



प्रधान सीमाशुल्क आयुक्त (सामान्य) का कार्यालय  
**OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (GENERAL)**  
कस्टम ब्रोकरअनुभाग, नवीन सीमाशुल्क भवन,  
**CUSTOMS BROKER SECTION, NEW CUSTOM HOUSE,**  
बेलार्ड इस्टेट, मुंबई - I  
**BALLARD ESTATE, MUMBAI - I**

F. No. GEN/CB/239/2024-CBS

Date: 11.06.2024

DIN: 2024067700000000 A165

**ORDER NO. 24/2024-25 CBS**

M/s Hirannya Shipping & Logistics Services, (PAN No. AYHPS8411J), having registered address HO: 18/4, Shree Siddhivinayak Nivas CHS Ltd., 3 Dornic Colony, Orlem Malad (West), Mumbai-400064 (hereinafter referred to as the Customs Broker/CB) is holder of Customs Broker License No. (11/2002), issued by the Commissioner of Customs, Mumbai under Regulation 7(1) of CBLR, 2013 erstwhile (now regulation 7(2) of CBLR, 2018) and as such they are bound by the regulations and conditions stipulated therein.

2. An Offence report in the form of Show Cause Notice No. CUS/DBK/SCN/29/2024-DBK (EDI) dated 31.03.2024 was received in CB Section, NCH, Mumbai through Official E-mail of Drawback Section, ACC, Export, Mumbai Customs Zone-III, wherein, inter-alia following were informed:

2.1 On the basis of intelligence gathered from ADG/NCTC, Shipping Bill No. 9304674 dated 15.04.2023 having FOB Value ₹1,33,072.88/- with export incentives like DBK ₹1,026/- and RODTEP ₹787/- at ACC, Mumbai filed by exporter M/s Sun Impex (IEC-0305081624) (hereinafter referred to as the Exporter) through their authorised Customs Broker M/s Eastern Cargo appeared as highly risky export consignment. It was observed that the exporter intended to export an SCOMET item through that shipment viz. DIMETHYLAMINE with description "DIMETHYLAMINE SOLUTION 40% FOR SYNTHESIS" under RITC 29211990 with the declared country of destination as BENIN. DIMETHYLAMINE with description "DIMETHYLAMINE SOLUTION 40% FOR SYNTHESIS" is an SCOMET item mentioned at Sr. No. 07 of the list of Chemicals under 1D of APPENDIX-3 to Schedule-2 of ITC (HS) Foreign Trade Policy. Export of chemicals (Excluding Software and Technology) listed in 1D below is allowed to the countries specified in Table-1 based on a one-time General authorization for export of Chemicals and related equipment (GAEC) issued by DGFT. BENIN does not feature in the Table-1, hence, export of DIMETHYLAMINE to BENIN would require an export authorization from DGFT. It was verified from E-Sanchit of the above-mentioned Shipping Bill that no such export authorization for export of DIMETHYLAMINE was obtained by the exporter M/s Sun Impex (IEC-0305081624).

**Table 1**

Argentina, Australia, Austria, Belgium, Bulgaria, Canada, Croatia, Republic of Cyprus, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Iceland, Ireland, Italy, Japan, Republic of Korea, Latvia, Lithuania, Luxembourg, Malta, Mexico, Netherlands, New Zealand, Norway, Poland, Portugal, Romania, Slovak Republic, Slovenia, Spain, Sweden, Switzerland, Turkey, Ukraine, United Kingdom, United States.

**2.2** The goods pertaining to the shipping bill 9304674 dated 15.04.2023 was not carted at ACC, Mumbai, the said shipping bill was purged after 30 days. The past exports of last 05 years of the exporter was retrieved from the System, and it was revealed that 01 SBs (details as per Table-I) in the past export has been done for the subject item. This shipping bill was filed through Customs Broker **M/s Hirannya Shipping & Logistic Services.**

**Table-I**

| S. No. | SB NO   | SB DATE    | GOODS DESCRIPTION                          | COUNTRY OF EXPORT | ROS CTL | IG ST | ROD TEP | DB K | FOB       |
|--------|---------|------------|--|-------------------|---------|-------|---------|------|-----------|
| 1      | 1490020 | 19.05.2022 | DIMETHYLAMINE 40% FOR SYNTHESIS + 32 ITEMS | TOGO              | 0       | 0     | 10      | 2030 | 240693.78 |

Amount in Rs.

