



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/383/2024 -CBS आदेश दिनांक/Date of Order: 09.12.2024

CAO No. 56/2024-25/CAC/PCC(G)/RC/Adj-CBS जारी दिनांक/Date of issue: 09.12.2024

संख्या:

DIN : 20241277000000001210

द्वारा जारी : राजन चौधरी

Issued By : **Rajan Chaudhary**

प्रधान आयुक्त, सीमाशुल्क(सामान्य)

Pr. Commissioner of Customs (Gen.)

मुंबई -400 001

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।

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2. इस आदेश के विरुद्ध अपील माँगे गए राशी के 7.5% के भुगतान पर सीमाशुल्क अधिनियम, 1962 की धारा 129A(1B)(i) के संबंध में 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, यथोत्खंडपीठ में स्वीकार्य है।

An appeal against this order lies with the Customs, Central Excise and Service Tax Appellate Tribunal in ter

ms 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

31.05.2018के अनुसार न्यायिक आदेश तदोऽप्रांत 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 6के तहत निर्धारित है एवं उसी नियमावली के नियम में 2 के उपनियम 3उल्लेखित 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 जुर्माने 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 रुके शुल्क का भुगतान क्रॉस्ड बैंक ड्राफ्ट के माध्यम से -/10000 . 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, 1870की अनुसूची मद 6के तहत निर्धारित रु . 50का कोर्ट फी स्टैम्प लगा होना चाहिए एवं इसके साथ संलग्न इस आदेश की उक्त प्रति में रु50 . का कोर्ट फी स्टैम्प लगा होना चाहिए।

One 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:-

Shri Ravindra Dattatray Nimkar (PAN No. AACPN6074B), a regulation 6 of Customs Broker Licensing Regulations, 2013 (CBLR, 2013) (now CBLR, 2018) qualified person, is engaged in the work relating to the clearance of goods through customs on behalf of Customs Broker firm M/s Habib Haji Moledina and as such he is bound by the regulations and conditions stipulated therein.

2. During analysis of data in the Customs Brokers Licensing and Management System (CBLMS) in relation to the Customs Brokers licence issued under Mumbai Customs Zone under Regulation 7(2) of the Customs Broker Licensing Regulations, 2018 (CBLR, 2018) or any other erstwhile regulations, it is observed that Shri Ravindra Dattatray Nimkar having PAN No. AACPN6074B was mentioned as Authorised Person/Qualified Person in 03 Custom Broker Firm/Company namely (i) M/s Rashmi Shipping Agency (ii) M/s Habib Haji Moledina & (iii) M/s SAR Transport Systems Pvt Ltd.

3. As per the 1st provision to regulation 7(2)(b) the authorized employee (F card holder) of the CB firm may be engaged in only one firm or company for transacting business under CBLR, 2018. The said proviso reads as: -

“Provided that at any given time such director, partner or an authorised employee shall not engage himself for transacting business under these regulations on behalf of more than one such firm or company:”

4. The Custom Broker Firm/Company namely (i) M/s Rashmi Shipping Agency (ii) M/s Habib Haji Moledina & (iii) M/s SAR Transport Systems Pvt Ltd vide letters dated 05.04.2024, 08.04.2024 & 22.03.2024 respectively were called upon to share the details of the authorised persons in their respective CBs.

5. CB M/s Rashmi Shipping Agency vide letter dated 06.05.2024 inter-alia stated that:

(a) They appointed Shri Ravindra Dattatray Nimkar as F-Category employee in their company and informed the department vide letter Sevottam Receipt No. 2404 dated 11.11.2020.

(b) They received a speed post on 30.05.2022 from Shri Ravindra Dattatray Nimkar submitting a resignation letter addressed to their company and Customs Broker Section and a copy of the customs pass were sent.

(c) They submitted a letter dated 30.05.2022 to the department in reference to the resignation of Shri Ravindra Dattatray Nimkar.

6. CB M/s Habib Haji Moledina vide letter dated 17.04.2024 forwarded an affidavit of Shri Ravindra Dattatray Nimkar inter-alia stating that:

(a) He was appointed as qualified person/authorised person in the CB M/s Rashmi Shipping Agency in the year 2016 where he had F-Card valied till 24.05.2022.

