



प्रधान सीमाशुल्क आयुक्त (सामान्य) का कार्यालय
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (GENERAL)
कस्टम ब्रोकरअनुभाग, नवीन सीमाशुल्क भवन,
CUSTOMS BROKER SECTION, NEW CUSTOM HOUSE,
बेलार्ड इस्टेट, मुंबई - I
BALLARD ESTATE, MUMBAI - I

F.NO. GEN/CB/151/2024/CBS

Date: 08.05.2024

Issue Date: 09.05.2024

DIN: 2024057700000000 C24F

SHOW CAUSE NOTICE No. 08 /2024-25 CBS

M/s Pratik International CB No. 11/1988, CB Code AAPFP3036J CH001, 131, Almedia House, Room No. 01, Road No. 02, Church Pakhadi, Sahar Village, Andheri East, Mumbai-400099 (hereinafter referred to as the Customs Broker/CB) is holder of Customs Broker License No. 11/1988, issued by the Commissioner of Customs, Mumbai under Regulation 7(1) of CBLR, 2013 (now regulation 7(2) of CBLR, 2018) and as such they are bound by the regulations and conditions stipulated therein.

2. An Offence Report in the form of Investigation Report dated 15.03.2024 issued vide F. No. SG/MISC-160/2023-24 CIU, JNCH was received CIU, JNCH, Mumbai, wherein, inter-alia following were informed:

2.1 The Officers of CIU, JNCH on specific intelligence put on hold two Forty Feet (40') containers bearing numbers ARCU4534860 & ARCU4534475 lying in M/s Central Warehousing Corporation (CWC), CFS D'Node, Dronagiri (Budget CFS Terminals Private Limited), covered under Bill of Entry No. 9192378 dated 12.12.2023 filed by CB M/s Pratik International CB No. 11/1988 on behalf of importer M/s. Abhi Agro Fresh Fruits (IEC: BOWPD1234G) {hereinafter referred as the Importer}. The said importer misused the Phytosanitary Certificate bearing PC No. NPPO-ZA/2023/10/1049905 dated 03.10.2023 issued in South Africa.

2.2 Details of the live Bill of Entry No. 9192378 dated 12.12.2023 is as follows: -

Bill of Entry No. & Date.	9192378 dated 12.12.2023.
Bill of Entry Type & Assessment	Home Consumption. PAG
Importer Name and Address.	M/s. Abhi Agro Fresh Fruits (IEC: - BOWPD1234G). Address: - Shop No. 3, Sai Udyam, Rohta Road, Udyam

	Turupati Enclave, Meerut – 250001, Uttar Pradesh.
Customs Broker Name and Address.	M/s. Pratik International (CB Code:- AAPFP3036JCH001). Address: - 113, Bora Bazar Street, Doctor House, 3rd Floor, Office No.8, Fort Mumbai 400001. Email id: -pratik_cus@yahoo.in/ ramkrishnamshetty@gmail.com.
Description of Goods.	Pear Fresh Fruit Size Mix Count.
CTH	08083000
Quantity	4158 CTN / Gross Weight – 53222.400 kgs, Net Weight – 49896.000 kgs.
Duty Structure	BCD – 30%, SWS – 10%.
Assessable Value	Rs. 27,64,809.40
Total Duty	Rs. 9,12,387.00 (BCD – Rs. 8,29,442.80, SWS – Rs. 82,944.30). Duty yet to be paid by the Importer.
Supplier/Consignor	TRIM General Trading LLC, 603, Tower A, Centurion STA, R Building, Port Saeed Deira, Dubai, PO Box – 83541, UAE.
Notify Party	Mubeena Food Stuff Trading LLC, UAE.
Country of Origin	South Africa.
Port of Loading	Jebel Ali, UAE.
Container Details	2x40': - ARCU4534860 & ARCU4534475.
BE Assessment	RMS FACILITATED

2.3 During 100% examination of both Containers under Panchanama dated 19.12.2023 it was found that the description and quantity of the goods were found to be same as declared by the importer. However, during examination, it was found that Phytosanitary Certificate for Re-Export No. DXB-APH-02415-2460883 dated 05.12.2023 issued in UAE was uploaded in E-Sanchit for the said import consignment. Thereafter, on scrutiny of above-mentioned Phytosanitary Certificate for Re-Export issued in UAE, the following details were found: -

