



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,
 बेलाई इस्टेट, मुंबई - 1
BALLARD ESTATE, MUMBAI - 1

F.No. GEN/CB/481/2024-CBS

Date: 26.11.2024

DIN: 202411770000001212D

SHOW CAUSE NOTICE NO. 63 /2024-25**UNDER REGULATION 17 OF CBLR, 2018**

M/s Jai International (Licence no. 11/926, CB code AAEFJ8308ACH001), having registered address at B-403, Hermes Atrium, Plot NO-57 Sector-15, CBD Belapur, Navi Mumbai-400-614 (hereinafter referred as the Customs Broker/CB) is holder of Customs Broker License No. 11/926, 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- 06.08.2024, issued by the Addl Commissioner of Customs, SIIB (I), JNCH, Nhava Sheva, enclosing thereto an Investigation report dated-24.07.2024, in respect of B/E no-9157397 dt-09.12.2023, filed by the Importer M/s M.K. Exports (IEC- AMKPM3031H) through Customs Broker M/s Jai International (AAEFJ8308ACH001) has been received. Vide the Offense report and Investigation report, inter alia, the following has been stated.

2.1 Based on specific input of potential misdeclaration/concealment of restricted/ prohibited items, consignment of M/s M K Exports (IEC- AMKPM3031H) (here- in -after referred to as the importer) was put on hold. The importer filed Bill of Entry No. 9157397 dated 09.12.2023 through Customs Broker M/s. Jai International (AAEFJ8308ACH001) for the clearance of goods declared as "UAE WET DATES" classified under CTH 08041020. The subject Goods were examined under Panchnama dated 14.12.2023 and during examination, undeclared goods i.e. **5,00,000 sticks of counterfeit Gold Flake Brand Cigarettes having market value of around Rs. 82,50,000/- were found concealed with declared Goods i.e. UAE Wet Dates. Total Net Weight of Wet Dates found was 12562.50 KGS.** However, Net weight of the declared goods in Bill of Entry was 15,000 Kgs. Hence, goods were found to be mis-declared in terms of quantity and description.

During the course of Examination, total 1491 no. of boxes were found as against 1500 no. of boxes declared as per the import documents in the container. Out of 1491 Boxes, only 1178 Boxes were found containing wet dates. In remaining 313 boxes, Gold Flakes Brand Cigarettes were found concealed in Wet Dates. Average Weight of each box was 5.5 Kgs which included Cigarettes concealed with Wet Dates. Out of which approx. 2.5 Kgs weight was of Wet Dates. Total Net Weight of the Cargo' containing Wet dates and Gold Flakes Brand Cigarettes is found to be approx. 13350 Kgs. However, Net weight of the declared goods in Bill of Entry is 15000 Kgs. Hence the Goods were mis-declared in terms of quantity.

The impugned goods covered under Bill of Entry No. 9157397 dated 09.12.2023 along with undeclared Goods (Gold Flake Cigarette) found during examination under Panchnama dated 14.12.2023, were liable for absolute confiscation under section 111(d) and 111(1) of the Customs Act 1962. Accordingly, the impugned goods were seized vide seizure Memo No. 142/2023-24 dated 15.12.2023.

2.2. Statements recorded u/s 108 of The Customs Act-1962, of the Importer and Customs Broker and other related parties

2.2.1 Statement of Shri Muthukumar B, Proprietor of M/s M K Exports was recorded on 18.12.2023 under section 108 of the Customs Act, 1962 wherein he inter-alia stated that M/s M K Exports usually import and export goods from Cochin and Nhava Sheva port and is also a wholesaler; that M/s Jai International had filed the BE no. 9157397 dated 09.12.2023 on behalf of the importer; that Ms. Aruna Kumari was his only point of contact with the CB; that he agreed with the findings Panchanama dated 14.12.2023 that goods have been found to be mis-declared in terms of quantity and description; that he was informed by Ms. Kumari on 14.12.2023 that cigarettes have been found in goods imported under Bill of Entry No. 9157397 dated 09.12.2023; that he was not aware that cigarettes were part of the consignment imported by them; that he was contacted by Mr. Shabu, who resides in Dubai, on around 09.11.2023 regarding import of wet dates; that Mr. Shabu promised to pay him one lakh per container of wet dates; that Mr. Shabu would send 6 to 8 containers per month; that he didn't know that there were cigarettes amongst wet dates; that he had been in the import export business for the past 6 years, and have honestly paid the applicable duties and cleared the goods; that he had never indulged in importing anything that is against the law; that Mr. Shabu, through his company M/s. Crystal General Trading LLC, had supplied the subject goods; that he met Mr. Shabu in year 2020 in a fruit market in Bahrain.