(b) He resigned from M/s Rashmi Shipping Agency on 25.05.2022 and intimated the department vide Sevottam Receipt No. 2631 dated 25.05.2022.

(c) Vide appointment letter dated 01.06.2022, he was appointed as a qualified person/authorised person in the CB M/s Habib Haji Moledina.

(d) He affirmed and declared that he had never worked with any other CB except CBs M/s Rashmi Shipping Agency & M/s Habib Haji Moledina.

7. CB M/s Habib Haji Moledina vide letter dated 28.05.2024 forwarded another affidavit of Shri Ravindra Dattatray Nimkar inter-alia stating that:

(a) He resigned from the CB M/s Rashmi Shipping Agency on 25.05.2022.

(b) He retired from the CB M/s SAR Transport Systems Pvt Ltd. on 22.04.2024.

(c) Now he is in the CB firm M/s Habib Haji Moledina and wish to continue with them as F-Card holder.

(d) Vide appointment letter dated 01.06.2022, he was appointed as a qualified person/authorised person in the CB M/s Habib Haji Moledina.

(e) He affirmed and declared that he had never worked with any other CB except CB's stated above.

8. The CB M/s SAR Transport Systems Pvt Ltd. vide their letter dated 19.04.2024 forwarded the details of the authorised person of their company. On perusal of the reply, it is observed that Shri Ravindra Dattatray Nimkar was their authorised signatory since 2019 till 22.04.2024 (as per affidavit stating retirement from M/s SAR Transport Systems Pvt Ltd). It is also informed that he was holding a valid F-Card No. 1437/2019 valid upto 11.02.2029.

9. Further, records of the respective licence files of the aforesaid Customs Brokers were also examined. Findings of the examination of these licences files are discussed in subsequent paras:

9.1 On perusal of the licence file of M/s Habib Haji Moledina following points emerged that :

- (a) They appointed Shri Ravindra Dattatray Nimkar vide appointment letter dated 01.06.2022 in their CB firm. The Department issued a Notice No. 109/2022-23 dated 03.08.2022 informing his addition as F-Card holder in the said CB firm.
- (b) Shri Ravindra Dattatray Nimkar was their authorised signatory till date and holding F-Card No. 4344/2022 having life time validity.

9.2 On perusal of the licence file of M/s Rashmi Shipping Agency following points emerged that:

- (a) Shri Ravindra Dattatray Nimkar was their authorised signatory and holding F-Card No. 501/2021 valid up to 31.12.2025. He worked as authorised / qualified person in the said CB from 11.11.2020 to 25.05.2022.
- (b) He surrendered the said F-Card vide letter dated 25.05.2022.

9.3 On perusal of the licence file of M/s SAR Transport Systems Pvt Ltd. following points emerged:

- (a) They appointed Shri Ravindra Dattatray Nimkar on 20.05.2019 as authorised signatory in their CB company.

- (b) The application submitted to the department was enclosing a copy of handwritten letter of Shri Ravindra Dattatray Nimkar for his resignation from the CB M/s SJS Logistics Pvt Ltd.
- (c) The application was comprising with an undertaking from Shri Ravindra Dattatray Nimkar inter-alia stating that he had never worked with any Customs Broker in Mumbai Customs and was never issued any Customs Pass from Mumbai Customs.
- (d) Shri Ravindra Dattatray Nimkar was their authorised signatory till 22.04.2024 (as per affidavit stating retirement from M/s SAR Transport Systems Pvt Ltd) and holding F-Card No. 1437/2019 valid upto 11.02.2029.

10. From the foregoing paras it appears that:

- (a) Shri Ravindra Dattatray Nimkar was working as authorised signatory / qualified person simultaneously in 03 CB firms namely (i) M/s Rashmi Shipping Agency (from 11.11.2020 to 25.05.2022), (ii) M/s Habib Haji Moledina (from 01.06.2022) & (iii) M/s SAR Transport Systems Pvt Ltd. (from 20.05.2019 to 22.04.2024)
- (b) He submitted wrong affidavits stating that he had never worked with any other CBs other than M/s Rashmi Shipping Agency & M/s Habib Haji Moledina, whereas he was working with another CB M/s SAR Transport Systems Pvt Ltd. Further, he had worked as F-Card holder in another CB M/s SJS Logistics Pvt Ltd.