- i) Name and Address of the Exporter in UAE – TRIM General Trading LLC, 603 Tower A, Centurion Star Building, Port Saeed, Deira, P.O. Box Dubai, UAE,
- ii) Declared Name and Address of Importer – Abhi Agro Fresh Fruits, Shop No. 3, Sai Udyam, Rohta Road, Udyam Turupati Enclave, Meerut – 250001, Uttar Pradesh, India,
- iii) Distinguishing Marks: - ARCU4534475, ARCU4534860,
- iv) Declared Port of Entry: - Nhava Sheva,
- v) End Use Purpose – Consumption,
- vi) Scientific Name: - *Pyrus communis*,
- vii) Common Name: - Pear,
- viii) Origin – South Africa,
- ix) PC No. – NPPO-ZA/2023/10/1049905,
- x) Quantity – 49896 kgs,
- xi) No. of Packages – 4158,
- xii) Commodity Class – Fruits & Vegetables,

xiii) Place of issue: - Jabel Ali Port Centre for Agricultural and Veterinary Quarantine.

xiv) Date of Issue: - 05.12.2023.

xv) Invoice No: - TGTLFF23-354/397 Date 30.11.2023/Total Gross Weight: 53222.40 kgs.

Thus, from the above, it was found that the Country of Origin of the said import consignment of Fresh Pear Fruit was South Africa and the Phytosanitary Certificate No. NPPO-ZA/2023/10/1049905 dated 03.10.2023 was issued by the Plant Protection Organisation of the Republic of South Africa.

It has been further found that the Phytosanitary Certificate No. NPPO-ZA/2023/10/1049905 dated 03.10.2023 issued by South Africa (declared country of origin), for export from South Africa to UAE, has been issued for a quantity of 13770 Cartons & 168830 NETT KGM of Fresh Pear Fruit.

2.4 Thereafter, past consignments of Fresh Pear Fruit imported by the said importer were scrutinized. On scrutiny of the various import documents of the importer for period from 03.10.2023 to 26.12.2023, it was found that on the basis of the Phytosanitary Certificate bearing PC No. NPPO-ZA/2023/10/1049905 dated 03.10.2023 issued in South Africa (declared country of origin), multiple Phytosanitary Certificates were issued in UAE which were utilized by the said importer for multiple re-export shipments from UAE to Nhava Sheva, as mentioned in the 07 Bills of Entry pertaining to the said Importer in table below: -

TABLE - 1

Sr. No.	BE No.	BE Date	Quantity in Cartons	Net Weight (in kgs)	Assessable Value (in Rs.)
Imports made within stipulated quantity of 13770 Cartons & 168830 NETT KGM of Fresh Pear Fruit in Phytosanitary Certificate bearing PC No. NPPO-ZA/2023/10/1049905 dated 03.10.2023 of South Africa.					
1	8632567	04.11.2023	7648	114720	6515155
2	8687193	08.11.2023	5402	42810	2431257
Sub-Total			13040	157530	8946412
Imports made after stipulated quantity of 13770 Cartons & 168830 NETT KGM of Fresh Pear Fruit in Phytosanitary Certificate bearing PC No. NPPO-ZA/2023/10/1049905 dated 03.10.2023 of South Africa was already imported in the above mentioned 02 BEs.					
1	8753548	13.11.2023	8316	99792	5667367
2	9011753	30.11.2023	6076	40127.28	2274031
3	9176228	11.12.2023	7478	93475	5308614
4	9176232	11.12.2023	8540	106750	6062525
5*	9192378	12.12.2023	4158	49896	2764809

Sub-Total	34,562	3,90,040.28	2,20,77,346
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* **Live consignment under seizure.**

2.5 Thus, from the TABLE-1 above, it was evident that the said Importer had over-used/mis-used Country of Origin Phytosanitary Certificate bearing PC No. NPPO-ZA/2023/10/ 1049905 dated 03.10.2023 issued in South Africa and had fraudulently imported 05 consignments of Fresh Pear Fruit, including the live consignment, having total Assessable Value of Rs. 2,20,77,346/- after stipulated quantity of 13770 Cartons & 168830 NETT KGM of Fresh Pear Fruit in Phytosanitary Certificate bearing PC No. NPPO-ZA/2023/10/ 1049905 dated 03.10.2023 of South Africa, was already imported in earlier 02 BEs.