2.2.2. Statement of Smt. Arunakumari Sakthi Thevar, Proprietor of M/s Sap Logi Enterprises, Forwarder of M/s M.K Exports(IEC-AMKPM3061H), was recorded on 18.12.2023 under section 108 of the Customs Act, 1962 wherein she inter-alia stated that she knew Shri Muthukumar since 2018; that they used to deal in vegetables and fruits, however, they suffered huge loss; that she suggested him to export dry fish as she had a buyer M/ s Wilson Store whom they could rely upon; that they started a new company i.e. M/s Green India Cargo Pvt. Ltd. to start a business of export of dry fish; that she was the first person who collected the documents from Shri Muthukumar and handed it over to clearing agency; that her role in the said consignment was only forwarding the documents to Clearing Agency to Shiva Kumar; that Shiv Kumar further forwarded the documents to other Clearing Agency; that she was not aware about the final agency at first but came to know when they provided the checklist.

2.2.3 Statement of Shri Ashok Kumar M. Jaiswar, Partner and F-category customs pass holder of the CB, was recorded on 18.12.2023 under section 108 of the Customs Act, 1962 wherein he inter-alia stated that he was aware about procedures/rules to be followed by CB; that he did only Customs clearance related work of imported goods only; that Shri Dnyaneshwar Kuthar, Proprietor of M/s Sakshi logistics (Freight Forwarder) contacted him regarding clearance of the consignment of wet dates; that his office had verified all the KYC documents of the importer viz. GSTIN registration certificate, IEC on DGFT website online; that he verified the address of importer on online data base; that he had received

all the necessary supporting documents i.e invoice, packing list, bill of lading etc. from Shri Dnyaneshwar Kuthar, Proprietor of M/s Sakshi Logistics; that it was the first consignments of the importer; that it was his responsibility to contact directly with importer before proceeding for customs clearance; that he had known Mr. Dnyaneshwar Kuthar of M/s Sakshi Logistics (Freight Forwarder) for two years ; that Mr. Dnyaneshwar Kuthar, has approached him for customs clearance of 50 consignments in last six months, of wet dates, apples and other fresh fruits ; that he received an email dated 13.12.2023 from the importer regarding the confirmation of the documents provided for customs clearance; that he himself filed the Bill of Entry No. 9157397 dated 09.12.2023; that he filed BE as per documents received from Dnyaneshwar Kuthar, Proprietor of M/s Sakshi logistics; that he gave him documents like Invoice, BL, Packing List etc. pertaining for this consignment through e-mail, wherein descriptions of goods were "Wet Dates"; that he sent the checklist to Shri Kuthar and not to the importer; that Shri Kuthar informed him on call that the importer approved the checklist for filing of bill of entry.

2.2.4 Statement of Shri Ashok Kumar M. Jaiswar, F-category customs pass holder of the CB, was recorded on 26.12.2023 under section 108 of the Customs Act, 1962 wherein he inter-alia stated that the importer was responsible for any kind of misdeclaration found in the said consignment; that he would be submitting a copy of mail dated 13.12.2023 in which importer M/s. M K Exports has taken full responsibility of any misdeclaration in this consignment.