11. Based on the facts on record and applicable laws, Rules and Regulations, prima facie it appeared that Shri Ravindra Dattatray Nimkar (PAN No. AACPN6074B), F card holder, has violated provision of Regulation 7(2)(b) of Customs Brokers Licensing Regulations (CBLR), 2018. Accordingly, action under CBLR, 2018 was taken against Sh. Ravindra Dattatray Nimkar (PAN – AACPN6074B) and a Show Cause Notice No. 30/2024-25 dated 05.07.2024 was issued to him under Regulation 17(1) of CBLR, 2018 wherein he was called upon to show cause as to why:

- (i) He should not be debarred from working as F-Card holder to act as Authorised Person / Qualified Person in a company/firm/concern under regulation 14 read with regulation 7(2)(b) and 17(8) of the CBLR, 2018;
- (ii) Penalty should not be imposed upon him under regulation 18 read with regulation 7(2)(b) and 17(8) of the CBLR, 2018.

11.1 Also, inquiry under regulation 17 of CBLR, 2018 was initiated against Shri Ravindra Dattatray Nimkar (PAN – AACPN6074B) and Shri. Rohitkumar Bhaisare, Deputy Commissioner of Customs was appointed as Inquiry Officer to conduct the inquiry proceedings under regulation 17 of CBLR, 2018. The following article of charge was framed against Shri Ravindra Dattatray Nimkar (PAN – AACPN6074B):

- (i) **Violation of Regulation 7(2)(b) of CBLR, 2018** – *“Provided that at any given time such director, partner or an authorised employee shall not engage himself for transacting business under these regulations on behalf of more than one such firm or company:”*

12. The inquiry officer completed the inquiry proceedings and submitted the Inquiry Report dated 26.08.2024 wherein he concluded that the article of charge levelled against Sh. Ravindra Dattatray Nimkar (PAN – AACPN6074B) is held as ‘proved’.

FINDINGS OF THE INQUIRY OFFICER (IO):-

13. The IO stated that the regulation 6 qualified person Shri Ravindra Dattatray Nimkar, in his written submissions dated 16.08.2024, submitted during personal hearing before the IO, submitted that – “When the F-Card holder shifts from one company to another it generally takes 3-4 months and due to this they do not get paid for that period. He further submitted that being Senior Citizen with many medical ailments his case to be viewed sympathetically.”

14. The IO submitted that the present inquiry against the charged qualified person is limited to ascertain whether the Customs Broker has violated any of the provisions,

mentioned in Customs Brokers Licensing Regulations (CBLR), 2018, by any act or omission. On perusal of the Show Cause Notice 30/2023-24 dated 05.07.2024, it is observed that the qualified person has been alleged to have violated the provisions of Regulation 7(2) (b) of Customs Brokers Licensing Regulations (CBLR), 2018.

14.1 The IO submitted that on perusal of the records it is noticed that the subject show cause notice is based on analysis of data in the Customs Brokers Licensing and Management System (CBLMS), it is observed that Shri Ravindra Dattatray Nimkar having PAN No. AACPN6074B was mentioned as Authorised Person/Qualified Person in 03 Custom Broker Firm/Company namely (i) M/s Rashmi Shipping Agency (ii) M/s Habib Haji Moledina & (iii) M/s SAR Transport Systems Pvt Ltd.

Relevant Provisions of Customs Brokers Licensing Regulations (CBLR), 2018.

Regulation 7(2)(b):-

“(2) The applicant who has paid the fee referred to in sub-regulation (1) shall be granted a license by the Principal Commissioner or Commissioner of Customs, as below: -

(a) An individual shall be granted the license in FormB1 if that individual has passed the examination referred to in regulation 6.

(b) A customs broker's license may be granted to any company, firm or association in FormB2 if at least one director, partner, or an authorised employee, as the case may be, has passed the examination referred to in regulation 6:

Provided that at any given time such director, partner or an authorised employee shall not engage himself for transacting business under these regulations on behalf of more than one such firm or company.”