**2.3** The statement of Shri Anil Sitaram Shrungare, F-card Holder of M/s Hirannya Shipping & Logistics Services was recorded on 29.12.2023 under Section 108 of the Customs Act in which he stated that-

- M/s Hirannya Shipping and Logistics Services is associated with Customs Clearance work since 2015 and he is the proprietor of the said firm.
- They submitted copies of KYC and authority latter. They verified the office address of M/s Sun Impex i.e. E-205, Opp Sabkuchh Super, Bhoomi Classic, Malad Link Road, Malad West, Mumbai, Maharashtra – 400064.
- Further, they stated that they were aware of the rules and compliances. They have checked all the items covered under shipping bill no. 1490020 dated 19.05.2022 in SCOMET List. They found Dimethylamine in the list, however, goods description was ‘Dimethylamine 40% for synthesis’ was not in the list. To be sure of description of the goods, they checked w.r.t. goods description with the exporter, who confirmed that the subject goods is Dimethylamine 40% for synthesis and gave them certificate of analysis and end-user letter. After that they have filed said shipping bill and carted the goods. The shipping bill was marked for assessment. They tendered all the related documents to the customs at the time of assessment. After checking all documents and examining the goods, the LEO was granted for the said shipping bills.

**2.4 BRC Status of Past Exports-** Past export of the exporter has been retrieved from ICES 1.5 and it has been revealed that BRC against Shipping Bills as mentioned below in Table-II have not been realized yet.

**TABLE-II**

| S. No. | SB No.  | SB Date    | ROSCTL   | IGST         | RODTEP      | DBK          | FOB               | FOB Realised | CB  |
|--------|---------|------------|----------|--------------|-------------|--------------|-------------------|--------------|---|
| 1      | 2862601 | 27/05/2020 | 0        | 2190         | 0           | 1622         | 162158.5          | 0            | M/s. Hirannya Shipping & Logistics Services |
| 2      | 1680890 | 05-10-2021 | 0        | 11356        | 0           | 6488         | 648757.05         | 0            |   |
| 3      | 1488690 | 19/05/2022 | 0        | 0            | 0           | 0            | 24391.15          | 0            |   |
| 4      | 1490020 | 19/05/2022 | 0        | 0            | 10          | 2032         | 240693.78         | 0            |   |
| 5      | 1490519 | 19/05/2022 | 0        | 0            | 77          | 2670         | 286186.85         | 0            |   |
| 6      | 2197134 | 17/06/2022 | 0        | 0            | 4718        | 4513         | 482073.84         | 0            |   |
| 7      | 3293950 | 08-04-2022 | 0        | 0            | 251         | 408          | 31363.2           | 0            | M/s. Eastern Cargo Carriers                 |
| 8      | 3418416 | 08-10-2022 | 0        | 0            | 0           | 0            | 17600             | 0            |   |
| Total  |         |            | <b>0</b> | <b>13546</b> | <b>5056</b> | <b>17733</b> | <b>1893224.37</b> | <b>0</b>     |   |

Amount in Rs.

**2.5. Summary of Investigation:**

**2.6** The Exporter M/s. Sun Impex (IEC-0305081624) had filed the SB No. 9304674 dated 15.04.2023 having description "DIMETHYLAMINE SOLUTION 40% FOR SYNTHESIS" under RITC 29211990. As per the ICES 1.5 system, the exporter has exported SCOMET item vide Shipping Bill No. 1490020 dated 19.05.2022 (mentioned in Table-I).

**2.7** From the investigation, it appears that aforesaid export was of SCOMET items which was cleared for export without having any General authorization for Export of Chemicals and related Equipment (GAEC) issued by DGFT of Appendix-3 (SCOMET List). The Export Authorization was mandatory requirement for export of such item. Without Export Authorization the impugned goods are considered "Prohibited Goods" which must not have been cleared without mandatorily required Export Authorization.