2.2.5 Statement of Shri Dnyaneshwar Manohar Kuthar, Proprietor of M/s Sakshi Logistics recorded on 15.12. 2023 under Section 108 of the Customs Act, 1962 wherein inter-alia, he stated he is aware of the goods found during Examination contained Cigarettes along with declared goods. That, he came into contact with M/s Jai international about six months back. On asking that Lingam Nadar has given him the documents for customs clearance instead of getting the clearance himself, and how could he handover the same documents for clearance to another person who is familiar to him just for 6 months, he submitted that he has just started Customs Clearance work and he does not possess the CB License. But being into transport business, he came into contact with different Importers. This arouse his interest to foray into Customs clearance related work and M/s Jai International was his ultimate choice to approach for in order to start Customs clearance work. Lingam usually offers him Rs. 15,000/- per consignment for clearance. On scrutinizing his bank statement, it was found that Mr. Lingam had transferred Rs.40,000/- on 13.12.2023 while he had previously stated that he receives Rs. 15,000/- per consignment for clearance. He submitted that he manages whole work of customs clearance of M/s Jai International and the payment of transport, shipping line and other payments related to consignments are paid from his account. For payment of shipping line for this consignment, Lingam had transferred Rs. 40,000/- into his account on 13.12.2023. He further stated that Lingam Nadar of M/ s Eskay Logistics is his old friend and he gave him the import documents pertaining to BE No. 9157397/09.12.2023. He handed over the documents to Mr. Ashok Jaiswar, Proprietor of M/s Jai International whom he met 6 months back. He stated that approx. Rs. 1 to 1.25 Lakhs are incurred for clearance of one consignment including all expenses which is given to him by the Importer. For this consignment he has been paid Rs. 40,000/- on 13.12.2023 and additional amount of Rs. 1,00,000/- will be paid after Custom clearance of the

consignment. He further accepted that he is not aware about the Importer and has not verified importer's details thoroughly before filing Bill of Entry. That he has not seen or verified any pictures or videos of the goods being loaded into the subject container meant for import in India and he has not verified actual details of the goods being imported through video call and pictures.

2.3. During the course of investigation, it was found that the import documents for the BE No 9157397/09.12.2023 were forwarded to following persons in the following Order:

- (i) Muthukumar (Importer, Proprietor of M/ s M K Exports)
- (ii) Arunakumari Thevar (Importer's partner in firm M/s Green India Cargo pvt. Ltd.
- (iii) Sivaskar Nadar (H card holder of CB M/ s Gaerish Logistics)
- (iv) Pon Murugan (Handling Manage of M/s Interlink Shipping and Clearing, Freight forwarding Agency)
- (v) Lingam Nadar (H-Card Holder of CB M/ s Eskay Logistics)
- (vi) Dnyaneshwar Kuthar (Proprietor M/s Sakshi logistics, Freight Forwarding Agency)
- (vii) Ashok Jaiswar (Proprietor of Custom Broker M/s Jai International).

2.4 It is the importer who has forwarded the documents to Ms. Aruna and from thereon it reached to M/s Jai International through various intermediaries/persons. Further, for monetary benefit and commission, the importer agreed to import goods on the request/ persuasion of the supplier/ his friend Mr. Shabu. He did not even verify whether Mr. Shabu is the actual supplier of the imported Goods or otherwise. He has not asked Mr. Shabu/ supplier why he is giving him so much relaxation regarding payments of the clearance of the consignments and other expenses. He agreed to import the Goods on his IEC and further agreed to sell the Goods to any person just on the verbal communication with the supplier/ Mr Shabu and with an intention to gain monetary benefit which indicated that the importer/Mr. Muthukumar B. has involvement in the import of Cigarettes along with Wet Dates.

2.5 Without possessing the Custom Broker authorisation/Pass, Mr. Dnyaneshwar Kuthar of M/s Sakshi Logistics (Freight Forwarder) was involved in the clearance of the goods imported vide Bill of Entry No. 9157397 dated 09.12.2023 in which Cigarettes were found along with Wet dates. He accepted that for this consignment he has been paid Rs. 40,000/- on 13.12.2023 from Ms Aruna/M K Exports and additional amount of Rs. 1,00,000/- will be paid after Custom clearance of the consignment. He was the final beneficiary who received the clearance amount in his account. Further, He did not verify the importer's details thoroughly before filing Bill of Entry and any pictures or videos of the goods being loaded into the subject container meant for import in India.

2.6 Mr. Ashok Kumar Jaiswar, Proprietor/ F-Card Holder of Custom Broker, M/s Jai International did not verify the address of Importer physically. He did not contact the importer directly. He accepted that it is his responsibility to contact directly with importer and verify the authenticity/correctness of the

imported goods and did not 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 before proceedings for Custom clearance which is expected by them in terms of Customs Brokers Licensing Regulations, 2018 (CBLR).