15. Article of Charge-I: Violation of the provisions of Regulation 7(2)(b) of Customs Brokers Licensing Regulations (CBLR), 2018:-

(a) The IO submitted that he had gone through the SCN dated 05.07.2024 and written statement dated 16.08.2024 submitted by qualified person during personal hearing wherein

qualified person has denied the charge of violation of the regulation 7(2)(b). However, from the CBLMS data it can be seen that Shri Ravindra Dattatray Nimkar was working as authorized signatory/ qualified person simultaneously in 03 CB firms namely (i) M/s Rashmi Shipping Agency (from 11.11.2020 to 25.05.2022), (ii) M/s Habib Haji Moledina (from 01.06.2022) & (iii) M/s SAR Transport Systems Pvt Ltd. (from 20.05.2019 to 22.04.2024).

(b) The IO submitted that it is evident that qualified person has violated regulation 7(2)(b) by simultaneously working in M/s Habib Haji Moledina (from 01.06.2022) and M/s SAR Transport Systems Pvt Ltd. (from 20.05.2019 to 22.04.2024). He submitted wrong affidavits stating that he had never worked with any other CBs other than M/s Rashmi Shipping Agency & M/s Habib Haji Moledina, whereas he was working with another CB M/s SAR Transport Systems Pvt Ltd. Further, he had worked as F-Card holder in another CB M/s SJS Logistics Pvt Ltd also.

(c) The IO submitted that after perusal of all the RUD's of SCN and written statement of the qualified person it is evident that qualified person has violated the regulation 7(2)(b) of Customs Brokers Licensing Regulations (CBLR), 2018 by transacting business under these regulations on behalf of more than one such firm or company

(d) Thus, the IO hold that the charges of violation of Regulation 7(2)(b) of Customs Brokers Licensing Regulations (CBLR), 2018 as '**Proved**'.

16. Under the provisions of Regulation 17(6) of CBLR, 2018, a copy of the Inquiry Report dated 26.08.2024 was shared with Sh. Ravindra Dattatray Nimkar and for the sake of 'Principle of Natural Justice' an opportunity of personal hearing was granted to Sh. Ravindra Dattatray Nimkar on 09.10.2024.

RECORDS OF PERSONAL HEARING:-

17. Sh. Ravindra Dattatray Nimkar, the regulation 6 qualified person appeared for personal hearing on 09.10.2024 and submitted his written submission dated 09.10.2024 and reiterated the same.

WRITTEN SUBMISSIONS:-

18. Sh. Ravindra Dattatray Nimkar, vide his letter dated 09.10.2024 submitted that:

(a) He has appeared for rule 6 exam which was announced in year 2013, in the I batch of examination, at the age of 64 year. The result of both written & oral examination was fully declared after exam, in the month of December 2014. I was not aware about the rule 7(2)(b) when in 2013 this new rules were declared or not.

(b) He submitted that after 04 years the rules were amended in 2018, he first time worked as F rule person in one of his friend's company SJS Logistics Pvt. Ltd during 2016-17-18. This company had the license of Kandala Custom. Subsequently, because of dispute among partners, the activity of business in this company largely affected. They reduced his salary month after month during year 2018. He submitted his resignation directly to Kandala Custom office.

(c) During earlier period there were lot of agent activity following the recruitment of F card employee in the custom in Mumbai. One of the agents named Param Singh who was searching for a F card person for M/S. SAR TRANSPORT SYSTEM (P) Ltd. got his contact through his source & met him. He (Param Singh) made all arrangement of meeting director of the company & subsequently did all formalities in customs without his personal attended in custom office. He was only went in customs to sign & take F card for the company.

(d) Similarly, one Mr. Patole, a residence of Panvel, who is no more now, arranged his F card for M/s. Rashmi Shipping. Because the father of the existing owner died and the existing owner's CHA licence was in his father's name. Hence, he need F card holder for

sustaining his father's licence. According Mr. Patole completed all formalities in custom for getting F card employee in the company M/s. Rashmi Shipping.

(e) Slowly as the time passed, the expenses for living constantly keep rising and the salary employee was not enough for maintenance of family, education of children & other health complication due to diabetes. It become essential to serve in two places. Because the companies never treated F card employee as per the other employees of the company. No employment benefits and if serve only in one company the remuneration is not sufficient for maintenance & living expenses. Secondly for getting hike F card employee with job in other company the F card employee lost minimum 3 months salary without job, because customs procedure for completing transfer from one company to other take 3 months. To avoid all these complications, he compelled to work in 2 companies. The Custom Broker Association only looks after only wellness for their members. The customs also give importance to association, one condition for getting C.B. Licence, is also imposed thereby: 'One has to be the member of C.B. Association'. Custom is not having control on working custom broker company. But they have much control on F card categories employees. 'F' card employees are not having association. In all these circumstances F card employee are treated as bonded employee.