2.6 Thus, Phytosanitary Certificate for Re-Export No. DXB-APH-02415-2460883 dated 05.12.2023 issued in UAE against Phytosanitary Certificate bearing PC No. NPPO-ZA/2023/10/1049905 issued in South Africa used by the said importer was not valid for clearance of fresh pears imported vide Bill of Entry No. 9192378 dated 12.12.2023 and the same appears to be misused for fraudulently obtaining Customs Clearances by misleading the Customs Authorities. Hence, it appears that the said 05 import consignments of Fresh Pear fruit, including the live consignment under seizure, was imported without a valid mandatory Phytosanitary Certificates, thereby putting the Indian flora & fauna at risk.

2.7 Further, on scrutiny of the relevant origin country Phytosanitary Certificate bearing PC No. NPPO-ZA/2023/10/1049905 dated 03.10.2023 of South Africa, in the light of the Plant Quarantine (Regulation of Import into India) Order, 2003, as mentioned above, it was noticed that the said Phytosanitary Certificate was improper as it did not contain the additional declarations and special conditions mentioned under Chapter-II & III and Schedule-VI of the said order.

2.8 As the goods imported by the said importer vide Bill of Entry No. 9192378 dated 12.12.2023 were found liable to confiscation under section 111(m) of the Customs Act 1962, the same were placed under seizure vide Seizure Memo dated 26.12.2023, under Section 110 of the Customs Act 1962.

2.9 As per the **Plant Quarantine (Regulation of Import into India) Order, 2003**, every import of Fresh Fruits (Pear and Apple) into India shall be accompanied by an original Phytosanitary Certificate, containing the additional declarations and special conditions, issued by an authorized officer in the country of origin.

Also, in case of **re-export into India**, the consignments shall be accompanied by a **Phytosanitary certificate of re-exporting country along**

with the original/ certified copy of Phytosanitary certificate issued by the country of origin.

2.10 In view of the above, all the imports of 'Fresh Pear Fruit' made by the said importer since 03.10.2023 were taken up for investigation by CIU, JNCH. From the EDI system, it was found that the said Importer had filed 14 Bills of Entry of 'Fresh Pear Fruit'. Details of the said 14 consignments of 'Fresh Pear Fruit' imported by the said Importer is shown in Table below: -

TABLE - 2

Sr No	BE No.	BE Date	Qty. (CTN)	Net Weight (kgs)	Assessable Value (Rs.)	Total Duty (Rs.)
(A) 7 consignments wherein no PSCs (origin country/re-exporting country) had been uploaded and non-relevant documents had been uploaded.						
1	8361810	18.10.2023	14969	151827.19	8622540	2845438
2	8753423	13.11.2023	1596	18354	1042357	343978
3	8861628	21.11.2023	4316	18127.20	1002071	330683
4	8886917	22.11.2023	8316	99792	5516500	1820445
5	8948727	26.11.2023	8720	100280	5682913	1875361
6	8948775	26.11.2023	9850	113275	6419345	2118384
7	9066736	04.12.2023	7040	88000	4987000	1645710
Total			54807	589655.39	33272726	10979999
(B) 7 consignments wherein only re-exporting country PSCs had been uploaded. Origin country PSC had not been uploaded and non-relevant documents had been uploaded instead. Same origin country (South Africa) PSC No. 'NPPO-ZA/2023/10/1049905 dated 03.10.2023 (13770 CTN/168830 kgs of Fresh Pear Fruit)' was mentioned in re-exporting country PSCs. Said origin country PSC was used repetitively.						
(B) (i) Quantity (13770 CTN / 168830 kgs of Fresh Pear Fruit) mentioned in origin country PSC was imported in 2 BEs.						
8	8632567	04.11.2023	7648	114720	6515155	2150002
9	8687193	08.11.2023	5402	42810	2431257	802315
Sub-Total			13050	157530	8946412	2952317
(B) (ii) 5 consignments imported without valid origin country PSC.						
10	8753548	13.11.2023	8316	99792	5667367	1870231
11	9011753	30.11.2023	6076	40127.28	2274031	750430
12	9176228	11.12.2023	7478	93475	5308614	1751842
13	9176232	11.12.2023	8540	106750	6062525	2000633
14*	9192378	12.12.2023	4158	49896	2764809	912387
Sub-Total			34568	390040.28	22077346	7285523
TOTAL (B)(i) & B(ii)			47618	547570.28	31023758	10237840
GRAND TOTAL (A) & (B)			10242	1137225.6	6,42,96,484	2,12,17,83

* Live consignment under seizure.