**2.8** As per the ICES 1.5 system, BRC for the 08 Shipping Bills as mentioned in Table-II has not been realized till date. The Exporter did not submit any Bank Realisation Certificate (BRC) for the goods exported for any shipping bill. Therefore, the exporter was not eligible for export incentives viz Drawback & RODTEP for those 08 Shipping Bills under the provisions of Section 75 of Customs Act, 1962 read with second proviso to Rule 3(1) of the Customs and Central Excise Duties Drawback Rules, 2017, Notification No. 77/2021-Customs (N.T.) dated 24th September, 2021 and Notification No. 76/2021-Customs (N.T.) dated 23rd September 2021.

**2.9** Therefore, it appears from the investigation that necessary ingredient of second proviso to Customs and Central Excise Duties Drawback Rules, 2017 is attracted in this case which does not permit any amount of drawback in such cases, the sale proceeds of the goods exported vide Shipping Bills mentioned in Table-II have not been realized till date as per ICES 1.5 system. Further, the exporter appeared to have violated the provisions of Customs Act, 1962 and other allied acts as enumerated above Thus, the drawback amount of Rs.17733/- claimed/availed vide Shipping Bills mentioned in Table-II appears to be rejectable/recoverable with interest under the provisions of Rule 17, Rule 18(1) & Rule 18(2) of the Customs and Central Excise Duties Drawback Rules,

2017 read with Section 75(1) & 75A (2) of the Customs Act, 1962.

**2.10** The duty credit under ROSCTL Scheme and RODTEP Scheme is allowed subject to realization of sale proceeds in respect of such goods in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), failing which such duty credit shall be deemed to be ineligible. The sale proceeds in respect of goods exported vide past Shipping Bills mentioned in Table-II have not been realized so far. Further, the exporter appears to have violated the provisions of Customs Act, 1962 and other allied acts as enumerated above. Thus, the FOB of amount Rs. 1893224.37/- of 08 Shipping Bills mentioned in Table-II appears to be liable for confiscation under the provisions of Section 113(i) & 113(ia) of the Customs Act, 1962 and the exporter's claim of Rs. 5056/- under RODTEP Scheme as per Table-II appears to be liable for cancellation and recovery under Notification No. 77/2021-Customs (N.T.) dated 24th September, 2021 & Notification No. 76/2021-Customs (N.T.) dated 23rd September, 2021 as amended, read with Regulation 8 of Electronic Duty Credit Ledger Regulations, 2021.

**2.11** In view of the above facts and findings, it is cleared that the CB M/s. Hirannya Shipping & Logistics Services (11/2002) had not advised their exporter M/s Sun Impex about the submission of mandatory Export Authorization for clearance of SCOMET items. Further, they did not verify the export documents viz. description of items mentioned in Shipping Bill, SCOMET list, Export Authorization issued from DGFT and other relevant documents etc. and were in collusion with the exporter in obtaining fraudulently Customs Clearances of SCOMET Item. CB never advised the exporter to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and CB did not upload General authorization for Export of Chemicals and related Equipment (GAEC) issued by DGFT in e-sanchit in ICES 1.5 System.

**3.** In view of above, it appears that CB M/s. Hirannya Shipping & Logistics Services (11/2002), Mumbai, has failed to comply with following regulations of the Customs Brokers Licensing Regulations 2018: -

**3.1 Sub-regulation 10 (d) of the CBLR, 2018 which reads as:** *“advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of noncompliance, 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, it is a matter of fact that the exporter did not acquire the valid mandatory General Authorization for Export of Chemicals and related Equipment (GAEC) issued by DGFT which is imperative for the export of SCOMET items since these items have dual usage. As per the investigation report, the Customs Broker did not advise the exporter about the mandatory requirement of General Authorization for Export of Chemicals and related Equipment (GAEC) and also failed to advise the exporter to comply with the provision of the Customs Act 1962 and rules and regulations made thereunder and other allied Acts. Further, the non-compliance by the exporter was not brought in the notice of Customs Authorities by the said CB. Hence, the said CB appears to have violated regulation 10(d) of CBLR, 2018.