(f) He requested to consider his case sympathetically as he is 76 year old and diabetic patient & still have to finish his family responsibilities during this high level of living expenses, medicine & other drugs. He submitted that his two daughters have to complete their education in coming 5 years. His father died when he was 21 years old & share family responsibilities of 2 sisters & 2 brothers younger than him. Their offsprings graduated & earning but he has to complete his responsibility which he took after completing of his father's responsibilities. He requested to consider matter sympathetically and for any breach of rule, he requested to impose minimum bearable penalty of time.

DISCUSSIONS AND FINDINGS:-

19. I have gone through the facts of the case, the materials brought on record, the SCN No. 30/2024-25 dated 05.07.2024, the inquiry report dated 26.08.2024 and the submissions dated 09.10.2024 made by Sh. Ravindra Dattatrya Nimkar during the personal hearing.

20. I find that Sh. Ravinder Dattatrya Nimkar has qualified the examination under Regulation 06 of CBLR, 2018 (erstwhile Regulation 6 of CBLR, 2013) and hence he is eligible to be issued F-category Customs Pass and he is also eligible for grant of Custom Broker License under Regulation 7 of CBLR, 2018 (erstwhile regulation 7 of CBLR, 2013). Present proceedings have been initiated against the said Sh. Ravindra Dattatray Nimkar for violation of Regulation 7(2)(b) of CBLR, 2018 which is reproduced below:

“(2) The applicant who has paid the fee referred to in sub-regulation (1) shall be granted a license by the Principal Commissioner or Commissioner of Customs, as below: -

(a) An individual shall be granted the license in FormB1 if that individual has passed the examination referred to in regulation 6.

(b) A customs broker's license may be granted to any company, firm or association in FormB2 if at least one director, partner, or an authorised employee, as the case may be, has passed the examination referred to in regulation 6:

Provided that at any given time such director, partner or an authorised employee shall not engage himself for transacting business under these regulations on behalf of more than one such firm or company.”

20.1 I find that Sh. Ravindra Dattatray Nimkar, has submitted that after passing the examination under regulation 6, he had engaged as ‘F’ category authorised employee during the year 2016-18, in his friends company M/s. SJS Logistics Pvt. Ltd. (which has been granted license under regulation 7(2)(b) of CBLR, 2018).

20.2 As per the provisions prescribed under regulation 7(2)(b) of CBLR, 2018 **“the partner, director, authorised employee who has passed the examination referred to in regulation 6, shall not engage himself for transacting business under these**

regulations on behalf of more than one such firm or company”. However, I find that during the scrutiny of CBLMS (Custom Broker Licensing Management System) data, it was noticed that Sh. Ravindra Dattatray Nimkar was simultaneously engaged with 03 Custom Broker Firms/Companies namely (i) M/s Rashmi Shipping Agency (from 11.11.2020 to 25.05.2022) (ii) M/s Habib Haji Moledina (from 01.06.2022 onwards) & (iii) M/s SAR Transport Systems Pvt Ltd. (from 20.05.2024 to 22.04.2024). Hence, on apparent breach of Regulation 7(2)(b) of CBLR, 2018, an SCN under regulation 17(1) of CBLR, 2018 was issued to Sh. Ravindra Dattatray Nimkar and inquiry was initiated against him under the provisions of regulation 17 of CBLR, 2018.

21. The details of the regulation 6 qualified person (F-card holder) engaged in their respective CB firm/company was called from M/s. Rashmi Shipping Agency, M/s Habib Haji Moledina & M/s SAR Transport Systems Pvt Ltd. From the replies received from these firms it was revealed that Sh. Ravindra Dattatray Nimkar had submitted wrong affidavits to M/s. Habib Haji Moledina stating that he had never worked with any other CBs other than M/s Rashmi Shipping Agency & M/s Habib Haji Moledina, whereas it was found that he was working with another CB M/s SAR Transport Systems Pvt Ltd. Further, he had worked as F-Card holder in another CB M/s SJS Logistics Pvt Ltd, which he has also admitted in his written submission dated 09.10.2024.