2.7. During the course of investigation it was further revealed, that it appeared that the seized consignment of Cigarettes, i.e. "GOLD FLAKE" brand was manufactured abroad which have been smuggled/ imported, contrary to the prohibitions imposed by Cigarettes and Other Tobacco Products (Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COTPA)(as amended by Notification dated 2.1.07.2022 of Ministry of Health and Family Welfare) and in contravention of the provisions of Foreign Trade Policy 2015-20 and Section 11(1) & 11(2) of the Foreign Trade (Development and Regulation) Act, 1992 as amended.

2.8. Letter to IPR Cell was sent on 19.12.2023 requesting to verify the IPR angle of goods Gold Flake Brand Cigarettes in terms of IFR (Imported Goods) Enforcement Rules, 2007 through respective right holder. In this regard, a letter dated 16.01.2024 was received on 18.01.2024 from M/s ITC Ltd. whereby it was concluded by M/s ITC Ltd. that the sample "Gold Flake Kings Red" received by them was "COUNTERFEIT".

3. Role of Customs Broker:

The Customs Broker is an agent of import and export, the Customs Broker takes authorization to work on behalf of importer and exporter. A CB remains fully aware that omission and commission by the importer affects working of image of CB. It is a business practice that CB should know his client, on whose behalf they are working, and if any investigation carried out by Customs for omission and commission, CB has to co-operate with the authorities and produce relevant documents. From the facts of the case, it appears that in the instant case, CB has violated the provisions of Regulations Regulation 10(d), 10(e) and 10(n) of CBLR, 2018, as elaborated below:

3.1 The regulation 10(d) of the CBLR, 2018, which reads as: -

(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;"

3.1.1 In the instant case, the Importer for monetary benefit and commission, agreed to import goods on the request/ persuasion of the supplier/ his friend Mr. Shabu. He did not even verify whether Mr. Shabu is the actual supplier of the imported Goods or otherwise. He has not asked Mr. Shabu/ supplier why he is giving him so much relaxation regarding payments of the clearance of the consignments and other expenses. In statement dated 18.12.2023, the importer has stated that Mr Shabu promised to pay him one lakh per container of wet dates. It appears the Importer knew that counterfeit Cigarettes were being imported by way of mis-declaration and concealment. The Importer has violated various provisions of the Customs Act, 1962. Investigations, further revealed, that it appeared that the seized consignment of Cigarettes, i.e. "GOLD FLAKE" brand was manufactured abroad which have been smuggled/ imported, contrary to the prohibitions imposed by Cigarettes and Other Tobacco Products

(Prohibition of Advertisement and Regulation of Trade and Commerce, Production, Supply and Distribution) Act, 2003 (COTPA)(as amended by Notification dated 2.1.07.2022 of Ministry of Health and Family Welfare) and in contravention of the provisions of Foreign Trade Policy 2015-20 and Section 11(1) & 11(2) of the Foreign Trade (Development and Regulation) Act, 1992 as amended. The CB, appears to have failed to advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof.

Mr. Ashok Kumar Jaiswar, Proprietor, M/s Jai International in his statement dated-18.12.2023, stated that Mr. Dnyaneshwar Kuthar of M/s Sakshi Logistics (Freight Forwarder) has approached him for customs clearance of 50 consignments in last six months, of wet dates, apples and other fresh fruits. And that he has known Mr. Dnyaneshwar Kuthar for two years. It clearly depicts that there were frequent business transactions between the two. Mr. Dnyaneshwar Kuthar, in his statement dated-15.12.2023 accepted that for this consignment he has been paid Rs. 40,000/- on 13.12.2023 from Ms Aruna/M K Exports and additional amount of Rs. 1,00,000/- will be paid after Custom clearance of the consignment. It appears to be a big sum for clearance of one consignment and should have aroused doubt/suspicion in the mind of the CB and he should have had informed the customs authorities regarding it.

Mr Ashok Kumar Jaiswar, Proprietor, M/s Jai International in his statement dated-18.12.2023, has accepted that it was his first consignment of the importer and that he did not contact the Importer directly. It clearly implies that he did not advise his client regarding any provisions of the Act, other allied Acts and the rules and regulations thereof. Nor did he inform the Customs Authority, as a huge sum was being paid for the clearance of the goods, which should have aroused suspicion.

Thus, the CB, appears to have failed to advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof and the CB failed to bring the matter to the notice of the customs authorities which is sheer non-compliance at the end of Customs broker. Hence violated the obligation under Regulation 10(d) of the CBLR 2018.

