



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

F.NO. GEN/CB/125/2024-CBS

Date: 29.05.2024

DIN: 202405790C000008650

SHOW CAUSE NOTICE NO. 09/2024-25
UNDER REGULATION 17 OF CBLR, 2018

M/s Modern Cargo Services Pvt. Ltd. (Licence no. 11/881, CB code AAACM7088BCH001), having registered address at 14, 3rd floor, Samhita Warehousing Complex, Off Andheri Kurla Road, Andheri East, Mumbai 400072 (hereinafter referred as the Customs Broker/CB) is holder of Customs Broker License No. 11/881, issued by the Commissioner of Customs, Mumbai under Regulation 8 of CHALR, 1984, [Now regulation 7(2) of CBLR, 2018] and as such they are bound by the regulations and conditions stipulated therein.

2. An Offence Report dated 15.12.2023 was received from Additional Commissioner, Jodhpur Customs on 28.02.2024 regarding violation of regulations of CBLR, 2018 by Custom Broker M/s Modern Cargo Services Pvt. Ltd. having License No. 11/881. It was informed that on the basis of a case initiated by DRI, JNCH, an investigation was going on in a case of Import/warehouse to warehouse transfer of Black Pepper by M/s Golden Feather Traders (IEC No. JQTPK0632Q).

2.1 During the course of investigation, it was revealed that Black Pepper was imported by M/s Golden Feathers Traders from ICD, Rajsico, Jaipur through their CB, M/s Modern Cargo Services Pvt. Ltd. The imported goods were subsequently sold to M/s Shivaansh Marketing & M/s RM Enterprises in Bond to Bond Sale. The goods were either clandestinely removed from M/s Akshay Logistics warehouse (NSAIU131) or taken to a private warehouse and were being illegally diverted to the local market to evade the payment of Customs Duty and to circumvent the restrictions imposed under the Customs Act, 1962 or by any other law for the time being in force. The permission for bond-to-bond transfer from ICD, Rajsico, Jaipur to Mumbai was taken on the basis of fake/ forged documents/signature/stamp of the customs officers. Neither the firm M/s Golden Feather Traders nor its proprietor Shri Lakshay Kumar was found existing /residing on the declared address.

2.2 Statement of Shri Kaushlendra was recorded on 24.07.2023 u/s 108 of the Customs Act, 1962. In the statement, he informed that he was working as Deputy Manager (G card) of M/s Modern Cargo Services Pvt. Ltd. since Nov, 2019 and looked after all customs clearances and sales in Jaipur.

2.2.1 He stated that he was contacted by Shri Rana Thakur in Sept, 2023. Shri Thakur introduced himself as an authorized person of M/s Golden Feather Traders, Delhi and wanted to import Black Pepper. Shri Thakur said that they were importing the goods in Jaipur instead of Delhi because the warehousing charges were low in ICD RSIC and that they would clear the consignment as and when they would get customers. Shri Thakur provided copies of IEC, GSTIN, Aadhar, PAN and KYC attested by the bank for the firm and its proprietor. Shri Kaushlendra stated that it was his obligation to verify the correctness of IEC, GSTIN, identity of the client and functioning of the client at the declared address, however, he did not verify identity of the client and functioning of the client at the declared address personally.

2.2.2 He asked Shri Thakur as to why they were not clearing the consignment for sale to Delhi to which Shri Thakur informed that they would transfer the goods to M/s Akshay Logistics on warehouse-to-warehouse basis and later they would sell the goods in Mumbai.

Handwritten signature and date:
03.06.24
Devendra Kumar

2.2.3 He stated that when he received various calls from his Mumbai office regarding tendering statement to DRI, Nhava Sheva in the matter of import of Black Pepper by M/s Golden Feather Traders, he got scared and ran away to his native village in UP. He was informed by an ICD, RSIC officer about removal of goods from the warehouse by theft without payment of Customs Duty. He then contacted Shri Thakur about the status of the goods and provide FIR copy if any theft had been done. He was provided an FIR copy by Shri Thakur which he then submitted to ICD, RSIC customs.

2.3 In his statement dated 18.09.2023, Shri Kaushlendra stated that he met with Shri Rana Thakur in ICD, RSIC during clearance of export goods of one of their clients. He also stated that he never met Shri Lakshay Kumar, proprietor of M/s Golden Feather Traders, Delhi personally. He informed that Shri Thakur submitted space certificate to proceed in customs for transfer of goods bond basis.

2.3.1 He further informed that he introduced Shri Kailash Singh of M/s Daksh Logistics to Shri Thakur for transportation of warehoused goods to M/s Akshay Logistics, Raigarh. He said that he did not have contact details of M/s Akshay Logistics so he gave the mobile number of Shri Thakur to the drivers instead of the contact details of M/s Akshay Logistics, Raigarh. Shri Thakur told the drivers to call him once they enter Raigarh and then he would give the contact details of the person who would guide the drivers to the premises of M/s Akshay Logistics. He stated that as per documents, containers containing Black Pepper were moved from Jaipur to M/s Akshay Logistics, Raigarh, however, as per statement of Shri Mahendra Singh dated 15.09.2023, the containers were unloaded in a warehouse in Panvel instead of M/s Akshay Logistics, Raigarh.