**3.2 Sub-regulation 10 (e) of the CBLR, 2018 which reads as: “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, it is a matter of fact that the exporter only submitted ‘certificate of analysis’ and ‘end use letter’ instead of the mandatory requirement of General Authorization for Export of Chemicals and related Equipment (GAEC) for export of SCOMET items since these items have dual usage. As per the investigation report, the said CB did not exercise their duties to ascertain the correctness of Certificate of Analysis and End User Letter. Hence, the said CB appears to have violated regulation 10(e) of CBLR, 2018.

**3.3 Sub-regulation 10 (m) of the CBLR, 2018 which reads as: “discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay;”**

In the instant case, it is a matter of fact; if the CB had informed about the non-submission of mandatory General authorization for Export of Chemicals and related Equipment (GAEC) issued by DGFT to the exporter with utmost speed and efficiency and without any delay, the fraudulent export and loss to government exchequer could have been averted. Hence, the said CB appears to have violated regulation 10(m) of CBLR, 2018.

Therefore, it appears that the CB M/s Hirannya Shipping & Logistics Services actively aided, abetted exporter in affecting fraudulent exports for availing ineligible export incentives.

**4.** The authorized signatory of the CB M/s Hirannya Shipping & Logistics Services in his statement had accepted the mistake of the Customs Broker for not doing proper documentation in respect of exported goods i.e. Dimethylamine which comes under list of SCOMET Items issued by DGFT. It was responsibility of the CB to upload/e-sanchit valid mandatory General authorization for Export of Chemicals and related Equipment (GAEC) issued by DGFT for export of SCOMET Item from India. The Customs Broker appears to have intentionally uploaded non-relevant documents to aid the illegal exports.

**5.** From the above facts it appears that, prima facie, Customs Broker M/s Hirannya Shipping & Logistics Services (11/2002) had violated Regulation 10(d), 10(e) & 10(m) of CBLR, 2018.

**6.** In view of the above facts, the CB License held by Customs Broker M/s Hirannya Shipping & Logistics Services (11/2002) was suspended by the Pr. Commissioner of Customs (General) vide Order No. 15/2024-24 dated 21.05.2024 and Personal Hearing was granted to the CB on 31.05.2024 and 12.30 noon.

**7. WRITTEN SUBMISSION OF THE CB:** - In response to the said Suspension Order, CB M/s Hirannya Shipping & Logistics Services (11/2002) submitted their written reply on 28.05.2024. In the said submission, they have inter-alia stated:

- i) The exporter is existing and is not a dummy and Proprietor of the exporting entity participated in the investigation and his statement was recorded on 03.05.2023.

- ii) The exporter is regular exporter of “Lab Chemicals, Lab Glassware & Plasticware; Lab Instruments & Equipment and Lab Sundry items.
- iii) As Customs Broker, we have no role in post export activities or non-compliance of legal provisions by the exporter. The exporter has filed his reply to the SCN vide his letter dated 28.04.2024 and stated that export proceeds for all the said six Shipping Bills have been duly received. We rely upon the reply of the exporter in this regard. Our role began with receipt of export documents and ended with obtaining ‘Let Export’ order and handing over of the shipping bill and other documents to freight agent of the exporter for loading in the aircraft.
- iv) We state that the export consignment of Shipping Bill No 1490020 dated 19.05.2022, wherein the allegation is that 4 X 500 ml of SCOMET item Dimethylamine Solution 40% for Synthesis valued at Euro 16 FOB was exported along with 32 other items totally valued at Euro 3,029.50 (Rs 2,40,693.78 FOB), was marked for assessment and examination and after due process, the goods were given ‘Let Export Order’. All related documents including certificate of analysis and letter from the end-user were submitted to the assessment officers. The goods were thus allowed only after due final assessment and examination as per the procedure and the protocol in this regard without any objection from the department regarding presence of the SCOMET item in the goods.
- v) The above goods were not facilitated under RMS and the shipments were sent by the system for assessment by the export assessing officer. These facts are verifiable from the system of the department.
- vi) The goods were properly declared and were presented to the Proper Officers before shipment, there was nothing that remained to be further informed either to the exporter or to the department. Even the Proper Officers did not point out the requirement of export authorisation for export of the impugned goods i.e. 4 X 500 ml of Dimethylamine Solution 40% for Synthesis valued at Euro 16 FOB under SCOMET.
- vii) We state that the SCN also does not allege that the goods of these six Shipping Bills filed by us on behalf of the exporter were mis-declared with respect to description, value or any other particulars.
- viii) It is noteworthy that no incriminating evidence, much less documentary evidence, on our role in the alleged export of SCOMET item and non-receipt of export proceeds has been marshalled against us in the Suspension Order.
- ix) We further state that nobody including the exporter has deposed against us or has incriminated us in any manner in relation to the impugned exported goods. In fact, no investigation worth its name has been conducted before issue of the Suspension Order in the matter.
- x) The SCN and the Suspension Order have raised the allegations against us on assumptions and presumptions. We state that these are mere unjustified rebuttable presumptions & assumptions without any basis or

