



सीमा शुल्क के प्रधान आयुक्त कार्यालय (सामान्य)  
**OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS (GENERAL)**  
कस्टमब्रोकर अनुभाग, नवीन सीमा शुल्क भवन,  
**CUSTOMS BROKER SECTION, NEW CUSTOM HOUSE,**  
बेलार्ड ईस्टेट, मुंबई - I  
**BALLARD ESTATE, MUMBAI - I**

**F.NO. CUS/3337/2022-CBS**

**Date: 10.01.2023**

*DIN-20230178NX00000000A402*  
**ORDER No.63/2022-23**

**UNDER REGULATION 16 OF THE CUSTOMS BROKER LICENSING  
REGULATION, 2018**

CB M/s. M/s. Shivam Clearing Agency (Mumbai) Pvt Ltd, having office address at 502, SHARDA CHAMBER NO.1, 31 KESHAVJI NAIK RD, MASJID - WEST MUMBAI-400-009 [hereinafter referred to as the Customs Broker/CB], bearing PAN based Registration No. AAGC52827JCH001 are holding a regular Custom Broker License No 11/1044 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 condition stipulated therein.

On the basis of specific information received by the Directorate of Revenue Intelligence (DRI), Mumbai Zonal Unit (MZU), Mumbai it was observed that one Shri Rajesh Baheti, Chairman of M/s. Lorgan Lifestyle Limited, Pune formerly known as M/s. Sri Sidhivinayak Marketing, Pune (Import Export Code No. 3107012696) was engaged in bogus export through Mundra port by preparing manual shipping bills, on which real exports was not affected. The said information also indicated his involvement in certain other fraudulent activities in relation to export of goods which includes bringing of illegal remittances from abroad. Further, it was revealed that another exporter M/s. Ashapura Garments Ltd. alongwith M/s. Lorgan Lifestyle Limited was involved in fake/ fraudulent exports and accordingly, DRI, MZU, Mumbai conducted the searches at office and residential premises of the persons involved and investigation was initiated. Investigation revealed that M/s. Lorgan Life Style Ltd. was procuring fake purchase bills against the export consignments from one Shri Suhel Ansari, through fake firms floated by him. Searches were conducted at the premises of Shri Suhel Ansari, which led to the recovery of copies of bogus bills in the names of several companies issued by him.

3. During the course of investigations, searches were conducted under Section 105 of the Customs Act, 1962 by the officers of DRI, Mumbai Zonal Unit, Mumbai: -

- i. The office premises of M/s. Lorgan Lifestyles Pvt. Ltd. situated at 6, Raghukul Apartments, Sr. No. 968/969, S B Road, Shivaji Nagar, Pune-411016 was searched on 23.07.2015 and during the course of search proceeding, the documents as detailed in Annexure-A to the Panchanama and two computers were recovered and taken over under the panchanama dated 23.07.2015 under the reasonable belief that the same would be relevant to the investigation.
- ii. The office premise of M/s. Karan Ranka & Associates, Chartered Accountant firm of one Shri Suhel Parvez Mohammed Sharif Ansari ('Suhel Ansari', in short), who was engaged in opening the apparent bogus supplier firms for the export goods, situated at Unit No. 310, 3 Floor, Simlim Square, Lamington Road, Grant Road (East), Mumbai-400007 was also searched on 29.07.2015 During the course of the search, letter heads of Rising Impex, Mind Space Complex, 'B' wing, 1 Floor Office No. 14, Off Link Road, Malad (West). Mumbai-400064 and blank letter heads of Sun Metals. 124/11, Mohammed Estates, C.ST Road, Santacruz (West), Mumbai -400098, were recovered. Samples of the letter heads of both the said companies were taken over under panchanama dated 29.07.2015 under the reasonable belief that the same would be required for further investigation.
- iii. The office premises from where Shri Suhel Ansari was operating, situated at Room No. 30, 4th Floor, Chunnwala Building, 38-Kolsa Street, Pydhonic, Mumbai-400003 was searched on 14.08.2015 (RUD-3). During the course of search of the said premises, certain records/ documents, three laptops and one hard disk as mentioned in Annexure-A to the Panchanama were recovered and various rubber stamps were also recovered and impressions of the same were taken on a page attached to the Panchanama dated 14.08.2015, All the said records/documents and electronic items were taken over under the reasonable belief that the same would be required for further investigation.

