



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

F.NO. GEN/CB/374/2023-CBS
DIN: 2024077700000000AB2F

Date: 19.07.2024

SHOW CAUSE NOTICE NO. 36/2024-25
UNDER REGULATION 17 OF CBLR, 2018

M/s Cargo Concepts (Bombay) Pvt. Ltd. (Licence no. 11/917, CB code AABCC5421HCH001), having registered address at Ground Floor, Shop No.1, Monarch Plaza, Plot No.56, Sector 11, CBD Belapur, Navi Mumbai, Thane, Maharashtra, 400614 (hereinafter referred to as the Customs Broker/CB) is holder of Customs Broker License No. 11/917, 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. M/s Kash International Trade Co. (IEC: 0516960768) (hereinafter referred to as the importer), filed Bill of Entry No. 2823097 dated 11.10.2022 for clearance of goods contained in Container No. PCIU8674977, through their authorized Customs Broker M/s Cargo Concepts (Bombay) Pvt. Ltd. (PAN: AABCC5421H). The description declared was Men's Casual Shoes, the quantity declared was 13404 pairs, having declared assessable value of Rs.15,64,630/-. The said container was put on hold and the goods were examined by the officers of SIIB (I) under Panchnama dated 13.10.2022 at CFS M/s. Allcargo Logistics Limited. Representative Samples of the goods were drawn for further examination.

2.1 During the course of examination, goods were found to be shoes of various brands such as 'Nike', 'Adidas', 'Puma', 'Asics', 'Onitsuka', 'Converse', 'Nike/Air Jordan', 'New Balance' & 'Airstyle' of various sizes and types. The importer has declared 13404 pairs of 'Men's Casual Shoes', whereas a total of 13468 pairs of shoes were found during examination. Therefore, it appeared that the goods were grossly mis-declared in respect of description and quantity. The details of the goods found are as per Table-A below:

Table-A

| Sr. No. | Name | Quantity |
|---------|--------------------|----------|
| 1 | Nike Brand Shoes | 4608 |
| 2 | Adidas Brand Shoes | 2124 |

| | | |
|----|------------------------------|--------------|
| 3 | Puma Brand Shoes | 972 |
| 4 | Asics Brand Shoes | 468 |
| 5 | Onitsuka Tiger Brand Shoes | 1116 |
| 6 | Converse Brand Shoes | 396 |
| 7 | Nike/ Air Jordan Brand Shoes | 330 |
| 8 | Adidas Brand Shoes | 234 |
| 9 | New Balance Brand Shoes | 720 |
| 10 | Nike Brand Shoes | 280 |
| 11 | Shoes without brand marking | 468 |
| 12 | Air Style marked Shoes | 1752 |
| | Total | 13468 |

2.2 Import of branded items requires verification of Intellectual Property Rights of various right holders. Accordingly, the matter was referred to IPR Cell, JNCH, vide letter dated 26.10.2022, to verify whether brands namely 'Nike', 'Adidas', 'Puma', 'Asics', 'Onitsuka', 'Converse', 'Nike/Air Jordan', 'New Balance' & 'Air Style' are registered under Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007 or not. The IPR Cell, JNCH, vide letter dated 21.11.2022, informed that 'Nike', 'Adidas', 'Puma', 'Asics', 'Onitsuka', 'Converse', 'Nike/Air Jordan' are registered with Customs under IPR (Imported Goods) Enforcement Rules, 2007; the brand 'New Balance' and 'Air Style' are not registered with Customs under IPR (Imported Goods) Enforcement Rules, 2007. It was further informed vide the said letter that the right holders of these brands joined the proceedings and submitted inspection report stating that the goods are counterfeit and requested for valuation of these items for submission of Bond/Bank Guarantee. Accordingly, vide letter dated 08.12.2022, valuation of the said goods was forwarded to the IPR Cell, JNCH, for submission of Bonds/Bank Guarantees by the concerned right holders. The Deputy Commissioner of Customs, IPR Cell, SIIB(I), JNCH, vide letter dated 23.01.2024, informed that all the concerned right holders have submitted the duly executed Bonds and Bank Guarantees.