evidence on record. The SCN and the Suspension Order do not allege and prove culpable mental state on our part inasmuch as there was no intention or motive to export SCOMET item and we had no knowledge of the fact of the alleged export of SCOMET item.

- xi)** We rely upon the ratio of the Hon'ble CESTAT Order in the case of M/s Sun Impex Clearing & Shipping Agency, Customs Broker, Vs Commissioner of Customs (Preventive) Jaipur reported as 2024 (4) TMI 1068 - CESTAT NEW DELHI in a matter which pertained to export of SCOMET items without export authorisation wherein it was held as under:

“10. .... In that view of the matter, we are of the view that the appellant who is merely a Customs House Agent cannot be expected to be an expert in SCOMET List and therefore the provisions of Regulation 11(d) cannot be invoked against the appellant.”

- xii) The SCN does not bring out any evidence that there was any such information given by us as the CB to the exporter which was later found false. These submissions are sufficient for your honour to hold that violation of Regulation 10(e) of CBLR, 2018 is not apparent against us. There is no basis for alleged violation of Regulation 10(e) of the CBLR, 2018. In this regard, we rely upon the ratio of Hon'ble Delhi High Court Order in the case of M/s Kunal Travels (Cargo) Vs Commissioner of Customs (Import & General) New Customs House, IGI Airport, New Delhi reported in 2017 (3) TMI 1494 - DELHI HIGH COURT wherein it was held that:

*“Regulation 13(e) of the CHALR 2004 requires the CHA to: “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 CHA’s due diligence is for information that he may give to its client and not necessarily to do a background check of either the client or of the consignment. Documents prepared or filed by a CHA are on the basis of instructions/documents received from its client/importer/exporter. Furnishing of wrong or incorrect information cannot be attributed to the CHA if it was innocently filed in the belief and faith that its client has furnished correct information and veritable documents. The mis-declaration would be attributable to the client if wrong information were deliberately supplied to the CHA. Hence there could be no guilt, wrong, fault or penalty on the appellant apropos the contents of the shipping bills.”*

- xiii) We state that the CB cannot be penalised in the absence of his complicity and knowledge of the offences on their part. In this regard, we rely upon the ratio of the following case law:

Merchant & Sons - 2018 (5) TMI 1067 - CESTAT MUMBAI: *“Penalty on CHA - Regulation 20(7) and 18 of Customs Brokers Licensing Regulations (CBLR), 2013 - illegal export of suspected ‘emphedrine hydrochloride’ a controlled substance under NDPS Act in two consignments concealed in ladies purses and wallets -*

*Held that: - investigation has not brought forth any clinching evidence to show that the appellant herein who is a customs broker was aware of the concealment of controlled substance or abetted the exporter in the concealment - in the absence of any evidence to show that there was active involvement of the appellant in concealment of controlled substance in its export consignment, penalty set aside - appeal allowed - decided in favour of appellant.”*

- xiv) We state that the underlying incident leading to these proceedings took place in May 2022 vide Shipping Bill No 1490020 dated 19.05.2022 i.e. more than two years ago. Therefore, there was no crying necessity for immediate action to suspend the licence now after two years of the incident and the suspension is in gross violation of Regulation 16(1) of the CBLR, 2018 and hence is required to be revoked immediately.
- xv) We, therefore, pray that all the said charges against us in these proceedings may please be dropped in toto so far as these pertain to us inasmuch as the SCN and the Suspension Order have been issued on assumptions and presumptions based on inadequate, incomplete & inconclusive investigation without proper application of mind and appreciation of evidence raising wild, baseless, bald and unsubstantiated charges. We pray to the Learned Adjudicating Authority that the facts & the circumstances of the matter may please be appreciated and justice may be rendered. The allegations made against us without any cogent evidence are seriously affecting our livelihood.
- xvi) In view of the aforesaid, the authorized representative requested that the Principal Commissioner of Customs (General) may be pleased to recall the suspension order dated 21.05.2024 and revoke the suspension.