4. During the course of investigation, statement of Shri Shaikh Mohammed Arshad employee of Shri Suhel Parvez Ansari was recorded under Section 108 of the Customs Act, 1962 on 24.08.2015 (RUD-4) by the officers of DRI, Mumbai Zonal Unit, Mumbai, wherein, he inter-alia stated that: -

- i. Shri Suhel Ansari was into preparing fake invoices of different firms. Before he (Arshad) joined Shri Suhel Ansari, he was himself preparing the invoices.
- ii. They used to prepare the invoices on manual typewriter. After about three to four months one more person i.e., Shri Khan Arif Hussain was employed by Shri Suhel Ansari. The blank invoices were got printed by Shri Suhel Ansari from one Shri Musheer Ansari Ahmed (Mob No 9867079303). There is no supply of material as such and the invoices are prepared and given to different export firms as per their requirement.
- iii. He further stated that the so-called owners of the said fake firms were paid a monthly sum of Rs. 4000/- by Shri Suhel Ansari. The invoices were prepared as per the details given to them by the export firms. The person of the export firm



would collect the invoices from their office and sometimes Shri Khan Arif Hussein used to deliver the invoices by visiting the premises of export firms.

iv. He further stated that Shri Karan Ranka, CA, used to look after the paper work of the above fake firms and he was paid an amount of Rs. 90,000/- per firm by Shri Suhel Ansari.

5. During the course of investigations, statement of Shri Suhel Parvez Ansari was recorded under Section 108 of the Customs Act, 1962 by the DRI, MZU, Mumbai (RUD-5) on 24.08.2015, wherein he inter alia stated that:

i. During the course of his salesmanship at M/s. Amar Enterprises, he got introduced to one, Shri Aditya Kumar Singh, a resident of Mira Bhayandar (whose residential address, he does not know). In the year 2005, He started working with one Shri Hitesh, who was a dealer in gold ornaments having his shop in 'Ashok House', Zaveri Bazar, where he got introduced to one, Shri Otmal (whose full name, he does not know). Shri Otmal informed him about the money involved in raising bills in the names of companies which do not exist and raising of such bills without there being any purchase or sale of goods mentioned in the bills.

ii. On being asked, he further stated that Shri Otmal informed him that he would be given the date, commodities for which the bill has to be made its quantity, unit price, value of the goods, name of the purchaser / buyer of the goods. etc by the person who wanted such bills and the going rate for making such bills would be around Rs 150/- for the value of bill of Rs. 1,00,000/- which includes cost of printing of bills in the names of the firms / companies and typing of the particulars on such bills printed by us. These firms / companies would be opened with a current bank account and the VAT / TIN registration would be obtained with the concerned authorities wherever the firms/ companies were having their office.

iii. On being asked, he further stated Shri Aditya Kumar Singh left the job of salesman and joined one of my friends, Shri Muhammad Afzal of M/s. Al Majeed Trading having his office at 101/102, Poonam Plaza, Opp. Narendra Park, Naya Nagar, Mira Road (East), Thane -401 107. He also understands that Shri Aditya Kumar Singh is related to one, Al Ralyaan Impex FZE, P.O. Box 51788, Hamariya Free Zone, Sharjah, UAE who is into exports of garments, vegetables, fruits, jewellery etc.

iv. He further stated that in July 2010, he got bills in the names of M/s Kanu Impex Pvt. Ltd. and M/s. Pavani Impex Pvt. Ltd. with him and his friend, Shri Aditya Kumar Singh of Mira-Bhayander as the Directors of both the companies. Upon showing his (Suhel) interest in raising such fictitious bills which involves just printing of bills in the names of the firms/companies which do not exist and there being no purchase and sale of the goods mentioned in the bills, he got introduced to one, Shri Rajesh Baheti, over phone, who showed interest in getting such bills who was a friend of Shri Muhammad Afzal and confirmed the rate of furnishing of such bills would be Rs. 150/- for the value of bill of Rs 1,00,000/ Shri Rajesh Baheti would give him the required dates: garments, Imitation jewellery: its quantity, unit price, value of the goods, name of the purchaser/ buyer of the goods, etc. of the such fictitious bills.