3.2 (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;”*

3.2.1 Mr Ashok Kumar Jaiswar, Proprietor, M/s Jai International in his statement dated-18.12.2023, has accepted that it was his first consignment of the importer and that he did not contact the importer directly. It appears the CB did not impart any information related to clearance of the cargo to the Importer.

In the instant case, the said CB did not exercise their duties with due diligence and failed to check the mis-declaration by the Importer. Thus the CB appears to have violated the obligation under Regulation 10(e) of the CBLR 2018, in as much as they failed to ascertain the correctness of information being imparted to the Importer.

3.3 (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;”*

3.3.1 In the instant case, Mr. Ashok Kumar Jaiswar, Proprietor, M/s Jai International in his statement dated-18.12.2023, accepted that he did not verify the address of Importer physically. Neither did he contact the importer directly. He accepted that it was his responsibility to contact directly with importer.

The CB, thus, appears to have violated the obligation under regulation 10 (n) of the CBLR, 2018.

4. From the above facts it appeared that, prima facie, Customs Broker M/s M/s Jai International (Licence no. 11/926, CB code AAEFJ8308ACH001 has violated Regulation 10(d), 10(e) & 10(n) of CBLR, 2018. Due to the negligence of the CB, contraband mis-declared goods of counterfeit cigarettes were attempted to be smuggled inside the Country by mis-declaring as Wet dates. It was apprehended that the Custom Broker may adopt similar modus operandi in future consignments and department could not remain oblivious to the danger posed by such an eventuality.

5. In view of the above facts, the CB License held by M/s Jai International (11/926) was suspended by the Pr. Commissioner of Customs (General) vide Order No. 38/2024-25 dated 16.10.2024 and in pursuance to regulation 16(2) of the CBLR, 2018, opportunity of personal hearing was granted to the CB M/s Jai International (11/926). Sh. Ashok Kumar Jaiswar, Proprietor, M/s Jai International, of the CB appeared for PH on 25.10.2024 and submitted his response in this regard.

6. Suspension of the CB license was hence continued vide Order No. 41/2024-25 dated 30.10.2024 in contravention of Regulations 10 (d), 10 (e), and 10 (n) of CBLR, 2018, as per Regulation 16(2) of the CBLR, 2018.

7. From the above facts, prima-facie, the Customs Broker M/s D.V. Shipping Co. Pvt. Ltd. (11/946) appeared to have failed to fulfil their obligations under Regulation 10(d), 10(e) and 10(n) of CBLR, 2018 and contravened the same.

8. In view of the above, in terms of Regulation 17(1) of CBLR, 2018 the Customs Broker M/s Jai International (Licence no. 11/926, AAEFJ8308ACH001) is hereby called upon to show cause, as to why:

- i. the license, bearing no. 11/926, 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.

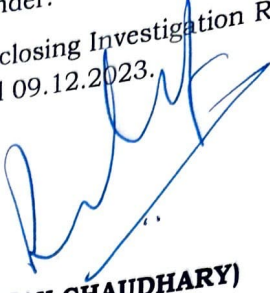
9. They are directed to appear for personal hearing on the date as may be fixed and to produce evidence/documents, if any, in their defence to the Inquiry Officer, Shri Rohit Kumar Bhaisare, DC, Import-II who shall conduct inquiry under Regulation 17 of CBLR, 2018.

10. 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.

11. This notice 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.

The documents/records relied upon are as under:

- i. Offence Report dated 06.08.2024 enclosing Investigation Report i.r.o. Bill of Entry No. 9157397 dated 09.12.2023.


(RAJAN CHAUDHARY)
Pr. Commissioner of Customs (G)
NCH, Mumbai - I

To,

M/s Jai International (Licence no. 11/926, AAEFJ8308ACH001),
B-403, Hermes Atrium,
Plot NO-57 Sector-15, CBD BELAPUR,
Navi Mumbai-400-614

Copy to:

1. IO Shri Rohit Kumar Bhaisare, DC, Import-II appointed under Regulation 17 of CBLR, 2018
2. The Pr./Chief Commissioner of Customs, Mumbai Zone I, II & III
3. CIU's of NCH, ACC & JNCH
4. The Commissioner of Customs, Mumbai Zone I, II & III
5. EDI of NCH, ACC & JNCH
6. Bombay Custom House Agent Association
7. Office copy
8. Notice Board