



प्रधान आयुक्त (सामान्य) सीमाशुल्क का कार्यालय
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS
(GENERAL)
कस्टम ब्रोकर अनुभाग, नवीन सीमाशुल्क भवन, बेलाई इस्टेट, मुंबई - I
CUSTOMS BROKER SECTION, NEW CUSTOM HOUSE,
BALLARD ESTATE, MUMBAI-I
Email:- cbsec.nch@gov.in



F. No. GEN/CB/583/2022-CBS
DIN: 2024127700000000C509

Date: 09.12.2024

**SHOW CAUSE NOTICE NO. 64/2024-25
UNDER REGULATION 17 OF THE CUSTOMS BROKER LICENSING
REGULATION, 2018**

M/s. Apsan Enterprises (CB No. 11/501, PAN-AAAF5729L), having office address at 2/B Roy Appt. Opp Air Cargo Complex, Sahar Road, Andheri (E), Mumbai-99 (hereinafter referred to as the Customs Broker/CB), is holding regular Custom Broker License No. 11/501 issued by Commissioner of Customs, Mumbai under Regulation 10(1) of the Customs House Agents Licensing Regulations (CHALR), 1984 [Now regulation 7(2) of Customs Broker Licensing Regulations (CBLR, 2018)] and as such they are bound by the regulation and conditions stipulated therein.

2. An Offence Report in the form of SCN No. 30/Adj(X)/2022-23 dated 15.11.2022 issued vide F.No. Cus/Ass/MISC/525/2022 Exp.Ass received from ACC, Mumbai. Vide the above-mentioned Offence Report (SCN), wherein it was inter-alia informed that:

2.1 Directorate of Revenue Intelligence (DRI), Mumbai Zonal Unit (MZU), Mumbai investigated a case of availing of undue export benefits on the basis of fake/bogus export documents by exporter M/s. Lorgan Lifestyle Limited, Pune (IEC 3107012696). The exporter was engaged in bogus exports by way of procuring fake purchase bills against the export consignments from one Mr. Suhel Ansari, through fake firms floated by him. During the course of the investigation of the case various searches were conducted by the DRI.

2.2 The office premises of M/s. Lorgan Lifestyle Limited were searched on 23.07.2015 wherein certain documents and 02 computers were recovered.

2.3 The office premise of M/s. Karan Ranka & Associates, CA of Shri Suhel Parvez Mohammed Sharif Ansari was searched on 29.07.2015. His statements under Section 108 of Customs Act, 1962 were recorded on 29.07.2015 & 30.07.2015 wherein he admitted that invoices were being prepared on the blank invoices on the basis of Commercial Invoice and packing list of various export goods. He also admitted that suppliers were bogus and existed only on papers.

2.4 The office premises of Shri Suhel Ansari was searched on 14.08.2015 wherein certain records/documents, three laptops, one hard disk and various rubber stamps were recovered.

2.5 During the course of investigation, statement of Shri Suhel Parvez Ansari and Shri Shaikh Mohammed Arshad employee of Shri Suhel Parvez Ansari were recorded on 24.08.2015 by DRI, Mumbai where they admitted that they supplied fake invoices to various export firms including **M/s. Smart International (IEC 0310055822)**.

2.6 During investigation, statement dated 01.07.2016 of Shri Suryabhan Eknath Dhurphate, Proprietor of M/s. Sanket Overseas, Navi Mumbai, was recorded before the DRI, MZU, who was logistics provider and was involved in clearing the

consignments through the CB, M/s. Indo Foreign Agents. From the perusal of his statement, it was disclosed that usually the cost and expenses incurred on the export material was only around 35% of the drawback amount. He also stated that the benefits availed by them and the exporter was to the extent of 65%. The said fact appears to be corroborated by the statement of CB Shri Gunjal, power of attorney in CB M/s. Indo Foreign Agents, who admitted overvaluation of export goods. This was the modus operandi, which was adopted by all such exporters including M/s Smart International who were exporting the goods on the basis of fake supplier's invoice.