v. He further stated that he also got introduced to one, Shri Dinesh kumar Otmal Khandelwal who had his office at office No. 154, Bhandar All Edwan City, Saphale, Palghar, Thane -401 404 who was also into this business of raising fictitious bills. The invoices raised in the names of M/s. Vidhata Enterprise, M/s. Eleven Impex, M/s. Alka Enterprises, M/s. Hindustan Enterprise etc. were created by Shri Dinesh kumar Otmal Khandelwal and the same were used by him till 2011 and thereafter, he discontinued using the same. However, till June 2012, he used the bank accounts of M/s. Vidhata Enterprise, M/s. Eleven Impex, M/s. Alka Enterprises, M/s. Hindustan Enterprise etc. for withdrawing cash or selling to the RTGS to various people in diamond market who were not known to him. In the year 2011, he along with, Shri Dinesh kumar Otmal Khandelwal, he raised/ floated firms in the name of M/s. Rahul Trading Co. and M/s. Khushi Corporation and used them till 2013, whereafter he stopped its use, whereafter having filed returns of VAT and Income Tax, he left Mumbai. He is not in touch Shri Dineshkumar Otmal Khandelwal since 2013, the month of which, he does not remember.

vi. He further stated that he started working with one, Shri Arshad Shaikh, who is a resident of Room No. 10, Rattu Baniyaki Chawl, Mohammed Umer Rajab Road, Madanpura, Mumbai 400 008 (Cell No. 9819995386 and 9833504072) since 2011 who would also look into the bank accounts with Axis Bank at Lamington Road Branch and ING Vyasya Branch at Fort Branch. In November 2013, one, Shri Arif, who is a resident of Room No. 21 & 22, 2nd Floor, Subedar Building. 210 - Maulana Azad Road, Madanpura, Mumbai - 400 008 (Cell No. 9867471915) started working with him. he always used to get the bills printed from Shri Mushir Ansari, who is a resident of Madanpura, Pydhonie, Mumbai - 400 008.

vii. He further stated that he got the bills printed in the name of M/s. Ruby Trading Co., M/s. Alaska Trading Co., M/s. Suman Impex, M/s. Sumangal Enterprises, M/s. B.A. Trading, M/s. Mahavir Enterprises, M/s. Combo Traders Pvt. Ltd., M/s. Caddilac Tradelink Pvt. Ltd., M/s. Imperious Mercantile Pvt Ltd, M/s. Rahul Trading Co., M/s. Khushi Corporation, M/s. Apex Enterprises, M/s. Addis Trading Co., M/s. J.D. Enterprises, M/s. J.K. Trading, M/s. Jupitor Trading Co., M/s. Kanu Impex Pvt Ltd., M/s. Naman Enterprises, M/s Pavani Impex Pvt. Ltd., M/s. Snehal Enterprises, M/s. Bloomberg Multi-ventures Pvt. Ltd. etc. for which the bills were raised by him to give to the exporters and bank accounts were opened by him. No purchase of any kind of goods be it in the form of garments/imitation jewellery has been made by him and/or the proprietors/directors of these firms/companies who are all his friends and no sale as shown on the bills has been made to any of the exporters shown on the bills.

6.1 During the course of investigations, statement of Karan Ashoklal Ranka Chartered Accountant was recorded under Section 108 of the Customs Act, 1962 by the DRI on 29.07.2015, wherein he inter alia confirmed the fact that he was the CA of Suhel Parvez Ansari; that for the purpose of forming the firms; that the names of the Directors and their DIN Nos. were brought by Shri Suhel Parvez Ansari; that he had never met and he was never introduced to any Director of any company; that then the bank



