



प्रधानआयुक्त) सामान्य (सीमाशुल्ककाकार्यालय)  
**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/LIC/29/2022-CBS

Date: ~~06.2023~~

DIN: 20230777000009909C1

03.07.2023

**ORDER NO. 22/2023-24**

M/s NVS Logistics Pvt. Ltd. (CB No. 11/2727) (PAN No. AAHCN9429L) hereinafter referred to as the "Customs Broker", situated at 1006, 10<sup>TH</sup> Floor, Building CBD 61 four, Plot No. 12, Sector -15, CBD, Belapur, Navi Mumbai-400614, is holding a regular Custom Broker License No. 11/2727, on the strength of Mr. Rohit Ramchandra Deo (Regulation 6 passed employee), issued vide Public Notice No. 222/2021-22 dated 03.03.2022, under provisions of Customs Broker Licensing Regulations, 2018.

2. This office is in receipt of a letter dated 28.11.2022 (Sevottam Receipt No. 6033 dated 28.11.2022) from Shri Rohit R. Deo, the only 'F' Card holder of the Customs Broker M/s. NVS Logistics Pvt. Ltd. (11/2727), wherein it was submitted that he had resigned from the said Customs Broker on 31.10.2022. Shri Rohit R. Deo has Surrendered his original 'F' Category Customs Pass, Kardex No. 3099/2022 with a request to cancel his 'F' card Customs pass and remove his name from the Customs Broker.

3. It is the obligation of CB to intimate this office about any change of Rule 6 Authorised Person as per Regulation 13 (11) of CBLR, 2018. However, CB M/s. NVS Logistics Pvt. Ltd. (CB No. 11/2727) (PAN No. AAHCN9429L) has not intimated this office about the resignation or change of Rule 6 Authorised Person in their company, hence it appeared that CB M/s. NVS Logistics Pvt. Ltd. (CB No. 11/2727) has violated the provisions of Regulation 13 (11) of CBLR, 2018.

4. Further, as per regulation 7(2) (b) of CBLR, 2018 it is the obligation of a Customs Brokers Company, firm or association to have at least one Regulation 6 qualified person (director, partner or an authorised employee). Data retrieved from ADAIT relating to the Customs clearance work (Imports and Exports) revealed that that CB M/s. NVS Logistics Pvt. Ltd. has filed 36 Bs/E and 15 S/Bs in Zone - II for the period of October, 2022 to February, 2023 in absence of Regulation 6 qualified person (i.e. Shri Rohit R. Deo), hence it appeared that the CB has violated provisions of

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Regulation 7 (2) (b) of the CBLR, 2018.

5. By the above act of omission, it appeared that CB M/s NVS Logistics Pvt. Ltd. (CB No. 11/2727) has violated the provisions of Regulation 7(2) (b) and 13(11) of CBLR, 2018 which inter-alia state that:

Regulation 7(2) (b):

"A customs broker's license may be granted to any company, firm or association in Form B2 if at least one director, partner, or an authorised employee, as the case may be, has passed the examination referred to in regulation 6:"

Regulation 13(11):

*"Any change in the persons issued a F card or G card or H card and actually engaged in the work in the Customs Station on behalf of a licensee firm or company shall be communicated forthwith by the firm or the company, as the case may be, to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, and no new person other than 'F', 'G' or 'H' card holders, shall be allowed to work in the Customs Station as a duly authorised employee on behalf of that firm or company."*

6. In view of the above, license of the Customs Broker M/s. NVS Logistics Pvt. Ltd. was made inoperative in the system on 01.02.2023.

7. From the above facts, it appeared that Customs Broker M/s. NVS Logistics Pvt. Ltd. (CB No. 11/2727) has failed in their obligations as per the Regulation 7 (2) (b) and 13(11) of CBLR, 2018. Accordingly, the license of the Customs Broker M/s. NVS Logistics Pvt. Ltd. (CB No. 11/2727) was suspended vide Order No. 06/2023-24 dated 02.05.2023 and CB was given opportunity of 'Personal Hearing' in this matter on 16.05.2022. Shri Nitin S. Sable, Director of the CB M/s. NVS Logistics Pvt. Ltd. (CB No. 11/2727) and Consultant Shri Prashant V. Kubal appeared for personal hearing and submitted their submissions dated 15.05.2023. Suspension of the Customs Broker License of the CB M/s. NVS Logistics Pvt. Ltd. (CB No. 11/2727) was revoked vide Order No. 11/2023-24 dated 22.05.2023 subject to approval of 'F' category person.