## **8. RECORD OF PERSONAL HEARING**

In pursuance to regulation 16(2) of the CBLR, 2018, an opportunity of personal hearing was granted to the CB M/s Hirannya Shipping and Logistics Services, Shri Anil Sitaram Shrungare , Authorised Person of CB firm, Shri Rajdev Kumar Singh and Shri Hanj Raj Garg, Consultant for the personal hearing on 31.05.2024 During the personal hearing they stated that:

- i. The consignment is of May 2022 and license has been suspended in May 2024.
- ii. It is observed that out of 6 Shipping Bills only one Shipping Bill had one item out of 33 items of dual use; that only for 16 Euro MT which had total value of 8000 Euro.
- iii. Further, there was no charge of SCOMET items in the remaining 5 Shipping Bills and only charge is that BRC has not been received for which how CB can be made responsible.
- iv. There are numerous judgements on this issue.

## **9. DISCUSSIONS AND FINDINGS**

**9.1** I have carefully gone through the records of the case, the written submissions by the Customs Broker and submissions made during the personal hearing. The facts of the case and findings of investigation have been mentioned in above Paras and are not being repeated for brevity.



**9.2** The issue to be decided in the instant case is whether suspension Order No. 15/2024-25 dated 21.05.2024 is required to be continued or revoked.

**9.3** I observe that investigation received from Drawback Section, ACC, Mumbai Zone-III in the form of Show Cause Notice No. CUS/DBK/SCN/29/2024-DBK (EDI) has informed that goods covered under the Shipping Bill No. 149020 dated 19.05.2022 revealed that the goods was “Dimethylamine 40% for synthesis” and the report has alleged that the “Dimethylamine 40% for synthesis” was in the SCOMET List and CB did not submit General Authorization for Export of Chemicals and related Equipment (GAEC) issued by DGFT in e-sanchit which is imperative for the export of SCOMET items since these items have dual usage.

**9.4** I observe that the CB has taken a plea that the exporter is existing and is not a dummy and is the Proprietor of the exporting entity who participated in the investigation and his statement was recorded; that nobody including the exporter has deposed against them or has incriminated them in any manner in relation to the impugned exported goods. However, I observe that under the CBLR 2018, the CB is duty bound to advise their client on the documentary requirements for the import and export of goods. In the instant case, the CB did not advise the exporter for having General Authorization for Export of Chemicals and related Equipment (GAEC) issued by DGFT which is mandatory for the export of SCOMET items since these items have dual usage. In addition to this, BRC against the said exports has not been realized within the stipulated time period thereby causing loss to government exchequer, which could have been averted if the CB had exercised their due diligence to ascertain the correctness of any information imparted by them. Thus, it appears that the CB has worked in a very negligent manner and such grave negligent acts by CB should not be condoned.

**9.5** I observed that the said CB has relied upon judgement of Hon’ble CESTAT Order in the case of M/s Sun Impex Clearing & Shipping Agency, Customs Broker, Vs Commissioner of Customs (Preventive) Jaipur reported as 2024 (4) TMI 1068 - CESTAT NEW DELHI in a matter which pertained to export of SCOMET items without export authorization nevertheless after delving/probing into facts and matter of the aforesaid case, it can be effortlessly noticed that in the above-mentioned case the exporter had exported fermenters and parts of machinery which can be difficult for a Customs Broker to comprehend the status of goods falling in the list of SCOMET items or not but in the instant case, it can be easily figured out “Dimethylamine Solution” falls in the SCOMET List and there was no obscurity found in the description which itself proves that the said Customs Broker did not advise his client/export to furnish valid mandatory General authorization for Export of Chemicals and related Equipment (GAEC) issued by DGFT which is imperative for clearance of items of dual usage. Further, I find that the facts and findings of the aforesaid case are contrastive hence this is not squarely applicable in the instant case.

