of Mrs. Maherunnisa Abubakar Surty happened on 17.04.2012 whereas the date of intimation to the department is 12.10.2012. Hence, it is clear that the intimation of the demise of their partner had been delayed by about 6 months. I find that the CB has contravened the provisions of Regulation 7(2)(b) of CBLR, 2018 which states that-

"Provided further that where a company or a firm which has been granted license under this regulation undergoes any change in the directors or managing director or partner such change shall forthwith be communicated by such license to the Pr. Commissioner of Customs or Commissioner of Customs, as the case may be, within one month of such change".

8. In view of the above, I hold that the Customs Broker M/s. Hind Ship Airways, (CB license No. 11/672, PAN No. AABFH5054N) has violated Regulation 7(2)(b) of CBLR, 2018. Accordingly, I pass the following order:-

ORDER

9. I, Principal Commissioner of Customs (Gen), in exercise of powers conferred under Regulation 18 of Customs Brokers Licensing Regulations, 2018, hereby impose a penalty of **Rs.5,000/- (Rupees Five Thousand Only)** on the Customs Broker M/s. Hind Ship Airways, (CB license No. 11/672, PAN No. AABFH5054N) for violation of provisions under Regulation 7(2) (b) of CBLR, 2018.

10. This order is 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 thereunder or under any other law for the time being in force.

Chp
A/G/2024
(SUNIL JAIN)

PRINCIPAL COMMISSIONER OF CUSTOMS(G)
NEW CUSTOM HOUSE, MUMBAI ZONE I

To,
M/s. Hind Ship Airways, (PAN No. AABFH5054N),
13 A Masjid Building, 1st Floor, Old Bengalipura Street,
Near Crawford Market,
Mumbai.

Copy to:-

- i. The Pr. Chief Commissioner/Chief Commissioner of Customs, Mumbai Zones I, II & III.
- ii. All Pr. Commissioners/Commissioners of Customs, Mumbai Zones I, II & III.
- iii. All departments in Mumbai Customs Zone I.

- iv. ACC(Admn.), Mumbai with a request to circulate among all departments.
- v. JNCH(Admn.) with a request to circulate among all concerned.
- vi. Cash Department, NCH, Mumbai
- vii. CIU's of NCH, ACC & JNCH
- viii. EDI of NCH, ACC & JNCH
- ix. Notice Board
- x. Office copy..