8. Since, CB M/s. NVS Logistics Pvt. Ltd. (CB No. 11/2727) has violated the provisions of Regulation 7(2) (b) and 13(11) of CBLR, 2018, a Show Cause Notice is required to be issued to CB apart from action under Regulation 16 (1) and 16 (2) of the CBLR, 2018. However, vide letter dated 16.05.2023, the CB M/s. NVS Logistics Pvt. Ltd. requested for waiver of Show Cause Notice and re-iterated their submission vide

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letter dated 15.05.2023. The CB M/s. NVS Logistics Pvt. Ltd. vide their letter dated 19.05.2023 further requested for waiver of personal hearing in the matter and requested to take lenient view in the matter. Accordingly, written notice has not been given to the CB M/s. NVS Logistics Pvt. Ltd. (CB No. 11/2727).

#### **WRITTEN SUBMISSION OF THE CB**

9. The Customs Broker M/s. NVS Logistics Pvt. Ltd. (CB No. 11/2727) in their written submission dated 15.05.2023 submitted the following submission, which are as under :-

9.1 Customs Broker License was granted to their company M/s. NVS Logistics Pvt. Ltd. vide Public Notice No. 222/2021-22 dated 31.03.2022.

9.2 There are two directors in their company viz. (1) Mrs. Vidyadevi Nitin Sable, non-working director and (2) Mr. Nitin S. Sable, working Director. Mr. Rohit Deo was Regulation '6' qualified person.

9.3 In their company, Mr. Nitin Sable is having G with P/A pass and all documents were filed using the dongle provided to him.

9.4 In para 2 of the said Order, it is stated that Shri Rohit R. Deo, the only 'F' Card holder of the Customs Broker M/s. NVS Logistics Pvt. Ltd. (11/2727) submitted a letter dated 28.11.2022 (Sevottam Receipt No. 6033 dated 28.11.2022) to CB Section, New Custom House, Ballard Estate, Mumbai - 400 001, wherein he submitted that he had resigned from the said Customs Broker on 31.10.2022; that Shri Rohit R. Deo has surrendered his original 'F' Category Customs Pass, Kardex No. 3099/2022 with a request to cancel his 'F' card Customs Pass and remove his name from the Customs Broker.

9.5 The CB submitted that they have received copy of the aforesaid letter dated 28.11.2022 of Shri Rohit R. Deo along with Order dated 02.05.2023. As per the said letter dated 28.11.2022, it was received in Customs on 28.11.2022. The CB submitted that, Shri Rohit R. Deo had not submitted any resignation letter to them. The CB submitted that they have checked all the office records/ official email of their company and found that no such resignation letter (by hand delivery/ by post / by courier) or email on company's email has been received so far. Since, no such resignation letter was received, their company could not process his resignation.

9.6 The CB submitted that since, they were totally unaware about the resignation of Mr. Rohit R. Deo, their G/PA pass holder director Mr. Nitin Sable continued filing documents (Shipping Bills and Bills of Entry). In the month of February, 2023 our Customs Broker license was de-activated in the system by the Customs Department. Thus, they continued their Customs Broker work during the said period from 31.10.2022 to 01.02.2023.

9.7 The CB submitted that, the said letter dated 28.11.2022 of Shri Rohit R. Deo

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was not communicated to them by the CB Section, New Custom House till date. If the said letter was communicated to them immediately by the Customs Department, they would have communicated with Mr. Rohit R. Deo and comply with provision of Regulation 13 (11) of the CBLR, 2013. Thus, the charge of violation of provisions of Regulation 13 (11) of CBLR, 2013 was due to mis-communication of resignation of Shri Rohit R. Deo with their Custom Broker company.