**9.6** I observe that the CB has a very important role in customs clearances and lot of trust has been placed by the Department on the CB. In regime of trade facilitation and with more and more of the goods being facilitated by the Risk Management Systems without examination by the Customs, the role of CB has further increased so that economic frontiers of the country are well guarded. In this regard, I rely on the judgement of the

Hon'ble Supreme Court in case of Commissioner of Customs Vs M/s K.M. Ganatra & Co has held that: "the Customs House Agent (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 namely carriers, custodians like BPT as well as the Customs. The importer would find it impossible to clear his goods through its 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..."

**10.** Further, I rely on the judgement of the Hon'ble High Court of Madras in case of Cappithan Agencies vs. Commissioner of Customs, Chennai-VIII, 2015 (326) E.L.T. 150 (Mad.), has held that:

"...Therefore, the grant of licence to act as a Custom House Agent has got a definite purpose and intent. On a reading of the Regulations relating to the grant of licence to act as CHA, it is seen that while CHA should be in a position to act as agent for the transaction of any business relating to the entry or departure of conveyance or the import or export of goods at any customs station, he should also ensure that he does not act as an Agent for carrying on certain illegal activities of any of the persons who avail his services as CHA. In such circumstances, the person playing the role of CHA has got greater responsibility. The very description that one should be conversant with the various procedures including the offences under the Customs Act to act as a Custom House Agent would show that while acting as CHA, he should not be a cause for violation of those provisions. A CHA cannot be permitted to misuse his position as CHA by taking advantage of his access to the Department. The grant of licence to a person to act as CHA is to some extent to assist the Department with the various procedures such as scrutinizing the various documents to be presented in the course of transaction of business for entry and exit of conveyances or the import or export of the goods. In such circumstances, great confidence is reposed in a CHA. Any misuse of such a position by the CHA will have far reaching consequences in the transaction of business by the customs house officials. Therefore, when, by such malpractices, there is loss of revenue to the custom house, there is every justification for the Respondent in treating the action of the Petitioner Applicant as detrimental to the interest of the nation and accordingly, final order of revoking his licence has been passed."

**11.** In view of the discussion held above, I have no doubt that the suspension of the CB licence vide Order No. 15/2024-25 dated 21.05.2024 under regulation 16 (1) of the CBLR,2018 was just and proper. The said regulation reads as: -

***"16. Suspension of license.*** *Notwithstanding anything contained in regulation 14, the Principal Commissioner or Commissioner of Customs may, in appropriate cases where immediate action is necessary, suspend the license*

of a Customs Broker where an enquiry against such Customs Broker is pending or contemplated.”


12. From the above facts, prima-facie, the Customs Broker M/s Hirannya Shipping and Logistics Services, (PAN No. AYHPS8411J) (CB No. 11/2002) appears to have failed to fulfill their responsibilities as per Regulation 10 (d), 10 (e) and 10 (m) of CBLR, 2018.

13 Accordingly, I pass the following order: -

**ORDER**

13.1 I, Principal Commissioner of Customs (General), in exercise of powers conferred upon me under the provisions of Regulation 16 (2) of CBLR, 2018 order that the suspension of the Customs Broker License M/s Hirannya Shipping and Logistics Services, (PAN No. AYHPS8411J) (CB No. 11/2002) ordered vide Order No. 15/2024-25 dated 21.05.2024 shall be continued, pending inquiry proceedings under Regulation 17 of CBLR, 2018.

13.2 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 thereunder or under any other law for the time being in force.

  
11/6/2024

(SUNIL JAIN)

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

To,

1. M/s Hirannya Shipping & Logistics Services  
HO: 18/4, Shree Siddhivinayak Nivas CHS Ltd.,  
3 Dornic Colony, Orlem Malad (West), Mumbai-400064.

Copy to:

1. The Pr./Chief Commissioner of Customs, Mumbai Zone I, II, III.
2. CIU's of NCH, ACC & JNCH.
3. The Commissioner of Customs, Mumbai Zone I, II, III.
4. EDI of NCH, ACC & JNCH.
5. BCBA.
6. Office copy.
7. Notice Board.