accounts would be opened and the registration of VAT/TIN were obtained. He gave the names of companies formed by Shri Suhel Parvez Ansari; that from March 2013, he used to be given export documents of readymade garments, imitation jewellery, leather goods of various exporters whom he named; that on the basis of Commercial Invoice and packing list of export of various exporters showing export of various export goods, supplier invoices were prepared on the printed invoices; that these bogus supplier invoices quantity was matched with the quantity of export documents; that there were instances where he found the need for more supplier invoices to substantiate the exports or there were instances of missing invoices, he made the invoice so as to correlate the purchase of the exporter with these bogus suppliers; that on being asked as to how these suppliers were termed as 'bogus' by him, he state that these existed only on paper; that there was no physical movement of goods from these suppliers to the exporters although payments had been shown to be made by the exporter to the supplier through Real Time Gross Settlement (RTGS) in banks; that reconciliation of the payments received from the exporters and disbursing it amongst the supplier through banks was being made by him; that Shri Arshad Shaikh (who worked with Shri Suhel Parvez Ansari) and Shri Suhail Parvez Ansari had come to his office on 27.07.2015 and asked for all the documents relating to above said firms and asked him to delete all data on the laptop and computers relating to above said firms and he had complied with the same; that both of them informed him that there was some problem of Government department; that however, he kept some data in hard-disk which he had kept at his residence. He produced the said hard-disk of Seagate of 500 gb bearing S/N: Z2AL1E9W.

6.2 Further statement dated 30.07.2015 of Shri Karan Ashoklal Ranka, Chartered Accountant was recorded under Section 108 of the Customs Act, 1962 by the DRI, in which he had inter alia stated that in his earlier statement dated 29.07.2015, he had stated that the names of the Directors and their DIN Nos. of the companies were brought to him by Shri Suhail Parvez Ansari; that all the work relating to accounts & documentation was done by him and for this work; he was paid Rs. 35,000/- p.a. per firm; that in case of any notice from Income Tax Department, he used to submit the necessary clarification/documents to the IT Department and for the same he used to be paid Rs. 5,000/-; that in case of private limited companies, he also filed Annual Report with the Registrar of Companies and for the same, he was paid Rs. 15,000/-; that payments in respect of all the work for all the firms handled by him was made in cash by Shri Suhail Parvez Ansari.

6.3 During the investigation by DRI, MZU, Mumbai, issued several summons to Proprietor of M/s Hasi Gold. Summons Serial No. D/71/2015-16 dated 21.08.2015 issued to Shri Mitin Hasmukh Bagrecha Proprietor of M/s Hasi Gold, in response to said summons Mr. Hasmukh Bhimraj Bagrecha power of attorney holder of M/s. Hasi Gold and father of Proprietor Mr. Mitin Hasmukh Bagrecha vide their letter dated 29.08.2015 submitted a joint reply for their firm's M/s Hasi Gold and M/s Hasu Impex

to the office of DRI. Again, Summon Serial No. D/176/2015-16 dated 18.09.2015, D/328/2015-16 dated 07.12.2015, D/365/2015-16 dated 22.12.2015 were issued to the exporter. Further in response to the summon dated 04.02.2016, the exporter vide letter dated 09.02.2016 informed to the DRI that they have submitted all relevant documents to DRI but failed to appear for statement before DRI. Further, DRI, MZU, Mumbai forwarded the said case details to this Office for further investigation of the same.

7. DRI vide its 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 material is exported, and to justify the value of the goods, fake invoices from Suhel Ansari, are procured showing the higher purchase price. DRI further gave a list of exporters and stated that these exporters may have also adopted a similar modus operandi and requested that the same may be investigated by this Unit. The present case of exporter M/s. Hasi Gold (IEC No. 0312018321) is one of the cases. Invoices to the exporter M/s. Hasi Gold and the physical supply of goods / materials had never taken place.

8. The existing modus operandi of gross overvaluation and fraudulent claimed of drawback was disclosed by investigation conducted by DRI in respect of exporter M/s. Lorgan Life Styles. In order to conduct enquiry, they have written a letter dated 13.05.2016 to Dubai Consulate, whereby they have forwarded the details of Shipping Bills filed before Indian Customs to the Consulate General of India, Dubai, UAE. Vide this letter dated 13.05.2016 request was made to ascertain the value declared by the importer/ultimate consignee at the Port of discharge i.e. Dubai at the time of clearance. In reply, the Consulate General of India, Dubai, UAE vide letter dated 08.03.2018 had reported that from the scrutiny of the documents provided by Federal Customs Authority, Dubai, it emerged that goods had been cleared and unit values were much lower than what has been declared to Indian Customs.