9.8 The CB further submitted that 'F' category pass was issued to Shri Rohit R. Deo as per their Customs Broker company's request. As per the provisions of Regulation 13 (11) of the CBLR, 2018, the Custom Broker are under obligation to communicate the Deputy Commissioner of Customs and Assistant Commission of Customs regarding any change in the Persons issued a F card or G card or H card. Thus, as per provisions of Regulation 13 (11) of the CBLR, 2018, Customs Broker surrendered F/G/H card of persons and requested for cancellation of the Customs Pass. Since, the 'F' category Custom Pass was surrendered by Shri Rohit R. Deo, their Custom Broker company could not communicate his resignation to the Custom Department as per Regulation 13 (11) of the CBLR, 2018. The CB submitted that submission of aforesaid letter dated 28.11.2022 of Shri Rohit R. Deo regarding communication of his resignation and directly surrendering his 'F' category to the Custom Department indicates that their Custom Broker company was unaware about his resignation.

9.9 The CB submitted that there has been catena of judgements wherein Doctrine of Impossibility has been treated as one of the principles of equity including in taxation matters. The fundamental tests that have been applied by Courts before applying legal principles to the facts of the case are to see whether the event of non-compliance with the law was beyond the control of the person or occurred without any fault of the person. In this case, Noncompliance with the law has occurred due to lack of knowledge on their part about the resignation of F Card Holder.

9.10 The CB further submitted that there was no mala fide intention on their part to continue the work without any F Card Holder. Thus, when they learned that their license was suspended, they initiated efforts to appoint a new F Card Holder in the firm. Accordingly, new F Card Holder Mr. Subhash was appointed on 01.03.2023 and the same was intimated to the Department vide letter dated 13.03.2023.

9.11 The CB submitted that they got the CB License in the year 2022 and they have tried to comply with the provisions of CBLR, 2018 to the best of their knowledge and abilities. However, Suspension of License since last three months has had a devastating impact on their lives and livelihoods.

9.12 The CB requested to take a lenient view on the matter and restore the license.

#### **DISCUSSION AND FINDINGS**

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10. I have gone through the fact of the case. The issue before me at the present instance is limited to determining whether action under provisions of the CBLR, 2018 on the CB M/s. NVS Logistics Pvt. Ltd. (CB No. 11/2727) is warranted or otherwise in the instant case in the light of the material on record.

11. I find that in the instant case, the license of the Customs Broker M/s. NVS Logistics Pvt. Ltd. (CB No. 11/2727) was suspended vide Order No. 06/2023-24 dated 02.05.2023. Suspension of the Customs Broker License of the CB M/s. NVS Logistics Pvt. Ltd. (CB No. 11/2727) was revoked vide Order No. 11/2023-24 dated 22.05.2023 subject to approval of 'F' category person.

12. I find that vide letter dated 16.05.2023, the CB M/s. NVS Logistics Pvt. Ltd. requested for waiver of Show Cause Notice and re-iterated their submission vide letter dated 15.05.2023. The CB M/s. NVS Logistics Pvt. Ltd. vide their letter dated 19.05.2023 further requested for waiver of personal hearing in the matter and requested to take lenient view in the matter. Accordingly, I proceed to decide the case based on available records.

13. I find that Shri Rohit R. Deo was the only 'F' card holder of the Customs Broker M/s. NVS Logistics Pvt. Ltd. (CB No. 11/2727). Shri Rohit R. Deo, the only 'F' Card holder of the Customs Broker M/s. NVS Logistics Pvt. Ltd. (11/2727) vide his letter dated 28.11.2022 (Sevottam Receipt No. 6033 dated 28.11.2022) submitted that he had resigned from the said Customs Broker on 31.10.2022. Shri Rohit R. Deo has Surrendered his original 'F' Category Customs Pass, Kardex No. 3099/2022 with a request to cancel his 'F' card Customs pass and remove his name from the Customs Broker.

14. I find that it is the obligation of CB to intimate this office about any change of Rule 6 Authorised Person as per Regulation 13 (11) of CBLR, 2018. However, CB M/s NVS Logistics Pvt. Ltd. (CB No. 11/2727) (PAN No. AAHCN9429L) has not intimated this office about the resignation or change of Rule 6 Authorised Person in their company, hence CB M/s. NVS Logistics Pvt. Ltd. (CB No. 11/2727) has violated the provisions of Regulation 13 (11) of CBLR, 2018.