2.11 Thus, it has been found that both the mandatory Phytosanitary Certificates issued by the re-exporting country and country of origin were either not uploaded or only one of the said Phytosanitary Certificates were uploaded, in e-sanchit. Most of the imports are re-export shipments from UAE, wherein, Phytosanitary Certificates issued by the re-exporting country (UAE)

has been uploaded in e-sanchit, whereas, the mandatory Phytosanitary Certificates issued by the country of origin (South Africa), as mentioned in the said Phytosanitary Certificates issued by the re-exporting country (UAE), had not been uploaded in e-sanchit.

2.12 Letters dated 13.01.2024 & 16.01.2024 were issued to The Pr. Commissioner of Customs (Preventive), Lucknow and The Principal Commissioner of CGST, Meerut requesting for conducting search of the Importer's Premises & recording of statement w.r.t fraudulent imports of fresh fruits at Nhava Sheva, JNCH.

2.13 Assistant Commissioner of Customs (P), Division Bareilly vide their letter dated 18.01.2024 informed that a team of officers of Customs (P) Division, Bareilly along with the team of CGST Meerut visited the premises of the importer M/s Abhi Agro Fresh Fruits (IEC – BOWPD1234G) at Shop No. 3, Sai Udyam, Rohta Road, Udyam Turupati Enclave, Meerut – 250001, Uttar Pradesh and conducted the search under panchanama dated 16.01.2024. During search, the said premises of the importer M/s Abhi Agro Fresh Fruits (IEC – BOWPD1234G) was found vacant and nothing was found there except a few financial records and Phytosanitary Certificates. Shri Jaineesh Dubey, the owner/proprietor of M/s Abhi Agro Fresh Fruits was not present during the search and the search was conducted in the presence of Shree Vikas Sharma (friend of Shri Jaineesh Dubey). Also, on asking about the 05 import consignments of fresh pear fruit (which were imported without a valid mandatory Phytosanitary certificates) during telephonic conversation with Shri Jaineesh Dubey, he said that he was ignorant of the fact and would state later with the help of his CA.

2.14 Thus, all the said 14 import consignments of Fresh Pear Fruit, during the period from October-2023 to December-2023, were imported in violation of “pre-import condition” set by the said PQ Order, 2003, thereby, making them prohibited goods for import into India. This involved 1137.23 Tons of Pears valued at Rs. 6.43 crores and Customs Duty of Rs. 2.12 crores.

2.15 Statement of Shri Devendra Ramchandra Salvi, Employee of M/s Pratik International in connection with import of Fresh Pear Fruit by importer M/s Abhi Agro Fresh Fruits covered under Bill of Entry No. 9192378 dated 12.12.2023 was recorded on 05.01.2024 under Section 108 of the Customs Act, 1962 wherein he stated that:

a. He was G-Card employee of M/s Pratik International having Kardex No. 5924/2022; was looking after all the Customs related work in M/s Pratik International at JNCH; Mr. Ram Krishna Shetty was the F Card Holder and

owner of his CB firm M/s Pratik International. He further stated that Bill of Entry No. 9192378 dated 12.12.2023 was filed by his CB firm on behalf of the said Importer under proper authorization. He stated that as per records available in his office, in addition to the live shipment of 'fresh pear fruits' covered under B/E No. 9192378 dated 12.12.2023 and past import shipments of the said importer mentioned in Table-3 below was filed by his CB firm wherein Phytosanitary Certificate Number (PC No) NPPO-ZA/2023/10/1049905 dated 03.10.2023 (Country of Origin-South Africa) was mentioned in Phytosanitary Certificate for Re-export issued from UAE: -