9. In this regard, DRI vide their letter F.No. DRI/MZU/D/INT-31/2015/7766 dated 04.10.2016 forwarded a list of exporters including M/s. Hasi Gold and stated that these exporters have also adopted a similar modus operandi and claimed undue drawback by overvaluing the export goods, wherein it appears from the investigation that the inferior quality goods have been exported. Further it appears from the investigation conducted by DRI that reason behind procuring fake bills was to justify the inflated price, as actually export goods were procured on a very low price.

10. From the investigations made by the DRI, MZU, and the investigations conducted by SIIB (Export), ACC, Mumbai following appeared;



- i) that M/s. Hasi Gold has procured fake and bogus invoices from Shri Suhel Ansari;
- ii) Goods of inferior quality were procured from the local market without any invoice.
- iii) Incorrect transactions were made with the fake suppliers, whose invoices were raised by Shri Suhel Ansari. This was done to conceal the actual transactions and give cover to the bogus transactions.
- iv) This automatically explains the facts there was not physical movement of the goods against the fake invoice raised by Shri Suhel Ansari.
- v) As export goods were procured from local market which were of inferior quality and having low value, therefore impugned export by M/s. Hasi Gold was grossly overvalued and only done for the purpose of fraudulent claim of drawback.
- vi) Aforesaid fact of overvaluation supported by various statements as mentioned above and by the enquiry caused by DRI with the Consulate General of Dubai.
- vii) The exports made M/s Hasi Gold were not bonafide because: -

a. Sources of procurement of goods for export were different and Invoices for the same were admittedly raised in the names of different entities, which were fictitious/bogus. The purchase bills were made to bridge the gap between exports and supplies of the goods which clearly emphasizes malafides on the part of concerned persons and exposes the fraud.

b. In absence of invoices from the genuine sellers, truthfulness of the value of export goods becomes suspicious.

11. Hence, it appeared that there was no payment of any duty/tax against actual procurement of the goods shown under the IEC-0312018321 of M/s. Hasi Gold. In this scenario, duty/tax even if paid in the names of fictitious Companies, in whose names Bills were prepared by Shri Suhel Ansari may not be relatable to the goods, which were actually exported in the name of M/s Hasi Gold.

12. It appeared from the investigations that there was a syndicate mainly being operated by Shri Suhel Ansari wherein he used to provide fake invoices to the various exporters including M/s. Hasi Gold with the help of Shri Shaikh Mohammed Arsad and Shri Karan Ashoklal Rank and the exported goods were purchased on the value upto 35% of claimed duty drawback either locally or from the other persons like Shri Vinod Salian who follows same modus operandi. (RUD-12) Whole modus operandi was that the actual market value of the goods were far below the amount of duty drawback claimed by the exporters on the particular consignment to make undue profit on exported goods which were of very inferior quality and to canalized illegal foreign remittance in India

through export. Hence, total drawback amounting to Rs.1.74/- Lakhs is liable to be recovered from the Exporter under Rule 16 of the Customs, Central Excise Duties and Service Tax Drawback Rules, 1995 read with Section 75 of Customs Act, 1962 read with Section 76(1) (b) ibid along with applicable interest under the second proviso to Section 75A of the Customs Act, 1962.

13. From the investigations, it appeared that there was a well-organized smuggling syndicate operating to claim undue drawback from government exchequer by over valuing the declared value of export goods under the collusion of the exporter that Shri Mitin Hasmukh Bagrecha and Shri Hasmukh Bhimraj Bagrecha Partners of M/s. Hasi Gold, Shri Sohail Ansari, Shri Karan Ranka etc. appear to be knowingly involved in all these activities and were active members of the fraudulent export without whose abetment the said export fraud could not have been committed. Further, it appears that the exporter M/s. Hasi Gold had indulged in fraudulent exports of cheaper varieties of export goods by inflating value of export goods on the strength of forged / fabricated purchase invoices to avail duty drawback fraudulently.