15. The defense submission stated that Shri Rohit R. Deo had not submitted any resignation letter to them.; that they have received copy of the aforesaid letter dated 28.11.2022 of Shri Rohit R. Deo along with Order dated 02.05.2023; that they have checked all the office records/ official email of their company and found that no such resignation letter (by hand delivery/ by post / by courier) or email on company's email has been received so far. The defense submission further stated that since, no

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such resignation letter was received, their company could not process his resignation.

16. The defense submission further stated that as per the provisions of Regulation 13 (11) of the CBLR, 2018, the Custom Broker are under obligation to communicate the Deputy Commissioner of Customs and Assistant Commission of Customs regarding any change in the Persons issued a F card or G card or H card; that as per provisions of Regulation 13 (11) of the CBLR, 2018, Customs Broker surrenders F/G/H card of persons and request for cancellation of the Customs Pass. The CB further submitted that since, the 'F' category Custom Pass was surrendered by the Shri Rohit R. Deo, in his individual capacity, their Custom Broker company could not communicate his resignation to the Custom Department as per Regulation 13 (11) of the CBLR, 2018.

17. I have perused the aforesaid letter dated 28.11.2022 Shri Rohit R. Deo, the only 'F' Card holder of the Customs Broker M/s. NVS Logistics Pvt. Ltd. (11/2727) intimating his resignation the said Customs Broker on 31.10.2022. I find that Shri Rohit R. Deo, 'F' Card holder of CB M/s. NVS Logistics Pvt. Ltd. (11/2727), has not informed this office that his resignation has been accepted by the Customs Broker M/s. NVS Logistics Pvt. Ltd. (11/2727). I find that Shri Rohit R. Deo has surrendered his Original 'F' category Customs pass to this office. Thus, I find force in the CB's submission that they were unaware about the resignation of Shri Rohit R. Deo. However, as per Para 13(12) of the CBLR 2018 CB is responsible for all acts or omission of his employees during their employment and thus I hold the CB responsible for violation of Regulation 13(11).

18. I find that data retrieved from ADVAIT relating to the Customs clearance work (Imports and Exports) revealed that that CB M/s. NVS Logistics Pvt. Ltd. has filed 36 Bs/E and 15 S/Bs in Zone - II for the period of October, 2022 to February, 2023 in absence of Regulation 6 qualified person (i.e. Shri Rohit R. Deo). This fact has been confirmed by the CB M/s. NVS Logistics Pvt. Ltd. (CB No. 11/2727) in their written submission dated 15.05.2023. Thus, I hold that the CB has violated provisions of Regulation 7 (2) (b) of the CBLR, 2018.

19. In view of the above, I hold the Customs M/s. NVS Logistics Pvt. Ltd. (CB No. 11/2727) liable for consequences for violation of provisions of Regulation 13 (11) and 7 (2) (b) of the CBLR, 2018. Accordingly, I pass the following order:

### ORDER

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19 I, Principal Commissioner of Customs (General), in exercise of powers conferred upon me under the provision of Regulation 18 of the CBLR, 2018, hereby impose a penalty of Rs. 50,000/- (Rupees Fifty Thousand only) on the Customs Broker, M/s. NVS Logistics Pvt. Ltd. (CB No. 11/2727) (PAN No. AAHCN9429L) for violation of provisions under Regulation 13 (11) and 7 (2) (b) of CBLR, 2018. The Customs Broker is advised to be careful in future and not to repeat this act.

20. This order is issued without prejudice to any other action that may be taken against the CB or any other persons (s)/ firm (s) etc. under the provisions of the Customs Act, 1962 and Rules / Regulations framed there under or any other law for the time being in force.

*(Signature)*  
3/2/2023  
(Sunil Jain)

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

To,

M/s NVS Logistics Pvt. Ltd. (CB No. 11/2727)  
(PAN No. AAHCN9429L)

*(Signature)*  
3/2/2023  
Nishu Sable  
3109/2022

Copy to:

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