22. I find that the available facts and records of the case are evidentiary enough to hold that Sh. Ravindra Dattatray Nimkar has contravened the provisions of regulation 7(2)(b) of CBLR, 2018. Also, on the basis of the same facts the inquiry officer has concluded the charge levelled against Sh. Ravindra Dattatray Nimkar as proved. Hence, having going through the facts of the case and the inquiry report, I am of the firm opinion that Sh. Ravindra Dattatray Nimkar has violated the provisions of regulation 7(2)(b) of CBLR, 2018 and for his act of omission and commission he is liable for penal action under CBLR, 2018.

23. I find that Sh. Ravindra Dattatray Nimkar, in his defence submission (hand written) dated 09.10.2024, produced at the time of personal hearing submitted that *"because the companies never treated F card employee as per the other employees of the company. No employment benefits and if serve only in one company the remuneration is not sufficient for maintenance & living expenses. Secondly for getting hike F card employee with job in other company the F card employee lost minimum 3 months salary without job, because customs procedure for completing transfer from one company to other take 3 months. To avoid all these complications, he compelled to work in 2 companies"*. He also submitted *"he is 76 year old and diabetic patient & still have to finish his family responsibilities during this high level of living expenses, medicine & other drugs. He submitted that his two daughters have to complete their education in coming 5 years. His father died when he was 21 years old & share family responsibilities of 2 sisters & 2 brothers younger than him. Their offsprings graduated & earning but he has to complete his responsibility which he took after completing of his father's responsibilities. He requested to consider matter sympathetically and for any breach of rule, he requested to impose minimum bearable penalty"*.

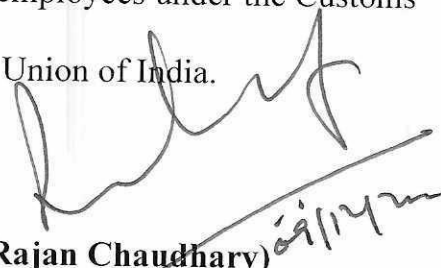
23.1 Hence, going on the merits of the case, I am not inclined to take away the livelihood of Sh. Ravindra Dattatray Nimkar and in my considered view debarring him, from working as F-Card holder to act as Authorised Person / Qualified Person in a company/firm/concern, will be too harsh a punishment under the facts and circumstances of the case. However, a serious warning is given to Sh. Ravindra Dattatray Nimkar to take care in future and not to repeat such breach of the obligations entrusted upon him under CBLR, 2018. This order serves as the official warning and enlightens Sh. Ravindra Dattatray Nimkar about the consequences in case of any misconduct and contravention of CBLR, 2018. The ends of justice will be met by imposing a penalty upon Sh. Ravibdra Dattatray Nimkar. Accordingly, I pass the following order:-

ORDER

24. I, Principal Commissioner of Customs (General), in exercise of the power conferred upon me under Regulation 17(7) of the CBLR, 2018, pass the following order:

(i) I, hereby impose penalty of Rs. 20,000/- (Rs. Twenty Thousand Only) on Sh. Ravindra Dattatray Nimkar (PAN-AACPN6074B) under Regulation 18(1) of the CBLR, 2018.

This order is passed without prejudice to any other action which may be taken or purported to be taken against the Customs Broker and their employees under the Customs Act, 1962, or any other act for the time being in force in the Union of India.



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

To,

Sh. Ravindra Dattatray Nimkar (PAN-AACPN6074B)
A-5/B-3, Avdhoot Nagar, C.S. Road, Nr. St. Teras High School,
Dahisar (East), Mumbai - 400068

Copy to:

1. The Pr. Chief Commissioner/ Chief Commissioner of Customs, Mumbai I,II, III Zone.
2. All Pr. Commissioners/Commissioners of Customs, Mumbai I, II, III Zone.
3. DRI, MZU, Mumbai.
4. SIIB (X), ACC, Sahar, Mumbai.
5. CIUs of NCH, ACC & JNCH
6. EDI of NCH, ACC & JNCH
7. ACC (Admn), Mumbai with a request to circulate among all departments.
8. JNCH (Admn) with a request circulate among all the concerned.
9. Cash Department, NCH, Mumbai.
10. Notice Board
11. Office Copy