



प्रधान सीमाशुल्क आयुक्त (सामान्य) का कार्यालय  
**OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (GENERAL)**  
कस्टम ब्रोकर अनुभाग, नवीन सीमाशुल्क भवन,  
**CUSTOMS BROKER SECTION, NEW CUSTOM HOUSE,**  
बेलार्ड इस्टेट, मुंबई - 1  
**BALLARD ESTATE, MUMBAI - I**

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

Date: 21.05.2024

DIN: 2024057700000000 B8D2

**ORDER NO. 15 /2024-25 CBS**

M/s Hirannya Shipping & Logistics Services, (PAN No. AYHPS8411J), having registered address HO: 18/4, Shree Siddhivinayak Nivas CHS Ltd., 3 Domnic 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.

**Brief Facts of the Case:**

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	RODTEP	DBK	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 letter. 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.
2	1680890	05-10-2021	0	11356	0	6488	648757.05	0	Hirannya
3	1488690	19/05/2022	0	0	0	0	24391.15	0	Shipping
4	1490020	19/05/2022	0	0	10	2032	240693.78	0	&
5	1490519	19/05/2022	0	0	77	2670	286186.85	0	Logistics
6	2197134	17/06/2022	0	0	4718	4513	482073.84	0	Services
7	3293950	08-04-2022	0	0	251	408	31363.2	0	M/s.
8	3418416	08-10-2022	0	0	0	0	17600	0	Eastern Cargo Carriers
Total			<b>0</b>	<b>13546</b>	<b>5056</b>	<b>17733</b>	<b>1893224.37</b>	<b>0</b>	

Amount in Rs.

### 3. Summary of Investigation:

**3.1** 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).

**3.2** 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.

**3.3** 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.

**3.4** 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.

**3.5** 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.

**3.6** 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.

**4.** 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: -

**4.1 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.

**4.2 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.

**4.3 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.

**4.4** 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.

**5.** 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...”*

**6.** 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.

7. 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. 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.

8. Accordingly, I pass the following Order:

**ORDER**

8.1 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 CB licence of M/s. Hirannya Shipping & Logistics Services (11/2002) with immediate effect, being fully satisfied that the Customs Broker has prima-facie did not fulfil their obligations as laid down under Regulation 10(d), 10(e) & 10(m) of CBLR, 2018.

8.2 However, I offer the Customs Broker M/s. Hirannya Shipping & Logistics Services CB No. (11/2002) an **opportunity of personal hearing** on 21/5/2024 at 12.30 PM hours. Any written representation against this order should reach the undersigned before the date of hearing.

8.3 M/s. Hirannya Shipping & Logistics Services (CB No. 11/2002), (PAN No. AYHPS8411J) is directed to surrender all the original Custom Passes issued to their employee/partner/director/Proprietor immediately.

8.4 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**

To,

1. M/s Hirannya Shipping & Logistics Services  
HO: 18/4, Shree Siddhivinayak Nivas CHS Ltd.,  
3 Domnic 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.