2.7 Thereafter, cases of various exporters including **M/s. Smart International** were investigated by SIIB (Export) ACC, Mumbai. The subject case is related to one of such exporters namely **M/s. Smart International**. Said exporter had filed 38 shipping bills during 01.01.2012 to 31.12.2016.

2.8 The details of exports made by the exporter M/s. Smart International were retrieved from the ICES System and the details of the same are as below: -

Sr. No.	Time period (LEO Date)	No. of Shipping Bills	Total Value (Rs. in Lakhs)	FOB	Drawback (Rs.in Lakhs)
1	01.01.2012 to 31.12.2012	13	51.03		3.81
2	01.01.2013 to 31.12.2013	11	61.75		4.79
3	01.01.2014 to 31.12.2014	11	58.48		4.73
4	01.01.2015 to 31.12.2015	03	5.66		0.46
5	01.01.2016 to 31.12.2016	0	0		0
		38	176.92		13.79

BRC details of M/s. Smart International (IEC No.0310055822) were generated from ICES System. It is found that BRC has been realised in all 38 shipping bills filed by M/s. Smart International and the drawback of Rs. 6.82 Lakhs has been disbursed in respect of 33 shipping bills to the exporter.

2.9 Shri Anil Visanji Vora, in response to Summons No. SDC/51/2019-20 dated 04.06.2019 issued to the exporter appeared and his statement was recorded on 18.06.2019 and on 09.03.2022 under section 108 of Customs Act 1962, wherein he inter alia stated that:

- He is partner of M/s Smart International which was established in 2010 and they procured goods from the wholesale market.
- He used to purchase readymade garments and fabrics from Dadar, Bandra, Malad, Surat and Ahmadabad.
- Further, he said that overseas buyers came in Bombay and contacted him on the phone. Buyers use to tell their requirement for the material and go to the market with the him and they ordered the product for export, whatever products were liked by the buyers. The profit margin was added on the product

- and the same were exported. Local vendor prepared an order form and issued the invoices in the name of his company M/s Smart International.
- D. He purchased raw material/readymade garments from the local market and he made the payment through Cheque or by cash.
 - E. He did not now know Suhel Ansari and he never met with him.
 - F. He had not transacted any business with any of the companies floated by Shri Suhel Ansari and he will submit the bank statement for reference within 01-02 days.
 - G. He had done 38 shipping bills through Air Cargo Complex in the year between 2012 and 2016. Vide letter dated 18.01.2022, He had submitted copies of export invoice, Airway bill, BRC and shipping bills to the investing agency.
 - H. On being asked about overvaluation of the goods exported between 2012 and 2016, he stated that his company never overvalued the exported goods. He stated that they used to purchase the goods from the local market and after adding 15-20% benefits, they prepared the export invoice and exported the same to foreign buyers. For the reference, he will submit the local purchase invoice.

2.10 On scrutiny of the shipping bills filed by the exporter M/s. Smart International, it was found that the Customs Brokers M/s. Atlas Logistic Pvt. Ltd., M/s. Beejay Clearing and Forwarding Agency and M/s **Apson Enterprises (CB No. 11/501)** had cleared the export consignments / shipping bills of the said exporter. As per Annexure-A, attached with the offence report dated 15.11.2022, it is evident that M/s. Apson Enterprise cleared 02 export consignments/Shipping Bills.

2.11 Statement of Shri Jude D. Mello, General Manager of CB M/s. Atlas Logistic Pvt. Ltd has been recorded on 30.08.2022 wherein he inter alia stated that they have done KYC verification and address verification of M/s Smart International and they submitted copy of the same to the investigating agency.

2.12 Statement of Shri John K. Mathew proprietor of CB M/s. Beejay Clearing and Forwarding Agency has been recorded on 01.09.2022 wherein he inter alia stated that he had verified their office address, IEC Code, Aadhar card of Mr. Anil Vora. He submitted the KYC documents, PAN Card and IEC Copy to the investigating agency.