2.3 Since, the goods were found to be mis-declared in terms of description and quantity and were in infringement of Intellectual Property Rights, the goods appeared to be liable for confiscation under Section 111(d), (1) & (m) of the Customs Act, 1962. Thus, there was a reason to believe that the said goods covered under Bill of Entry No. 2823097 dated 11.10.2022 are liable for confiscation under Section 111(d), (l) & (m) of the Customs Act, 1962. Therefore, the said goods were placed under seizure as per Section 110 of Customs Act, 1962 vide Seizure Memo No. 111/2022-23 dated 21.11.2022 issued with DIN

20221178NX0000116691. The Seizure Memo was sent to the importer on registered address of IEC through speed post (EM0357272441N). However, the same was returned with remarks "Addressee left without instructions".

2.4 The items mentioned at Sr. No. 9, 11 & 12 of Table-A were not counterfeit shoes. As the goods were mis-declared, the value declared by the importer was rejected and the assessable value was re-determined. The total Assessable Value in respect of these unbranded shoes was re-determined to Rs. 5,97,393/- and the total re-determined duty works out to Rs. 3,29,283/-. Further, rest of the shoes mentioned in Table-A were found as branded counterfeit shoes which infringe IPR Enforcement Rules, 2007. Assessable value of these branded counterfeit shoes was re-determined to Rs. 34,06,143/- (Rupees Thirty Four Lakh Six Thousand One Hundred Forty Three only).

3. Statement of Shri Rajeev Kumar, Proprietor and IEC Holder of M/s. Kash International Trade Co. was recorded on 30.11.2022 under Section 108 of Customs Act, 1962 in respect of Bill of Entry 2823097 dated 11.10.2022, wherein he, inter-alia, stated that he was proprietor, IEC holder of M/s. Kash International Trade Co. The firm Kash International Trade Co. was started in 2015, in his name and he started import business. He started importing consignment in 2015 and since then he had been doing this business continuously.

3.1 He further stated that to the best of his knowledge, they had made around 10 to 15 shipments in the name of M/s. Kash International Trade Co. since 2015 from different ports. In Nhava Sheva port, this was their first import. He stated that he ordered the shoes for the said consignment over telephone whatsapp no. and did not generate the purchase order. The supplier showed him the various brand shoes and accordingly, he placed the order. He agreed that the shoes found were counterfeit. But, he ordered only for "Men's Casual various brands shoes (original)". However, the supplier packed counterfeit goods along with unbranded shoes.

3.2 He also admitted that he knew the IPR Rules and he agreed that importing counterfeit shoes is an infringement of IPR Rules. He informed that this was his first import from that supplier. Before that, he used to import from different suppliers.

4. Statement of Shri Ram Ashish Singh, Representative & 'G' Card holder (Kardex No./Card No. S-4251) of Customs Broker M/s. Cargo Concepts (Bombay) Pvt. Ltd. (11/917) was recorded in respect of Bill of Entry No. 2823097 dated 11.10.2022, under Section 108 of the Customs Act, 1962, on 27.02.2023,

wherein he, inter-alia, stated that the Customs Broker, M/s Cargo Concepts (Bombay) Pvt. Ltd. (11/917), is registered at Mumbai. He looks after filing of import documents since 2016. He had been working with that firm since last seven years.

4.1 He further stated that they had been filing the import documents of M/s. Kash International Trade Co. at Mundra Port since last 5-6 years. First time the importer contacted them through telecommunication. In Nhava Sheva, this was the first consignment they had filed for M/s. Kash International Trade Co. They had been authorized by the importer M/s. Kash International Trade Co. (IEC No. 0516960768) to file Bill of Entry No. 2823097 dated 11.10.2022 on their behalf. Shri Rajeev Kumar, Proprietor of M/s Kash International Trade Co., had provided the documents for the import clearance of the said consignment by hand.

4.2 He also stated that they received the copies of KYC documents such as Aadhaar Card, IEC, GST and PAN card through mail. However, they did not verify the documents and address of the importer M/s. Kash International Trade Co. He also stated that they filed Bill of Entry No. 2823097 dated 11.10.2022 on the basis of import documents given to them by the importer. In the import documents, only 'Men's Casual Shoes' was mentioned, so, they filed the documents accordingly.

5. The Customs Broker is an agent of importer. He works on behalf of importer. He also takes authorization to work on behalf of importer. A CB, remains fully aware that omission and commission by the importer affects working image of the CB. It is a business practice that a CB inquires from the importer regarding the goods being imported and imparts proper and correct information related to clearance of such goods, as the CB can face investigation for omission and commission at any time. As per CB Licensing Regulation, a CB is also required to verify the genuineness of the importer. 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. Since, the goods were found mis-declared in terms of quantity and in violation of IPR rules in the BE filed by the CB, it appears that the CB has violated Regulations 10(d), 10(e) and 10(n) of CBLR, 2018.