2.4 Statement of Shri Krishna Kumar Govindrajan, General Manager, M/s Modern Cargo Services Pvt. Ltd. was recorded on 30.08.2023 under Section 108 of the Customs Act, 1962, wherein he inter-alia stated that he was the General Manager of M/s Modern Cargo Services Pvt. Ltd. since 03.12.2018 and looked after General administration of the company. He informed that Shri Kaushlendra was their Branch Manager at Jaipur and handled their Jaipur branch business. Shri Kaushlendra would liaise with Shri Firdos, CEO of their company for any business related issues from time to time. Shri Firdos expired on 16.01.2023.

2.4.1 He further stated that in November 2022 they got aware that some import business of M/s Golden Feather Traders was on boarded by Shri Kaushlendra and the shipment was to be examined 100%. Shri Firdos initially advised Mr Kaushlendra not to take up such new shipments, however, the BE was already filed. Therefore, Shri Kaushlendra was later advised to take caution and proceed.

2.4.2 He informed that they were not aware of the importer M/s Golden Feather Traders, its proprietor Shri Lakshay Kumar and authorized signatory Shri Rana Thakur as all the company affairs were handled by Shri Kaushlendra for Jaipur branch. The KYC documents, IEC and GST Registration of M/s Golden Feathers Traders were verified online. They did not verify the genuineness of the importers and its proprietor's residential address in Delhi. They were also not aware of the Bond to Bond transfer of the imported goods.

2.4.3 They received a call from DRI, Nhava Sheva in the 3rd week of March, 2023 to produce Shri Kaushlendra before the agency. Shri Kaushlendra was informed about it and was requested various times to come to Mumbai to co-operate with the agency, however, he refused to come and emailed them on 31.03.2024 saying that he would not be available on call or email as he had to leave his hometown for some urgent work. 03 people from the CB firm, including Shri Govindrajan went to the residence of Shri Kaushlendra in Jaipur, however, he was not at home. Shri Kaushlendra was terminated from the CB firm on 29.05.2023.

2.4.4 They invoiced M/s Golden Feather Traders an amount of Rs. 10,000/- for filing BE per container. They had totally invoiced 8 Bills for an amount of Rs 1,47,500/-. An

amount of Rs. 1,18,000/- was received in their HDFC Bank A/c No: 12042320000267. An amount of Rs. 29,500/- was still due for payment.

3. The Customs Broker is an agent of importer. He works on behalf of the importer. He also takes authorization to work on behalf of importer. A CB, remains fully aware that omission and commission by the importer affects the working image of CB. It is a business practice that CB knows on whose behalf they are working, as CB can face investigation for omission and commission at any time. As per CB Regulation, a CB is required to know the client. Even in the absence of such requirement it is business practice that the CB knows on whose behalf they are working as the relation between CB and importer is a long time relation. The CB is also required to share correct information regarding rules and regulations related to the work of customs clearance. In view of the above, it appears the CB has violated Regulations 10(d), 10(e) and 10(n) of CBLR, 2018 which is discussed in detail as below:

Under Regulation 10 of Customs Brokers Licensing Regulations, 2018, obligations of Customs Broker:

A Customs Broker shall-

(d) "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 statement dated 24.07.2023 of Shri Kaushlendra, he stated that he asked Shri Thakur as to why they were not clearing the consignment for sale to Delhi to which Shri Thakur informed that they would transfer the goods to M/s Akshay Logistics on warehouse-to-warehouse basis and later they would sell the goods in Mumbai.

It is clear from above statement that the CB knew about the importer's plan to transfer the goods on warehouse-to-warehouse basis. At that instance the CB should have advised the importer to comply with the procedures of warehouse-to-warehouse transfer of goods, however, they failed to do so which resulted in fraudulent removal of the goods from Customs Bonded warehouse and illegal diversion from destination warehouse.

Thus, the CB has failed to comply with the provision of Regulation 10(d) of CBLR, 2018.

(e) "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;"

It is clear from above facts that the CB had prior knowledge of warehouse-to-warehouse transfer of goods. Had the CB provided correct information to the CB related to the customs procedure of warehouse-to-warehouse transfer of goods, the fraudulent removal and illegal diversion of the goods might have been averted.

In the statement dated 30.08.2023 of Shri Krishna Kumar Govindrajan, General Manager of the CB, he stated that Shri Kaushlendra was advised to take caution and proceed with regards to the import consignment of the importer. However, from the facts of the case it is clear that the CB did not pay heed to their own words and took a nonchalant approach towards clearance of goods.