TABLE - 3

Sr No	BE No.	BE Date	Shipper/ Foreign Supplier	Quantity in Cartons	Net Weight (in kgs)	Phytosanitary Certificate for Re-Export No issued at UAE.	Assessable Value (in Rs.)	Total Duty (in Rs.)
1	8687193	08.11.2023	JR General Trading FZE LLC, UAE	5402	42810.000	DXB-APH-02415-2423722 dated 28.10.2023	2431257.00	802315.00
2	8753548	13.11.2023	TRIM General Trading LLC, UAE	8316	99792.000	DXB-APH-02415-2436139 dated 10.11.2023	5667367.00	1870231.00
3	9011753	30.11.2023	JR General Trading FZE LLC, UAE	6076	40127.280	DXB-APH-02415-2460522 dated 04.12.2023	2274031.00	750430.00
4	9192378	12.12.2023	TRIM General Trading LLC, UAE	4158	49896.000	DXB-APH-02415-2460883 dated 05.12.2023	2764809.00	912387.00
TOTAL QUANTITY				23952	232625.28			

b. On being asked about issuance of country of Phytosanitary Certificate, he stated that M/s Abhi Agro Fresh Fruits had imported 23952 cartons/packages, totaling 232625.280 kilograms of 'Fresh Pear Fruit' vide three past import and one live shipment filed by his CB M/s Pratik International as mentioned in TABLE-2 above wherein Phytosanitary Certificate Number (PC No) NPPO-ZA/2023/10/1049905 has been mentioned in the Phytosanitary Certificate for Re-export issued from UAE.

c. On being asked about the past imports of the said importer he stated that the importer M/s Abhi Agro Fresh Fruits had provided respective Phytosanitary Certificate for Re-export issued from UAE in respect of above mentioned three past import and one live shipment of 'fresh pear fruit' in above mentioned

Table-2. He stated that at the time of filing of Bill of Entry only PC No. NPPO-ZA/2023/10/1049905 & Origin 'South Africa' and quantity of individual import shipment from UAE was mentioned.

d. In reply to question that whether the said CB had enquired from the said importer about the previous import shipments of 'fresh pear fruits' made by using third country Phytosanitary Certificate bearing (PC No) NPPO-ZA/2023/10/1049905 dated 03.10.2023 issued in South Africa at the time of filing of first BE No. 8687193 dated 08.11.2023 for 5402 cartons and 42810.000 kgs of 'fresh pear fruits' as mentioned in TABLE- 2 above, he stated that his CB firm had not enquired the same from the importer.

In reply to question that why his CB firm has not asked for copy of third country Phytosanitary Certificate bearing (PC No) NPPO-ZA/2023/10/1049905 dated 03.10.2023 issued in South Africa against which first import shipment of 'fresh pear fruit' of M/s Abhi Agro Fresh Fruits, filed by his firm, vide BE No. 8687193 dated 08.11.2023 for 5402 cartons and 42810.000 kgs, he stated that his CB had not asked the above documents from the importer in good faith.

e. In reply to question whether he agreed that by not doing the proper KYC Verification of the said importer and proper documentation in r/o imported goods prior to filing of various B/Es on behalf of the said importer, his CB Firm failed to fulfil the obligations stipulated in Regulation 10 of the CBLR, 2018; thereby facilitating the said importer in improper importation of various consignments of 'fresh pear fruits', he accepted mistake of his CB firm for not doing the proper KYC Verification of the said importer.

f. In reply to question that how many import consignments of fresh pear fruits of the said importer had been cleared by his CB firm during the period from 01.04.2023 till 05.01.2024, he stated that as per available documents in his office **09 import shipments including the live import shipment** pertaining to the said importer mentioned in Table-4 below were filed by his CB firm.

TABLE - 4

Sr. No	BE No.	BE Date	Shipper/ Foreign Supplier	Quantity in Cartons	Net Weight (in kgs)	Assessable Value (in Rs.)	Total Duty (in Rs.)
1	8361810	18.10.2023	DPS Global Trading FZE LLC, UAE	14969	151827.190	8622540.00	2845438.00
2	8753423	13.11.2023	JR General Trading FZE LLC, UAE	1596	18354.000	1042357.00	343978.00