Under Regulation 10 of Customs Brokers Licensing Regulations, 2018, obligations of a Customs Broker are as under:

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 instant case, Mr. Rajeev Kumar, proprietor of M/s. Kash International Trade Co., in his statement dated 30.11.2022 said that he ordered only for Men's Casual various brands shoes (original). This shows that the import was of IPR goods.

It is a common practice that before filing for bill of entry, the CB consults with the importer and clarifies about the nature of the goods and advises them regarding relevant rules and regulations, especially in these type of goods.

From the facts of the case it is clear that the CB did not advise their client to comply with provisions of Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007, in relation with the import of shoes neither did they bring the matter to the notice of the customs authorities which is sheer non-compliance at the end of Customs broker. Hence the CB has violated 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;”

As stated by Shri Ram Ashish Singh, 'G' Card holder of the CB, they filed Bill of Entry No. 2823097 dated 11.10.2022 on the basis of import documents given to them by the importer. The examination under panchnama dated 13.10.2022 showed that the goods imported vide Bill of Entry No. 2823097 dated 11.10.2022, filed by the CB contained counterfeit shoes of various brands, which were in absolute violation of Intellectual Property Rights (Imported Goods) Enforcement Rules, 2007.

It appears that the CB was not diligent enough to consult with the importer and ascertain the correctness of the information provided to them. Further, the IPR (Imported Goods) Enforcement Rules, 2007 appears to have not been informed to the importer. The CB appears to have not exercised due diligence in checking the correctness of the information which he gave to the importer and failed to check any scope for fraud or loss of Government Revenue. Hence, the CB has violated 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;”

In his statement dated 27.02.2023, Shri Ram Ashish Singh, Representative & 'G' Card holder of the CB, stated that they received the copies of KYC documents such as Aadhaar Card, IEC, GST and PAN card through email. However, they did not verify the documents and address of the importer M/s. Kash International Trade Co. Further, Seizure Memo No. 111/2022-23 dated 21.11.2022 was sent to the importer on registered address, however, the same was returned with remarks "Addressee left without instructions". Hence, the CB appears to have violated Regulation 10(n) of CBLR, 2018.

6. Accordingly, the license of CB, M/s Cargo Concepts (Bombay) Pvt. Ltd. (License No. 11/917) was suspended vide Order No. 23/2024-25 dated 11.06.2024 for violation of Regulations 10(d), 10(e) and 10(n) of CBLR, 2018.

7. The CB was given an opportunity of personal hearing in this matter on 20.06.2024. In their written submission they stated that they had verified KYC of the importer and the address was visited by the director of the firm. They submitted through various case laws that the suspension of CB license is not warranted where a considerable amount of time has passed since alleged violation of CBLR (or CHALR) by the CB and passing of suspension order.

8. Subsequently, the Suspension of the CB license was revoked vide Order No. 27/2024-25 dated 25.06.2024 as per Regulation 16(2) of the CBLR, 2018.

9. During investigation the goods were found to be mis-declared in terms of description and quantity and also in infringement of IPR rules. The fact was also corroborated by the statements of the importer and of G-card holder of the CB. Hence, it appears that the CB has violated Regulations 10(d), 10(e) and 10(n) of CBLR, 2018.

10. In view of the above, in terms of Regulation 17(1) of CBLR, 2018 the Customs Broker M/s Cargo Concepts (Bombay) Pvt. Ltd. (CB No. 11/917, PAN No.: AABCC5421H) is hereby called upon to show cause, as to why:

- i. the license, bearing no. 11/917, 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.

11. 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 Tikendra Kripal, Deputy Commissioner**, who shall conduct inquiry under Regulation 17 of CBLR, 2018.

12. 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.

13. 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.


19/2/2024

(SUNIL JAIN)
Principal Commissioner of Customs (G)
NCH, Mumbai - I

To,

M/s Cargo Concepts (Bombay) Pvt. Ltd. (11/917) (AABCC5421H),
Ground Floor, Shop No.1, Monarch Plazza,
Plot No.56, Sector 11, CBD Belapur,
Navi Mumbai, Thane - 400614

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. Bombay Custom House Agent Association