It is clear that the CB was not diligent enough to check the correctness of the information he provided to the importer with regards to warehouse-to-warehouse transfer of goods, which is in violation of Regulation 10(e) of CBLR, 2018.

(n) "verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information;"

During the course of investigation, it was found that neither the importer, M/s Golden Feather Traders nor its proprietor, Shri Lakshay Kumar was found existing /residing on the declared address.

In his statement dated 24.07.2023, Shri Kaushlendra stated that Shri Rana Thakur, a third person, provided copies of IEC, GSTIN, Aadhar, PAN and KYC attested by the bank for the firm and its proprietor, Shri Lakshay Kumar. Shri Kaushlendra stated that it was his obligation to verify the correctness of IEC, GSTIN, identity of the client and functioning of the client at the declared address, however, he did not verify identity of the client and functioning of the client at the declared address personally.

In his statement dated 18.09.2023, Shri Kaushlendra stated that he never met Shri Lakshay Kumar, proprietor of M/s Golden Feather Traders, Delhi personally.

Hence, it is clear that the CB failed to verify KYC of the importer and thus, violated the provision of Regulation 10(n) of CBLR, 2018.

4. From the above facts it appears that, prima facie, Customs Broker M/s Modern Cargo Services Pvt. Ltd. (Licence no. 11/881, CB code AAACM7088BCH001) had violated Regulation 10(d), 10(e) & 10(n) 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.

5. In view of the above facts, the CB License held by M/s Modern Cargo Services Pvt. Ltd. (11/881) was suspended by the Pr. Commissioner of Customs (General) vide Order No. 54/2023-24 dated 26.03.2024 and personal hearing was granted to the CB on 10.04.2024 at 12.00 PM.

6. The CB submitted their reply on 04.04.2024 through their authorized representative Adv. Lawrence Tauro. The CB stated that the suspension of their license had shocked and disturbed them beyond belief. It is their sincere and heartfelt belief that their license did not deserve to be suspended in such a drastic manner. The CB had denied each and every allegation which had been alleged against them as the same had been alleged without properly appreciating the facts of the case. The CB reiterated the same in the Personal hearing conducted on 10.04.2024.

7. In the present case, the CB was involved in the clearance of imported goods which was stored in a customs bonded warehouse, which was to be taken to another warehouse after payment of duty. In this regard, the CB did not inform the importer about the instructions, circulars and public notice regarding bond-to-bond transfer of imported goods. Thus, due diligence was not taken in imparting information about procedure of clearance of goods.

7.1 From the offence report it was found that the importer firm and its proprietor Shri Lakshay Kumar were not residing on the declared address. The CB, in this regard, was not diligent enough to verify the genuineness of the importer or its proprietor. Shri Kaushlendra, in his statement, stated that it was their obligation to verify the identity of the client and functioning of the client at the declared address, however, he did not do so. It shows that the CB was not complying with the corresponding provisions of CBLR, 2018.

Therefore, it appears that the CB had violated the provisions of regulation 10(d), 10(e) and 10(n) of the CBLR, 2018.

8. The Suspension of the CB license was hence continued vide Order No. 03/2024-25 dated 15.04.2024 in contravention of Regulations 10(d), 10(e) & 10(f) of CBLR, 2018 as per Regulation 16(2) of the CBLR, 2018.

9. In view of the above, in terms of Regulation 17(1) of CBLR, 2018 the Customs Broker M/s Modern Cargo Services Pvt. Ltd. (CB No. 11/881, PAN No.: AAACM7088B) is hereby called upon to show cause, as to why:

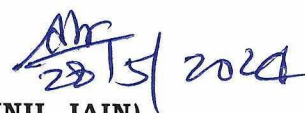
- i. the license, bearing no. 11/950, issued to them, should not be revoked;
- ii. security deposit should not be forfeited;
- iii. penalty should not be imposed

upon them under Regulation 14 read with 17 & 18 of the CBLR, 2018 for their failure to comply with the provisions of CBLR, 2018, as elaborated in above paras of this show cause notice within 30 days from the date of issue of this notice.

10. They are directed to appear for personal hearing on the date as may be fixed and to produce evidence/documents, if any, in their defence to the Inquiry Officer Shri Devender Parmar, AC, Zone 1 who shall conduct inquiry under Regulation 17 of CBLR, 2018.

11. If no reply is received within the stipulated time period, it will be presumed that they have no explanation to offer and it will be presumed that they do not want personal hearing and the issue will be decided on the facts available on records.

12. 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,

M/s Modern Cargo Services Pvt. Ltd. (11/881) (AAACM7088B),
14, 3rd floor, Samhita Warehousing Complex,
Off Andheri Kurla Road, Andheri (E), Mumbai 400072

Copy to:

1. The Pr./Chief Commissioner of Customs, Mumbai I, II, III Zone
2. CIU's of NCH, ACC & JNCH
3. The Commissioner of Customs, Mumbai I, II, III Zone
4. EDI of NCH, ACC & JNCH
5. Bombay Custom House Agent Association