3	886162 8	21.11.202 3	JR General Trading FZE LLC, UAE	4316	18127.200	1002071.00	330683.00
4	888691 7	22.11.202 3	TRIM General Trading LLC, UAE	8316	99792.000	5516500.00	1820445.0 0
5	906673 6	04.12.202 3	JR General Trading FZE LLC, UAE	7040	88000.000	4987000.00	1645710.0 0
6	868719 3	08.11.202 3	JR General Trading FZE LLC, UAE	5402	42810.000	2431257.00	802315.00
7	875354 8	13.11.202 3	TRIM General Trading LLC, UAE	8316	99792.000	5667367.00	1870231.0 0
8	901175 3	30.11.202 3	JR General Trading FZE LLC, UAE	6076	40127.280	2274031.00	750430.00
9	919237 8	12.12.202 3	TRIM General Trading LLC, UAE	4158	49896.000	2764809.00	912387.00

g. On being asked about not uploading Phytosanitary Certificates in e-sanchit at Customs ICES System in respect of 05 past import shipments of the said mentioned at Sr. No. 01 to 05 in TABLE-4 above, he stated that the same were not uploaded in e-sanchit at Customs ICES System due to some technical issues.

h. On being asked about providing "Country of Origin Certificate" in respect of above mentioned 09 import shipments of fresh pear fruits of the said importer filed by his CB Firm M/s Pratik International, he stated that the same was not readily available with him and the same would be submitted in a week time.

3. The license of CB M/s. Pratik International (11/1988) was suspended vide Order No. 55/2023-24 dated 27.03.2024 and was given an opportunity of Personal Hearing in this matter on 10.04.2024. Based on the written and oral submission made by the CB the suspension of CB license was continued vide Suspension Continuation Order No. 06/2024-25 dated 17.04.2024 pending further inquiry proceedings under CBLR,2018.

4. On perusal of the offence report it appears that CB M/s Pratik International (11/1988) had not done proper KYC verification of the said importer. Further, they did not verify the total quantity mentioned in

Phytosanitary Certificate Number (PC No) NPPO-ZA/2023/10/1049905 dated 03.10.2023 issued in South Africa (Country of Origin) and were in collusion with the importer in obtaining Customs Clearances fraudulently during the course of above mentioned past three import shipments & live import shipments of 'fresh pear fruits' as mentioned in Table -3 above. Also, it is found that CB did not upload Phytosanitary Certificates in e-sanchit at Customs ICES System in respect of 05 past import shipments of M/s Abhi Agro Fresh Fruits mentioned at Sr. No. 01 to 05 in TABLE-4 above. It appears that the CB M/s Pratik International was in collusion with the importer in clearance of excess/ineligible quantity of import consignment of Fresh Pear Fruit in India without valid Phytosanitary Certificate.

5. In view of above, it appears that CB M/s Pratik International. (11/1988), Mumbai, has failed to comply with sub-regulations 10 (a), 10 (d), 10 (e), 10 (m) and 10 (n) of the Customs Brokers Licensing Regulations 2018. The said regulations read as:

10(a) *obtain an authorization from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Broker and produce such authorization whenever required by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;*

10(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;”*

10(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;*

10(m) *discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay;*

10(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;*

6. As per the Offence Report, the Customs Broker did not produce any evidence to prove that he had obtained proper authorization from the importer. It is also clear that CB was never in touch with importer by any

means of communication or contact which indicates that the CB filed the bills of entry without taking proper authorization from importer/IEC holder and did not verify the genuineness of the importer. Hence, the said CB appears to have violated provisions of regulation 10(a) of CBLR, 2018.

7. As per the Offence Report, the said Customs Broker was aware of the requirement of the Phyto-Sanitary Certificate in respect of clearance of the said import consignment, which was Fresh Pear Fruit. However, from investigation, it came to knowledge that fake/wrong Phyto-sanitary Certificate was used for clearance of the said consignment. Thus, it appears that either the CB was in connivance with the Importer in getting said goods cleared illegally or was negligent and callous in his duties. Therefore, it appears that the CB has not properly advised his client as per requirement of regulation 10(d) of the CBLR, 2018. Further, the Custom Broker never brought the matter to the knowledge of AC/DC docks which he was duty bound under the regulation 10(d) of the CBLR, 2018. Due to above act of omission, it appears that CB failed to comply with provisions of regulation 10(d) of CBLR, 2018.