2.13 This fact was also confirmed by the enquiry conducted by DRI vide its letter F. No. DRI/MZU/D/INT-31/2015/7766 dated 04.10.2016 through Consulate General of India, Dubai, UAE, who vide letter dated 08.03.2018 reported that from the scrutiny of the documents provided by Federal Customs Authority, Dubai, it emerged that goods had been cleared and unit values had been much lower than what has been declared to Indian Customs. As per DRI, instant exporter has also adopted the similar modus- operandi.

2.14 DRI vide their letter F. No. DRI/MZU/D/INT-31/2015/7766 dated 04.10.2016 mentioned that undue drawback is being claimed by the exporters by overvaluing the exports whereas cheaper materials were exported and to justify the value of the goods, fake invoices from Shri. Suhel Ansari were procured showing the higher purchase price. DRI further gave a list of exporters and stated that these exporters included **M/s. Smart International (IEC No.-0310055822)** may have also adopted a similar modus operandi and requested that the same may be investigated by SIIB (Export), ACC, Mumbai.

3. Role of M/s Apson Enterprises (11/501) in case of M/s. Smart International

From the facts of the case, it appears that the CB M/s. Apson Enterprises (CB No.11/501, PAN-AAAF5729L) has failed to comply with regulation 10(d), 10(e) &

10 (f) of CBLR, 2018, as amended. The relevant regulation of CBLR, 2018, are produced below for reference:

3.1 Regulation 10(d) of CBLR 2018:

"A Customs Broker shall advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be"

On perusal of the Offence Report, it appears that the CB did not advise the exporter about Circular No. 16/2009- Customs dated 25.05.2009 issued vide F. No. 609/ 137/2007 - DBK and abetted the exporter by declaring the incorrect value of the goods in shipping bills against the fake invoices to avail undue drawback and did not bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs. Thus, the CB appears to have violated Regulation 10(d) of CBLR, 2018.

3.2 Regulation 10(e) of CBLR:

"A Customs Broker shall 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 appears that CB aided the exporter in availing the undue drawback by the exporters by overvaluing the exports, whereas cheaper material was exported, and to justify the value of the goods, fake invoices from Shri Suhel Ansari, were procured showing the higher purchase price. Hence it appears that CB failed to exercise due diligence to ascertain the correctness of the invoice produced by the exporter. Thus, the CB appears to have violated Regulation 10(e) of CBLR, 2018.

3.3 Regulation 10(f) of CBLR:

"A Customs Broker shall not withhold information contained in any order, instruction or public notice relating to clearance of cargo or baggage issued by the Customs authorities, as the case may be, from a client who is entitled to such information"

It appears that CB did not inform the exporter about the instructions, circulars and public notice regarding claiming of drawback. It further appears that CB did not guide the Exporter M/s. Smart International with respect to furnishing declarations at the time of export in format annexed to Circular No. 16/2009- Customs dated 25.05.2009 issued under F. No. 609/137/2007 - DBK. It was the responsibility of the CB to ensure that the Exporter declares the name and complete address of the traders from whom goods has been purchased in order to claim Drawback. It appears that CB did not advise the Exporter to comply with Rule 3, Rule 16 and Rule 16A of Drawback Rules, 1995. It appears that CB has abetted the exporter by declaring the incorrect value of the goods in shipping bills against the fake invoices to avail undue drawback. Thus, the CB appears to have violated Regulation 10(f) of CBLR, 2018.

3.4 From the above facts, it appeared that, prima facie, Customs Broker CB M/s Apson Enterprises (License No. 11/501) had violated Regulation 10(d), 10(e) & 10(f) of CBLR, 2018. It is apprehended that the Custom Broker may adopt similar modus operandi in future consignments and the department cannot remain oblivious to the danger posed by such an eventuality.

Accordingly, the Customs Broker license of CB M/s Apson Enterprises (License No. 11/501) was suspended vide Order No. 30/2024-25 dated 19.07.2024 and opportunity of Personal Hearing was granted to the CB.

4. The opportunity for personal hearing was granted to the CB on 31.07.2024, 21.08.2024, 12.09.2024, 26.09.2024. However, CB failed to appear and finally attended Personal Hearing on 23.10.2024 wherein the CB requested for 03 day's time to submit their written submission on the Suspension Order No. 30/2024-25 dated 19.07.2024 and requested to restore the license as only 02 shipping bills out of 38 were filed by them for the exporter M/s. Smart International.