8. As per the Offence Report, fake/wrong Phyto-sanitary Certificate was used for clearance of the said import consignment. Investigation shows that the Custom Broker was aware of the said requirement as per the law. However, while filing the documents, it appears that the CB has not exercised due diligence as mandated under regulation 10(e) of the CBLR, 2018. Hence, the said CB appears to have violated regulation 10(e) of CBLR, 2018.

9. As per the Offence Report, it is evident that the said CB did not discharge their duties with utmost speed and efficiency and without delay; if the CB had informed about the over-use/mis-use of mandatory Phyto-sanitary Certificate by the importer, the fraudulent import, loss to government exchequer and potential risk to Flora and Fauna of the country could have been averted. Further, the CB did not ensure the presence of the importer when summoned and was delaying the investigation. Hence, the said CB appears to have violated regulation 10(m) of CBLR, 2018.

10. As per the Offence Report, it is evident that the said CB did not contact importer directly or indirectly and even failed to verify the functioning of the client at the declared address. During search operation conducted by the GST officers of Meerut Commissionerate, GST, Preventive Division, the premises of the importer was found vacant. Hence, the said CB appears to have violated regulation 10(n) of CBLR, 2018.

11. The CB representative in his statement had accepted the mistake of the Customs Broker for not doing the proper KYC verification of the said importer and not doing proper documentation in respect of imported goods i.e. Fresh Pear Fruits. It was responsibility of the CB to upload/e-sanchit valid mandatory Phyto-sanitary Certificate for import of Fresh Pear Fruits in India, with the correct Country of Origin, such serious lapses by the CB have put the Indian flora & fauna at risk as per the PQ (Regulation of Import into India) Order, 2003. The Customs Broker appears to have intentionally uploaded non-relevant documents to aid the illegal imports.

12. I observe that the CB has a very important role in customs clearances and lot of trust has been placed by the Department on the CB. In regime of trade facilitation and with more and more of the goods being facilitated by the Risk Management Systems without examination by the Customs, the role of CB has further increased so that economic frontiers of the country are well guarded. In this regard, I rely on the judgement of the Hon'ble Supreme Court in case of Commissioner of Customs Vs M/s K.M. Ganatra & Co *has held that:* -

“the Customs House Agent (CHA) occupies a very important position in the customs house. The customs procedures are complicated. The importers have to deal with a multiplicity of agencies namely carriers, custodians like BPT as well as the Customs. The importer would find it impossible to clear his goods through its agencies without wasting valuable energy and time. The CHA is supposed to safeguard the interests of both the importers and the customs. A lot of trust is kept in CHA by the importers/exporters as well as by the government agencies...”

13. Thus, the CB M/s Pratik International (11/1988) appears to have failed to comply with the provisions of sub-regulation 10 (a), 10 (d), 10(e) 10 (m) & 10 (n) of the CBLR 2018 and thereby committed misconduct rendering themselves liable to penalty under Regulation 18 of the CBLR 2018.

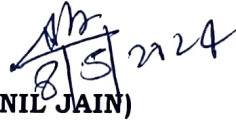
14. In view of the above, in terms of Regulation 17(1) of CBLR, 2018, CB M/s. Pratik International (11/1988) is hereby called upon to show cause, as to:

- (i) Why the Customs Broker license bearing No. 11/1988 issued to them should not be revoked,
- (ii) Why security deposited should not be forfeited,
- (iii) Why penalty should not be imposed upon them under Regulation 14 read with Regulation 17 & Regulation 18 of the CBLR, 2018

for their failure to comply with the provisions of CBLR, 2018 as elaborated *supra* within 30 days from the date of issue of this notice.

15. They are directed to appear for personal hearing on the date as may be fixed and to produce proof of evidence/documents, if any, in their defense to the Inquiry Officer **Shri Gracias J Saldanha, Assistant Commissioner of Customs, General, NCH, Mumbai** to conduct inquiry into the case 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.

16. 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.


8/5/2024

(SUNIL JAIN)

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

To,
M/s. Pratik International (CB No. 11/1988),
131, Almedia House, Room No. 01, Road No. 02,
Church Pakhadi, Sahar Village, Andheri East,
Mumbai-400099.

Copy to:

1. Shri Gracias J Saldanha, Assistant Commissioner of Customs, General, NCH, Mumbai. (Inquiry Officer)
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. BCBA.
7. Office copy.
8. Notice Board.