5. The written submission with respect to the Suspension order No. 30/2024-25 dated 19.07.2024 were received in this office on 28.10.2024 vide CB's letter dated 26.10.2024 where in it was submitted; that the suspension has affected their livelihood; that the whole case stands on the grounds that Mr. Suhel Ansari along with his CA Mr. Ranka and others were in the business of issuing fake invoices and there is no role of Custom Brokers as such; that they have done clearance of only 02 shipping Bills consignments for the client M/s Smart International which were destined to Mauritius and not to UAE and hence not relevant to this case; that the remittance for both the shipments are received, drawback has been released in respect of only one Shipping Bill and drawback of another shipping bill has been suspended; that they were not involved in procurement, packaging, transportation and freight broking etc.; that there is no evidence on record which shows that the export shipments pertaining to their 02 shipping bills were cleared by the custom broker using purchase bills issued by the said fake entities formed by Mr. Suhel Ansari or his associates; that the statement of Mr. Anil Vora partner of Smart international has denied and nowhere mentioned in his statement that such purchase bills were being used; that there is also no record of any wrongdoing or any shortcoming on the part of Custom Broker in the statements; that the allegations in the order and the SCN are speculative as there is no evidence on record for any contraventions of the Customs Act or the CBLR. Further they have quoted many judgements submitting that the onus should not be put on Custom Broker.

6. Subsequently, considering the submissions by the CB, the Suspension of the CB license was revoked vide Order No. 45/2024-25 dated 14.11.2024 as per Regulation 16(2) of the CBLR, 2018.

7. The evidence on record clearly indicates that the CB was working in a negligent manner and was in violation of the obligations casted upon them under the CBLR 2018. A Custom Broker occupies a very important position in the Customs House and is supposed to safeguard the interests of both the importers/exporters and the Customs department. A lot of trust is kept in CB by the Government Agencies, but by their acts of omission and commission it appears that the said CB have violated Regulation 10(d), 10(e) & 10(f) of the Customs Brokers Licensing Regulations, 2018 and rendered themselves for penal action under CBLR, 2018.

8. In terms of Regulation 17(1) of CBLR, 2018, CB M/s. Apson Enterprises (Custom Broker-11/501, PAN No. AAFA5729L) is hereby called upon to show cause, as to why:

- i. The Customs Broker license bearing no. 11/501 issued to them should not be revoked under regulation 14 read with regulation 17 of the CBLR, 2018;
- ii. Security deposited should not be forfeited under regulation 14 read with regulation 17 of the CBLR, 2018;
- iii. Penalty should not be imposed upon them under regulation 18 read with regulations 17 of the CBLR, 2018.

9. The Customs Broker CB M/s. Apson Enterprises (Custom Broker-11/501) is directed to submit written submission to this show cause notice within 30 days from the date of issue of this notice and appear for personal hearing on the date as may

be fixed and to produce proof of evidence/documents, if any, in their defence to the Inquiry Officer, Shri Alok Kumar (Assistant Commissioner of Customs), who shall conduct inquiry under Regulation 17 of CBLR, 2018. 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.

10. 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 any other law for the time being in force.



(RAJAN CHAUDHARY)

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

To

M/s. Apson Enterprises, (Custom Broker Licence no. 11/501, PAN AAFA5729L),

2/B, Roy Appt., Opp. Air Cargo Complex,

Sahar Road, Andheri (E), Mumbai, 400099

Copy to:

1. The Pr./Chief Commissioner of Customs, Mumbai Zone I, II, III.
2. Shri Alok Kumar, Assistant Commissioner of Customs appointed as the Inquiry Officer to conduct inquiry into the case under regulation 17 of CBLR, 2018.
3. CIU's of NCH, ACC & JNCH.
4. The Commissioner of Customs, Mumbai Zone I, II, III.
5. EDI of NCH, ACC & JNCH.
6. BCBA.
7. Office copy.
8. Notice Board.