14. Thus, by the above-mentioned acts of various omission and commission, it appeared that M/s. Hasi Gold had grossly overvalued the impugned goods which were of very inferior quality by way of procuring fake invoices and defrauded the exchequer by fraudulently availing drawback of **Rs. 1.74 lakhs** and acted in a manner which rendered the goods liable to be held confiscated, though the goods are not available for confiscation. M/s. Hasi Gold who have acted in a manner which renders the goods liable to be confiscated under Section 113 of the Customs Act, 1962, hence, penalty under Section 114 (i) / 114(iii) and also under 114 AA of the Customs Act, 1962 is imposable on the exporter. It also appears that Shri Mitin Hasmukh Bagrecha and Shri Hasmukh Bhimraj Bagrecha partners of M/s Hasi Gold has made false and incorrect declaration with respect to value of the goods, liable to be penalized under Section 114 (i) / 114(iii) and also under 114 AA of the Customs Act, 1962. Shri Suhel Ansari & Shri Shaikh Mohammed Arshad who were part of the syndicate also liable to be penalized under Section 114 (i) / 114(iii) and also under 114 AA of the Customs Act, 1962.

15. Further, from the investigations and from BRC details of defaulting IECs (FOB yet to be realized) in respect of IEC No. 0312018321 of M/s. Hasi Gold were generated from ICES System which show that in 11 shipping bills FOB amount of 4,99,575 in FC is yet to be realized, wherein benefit of drawback amount of Rs.99,553 /- has already been disbursed to the exporter it clearly shows that transaction value is incorrect, inflated, value of goods misdeclared declared by the exporter M/s. Hasi Gold , hence goods appears to be liable for confiscation. Also, Drawback amount of Rs. 1,74,457/- in respect of 16 shipping bills appears to be recoverable as per Rules 16 / 16A of the Customs, Central Excise Duties and Service Tax Drawback Rule, 1995.



- i. It was found from the investigation that Customs Brokers M/s. Shivam Clearing Agency (Mumbai) Pvt Ltd had facilitated clearance of 02 consignments / shipping bills of the said exporter.
- ii. From the investigations, it appeared that as the export goods have been supplied on fake and bogus supplier invoices, therefore, it appeared that by non-production/submission of required documents the department could not verify whether goods are duty paid or whether any duty has been suffered while manufacturing, producing and processing them. This appears to be a case of complete fake and bogus transactions only made with an intention to claim undue and inadmissible drawback. Therefore, it appears that by furnishing fake and bogus invoices, exporter had made the entire exports illegal and thus goods appear not to be qualified for entitlement of any drawback as in absence of actual invoices, it is difficult to say whether any duty has been paid or otherwise. Since the export transaction appears to be fake and bogus from the start of the export activities as said export activities starts from procurement and supply of goods and culminates in proper clearance of goods under Section 50 of the Customs Act, 1962. Therefore, it appears that transaction is void ab initio and such transactions do not accrue any benefit or entitlement which is coupled with the elements of fraud as it is squarely covered under doctrine that fraud vitiates everything. Therefore, it appears that no drawback is allowable in respect of export made vide 16 Shipping Bills. Had they paid any duties in respect of processing, producing and manufacturing the goods, they would have provided the necessary documents with regard to duty payment of excise, customs and service tax duties. The fact of non-payment of duty is also get support from their statement of the exporter wherein he has admitted that the bogus invoices were procured for the purpose of income tax only.
- iii. It has been admitted by Shri Suhel Ansari that he prepared bogus/fictitious Invoices/Bills showing sale of the goods by bogus Companies to M/s. Hasi Gold to bridge the gap between exports and supplies of the good. No purchase of any kind of export goods were actually made by the exporter from any of the firms in whose names the Bills were raised by Shri Suhel Ansari. These Bills were apparently prepared for showing bogus transactions as genuine and for income Tax Compliance purposes.

16. Ongoing through the Show Cause Notices and RUD's received, the CB has failed to comply with following regulations of the Customs Brokers Licensing Regulations, 2018:

i. **Regulation -10(d) -**

*"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"*



From the investigations, it appeared that the exports made M/s Hasi Gold were not bonafide because: -

- a. Sources of procurement of goods for export were different and Invoices for the same were admittedly raised in the names of different entities, which were fictitious/bogus. The purchase bills were made to bridge the gap between exports and supplies of the goods which clearly emphasizes malafides on the part of concerned persons and exposes the fraud.
- b. In absence of invoices from the genuine sellers, truthfulness of the value of export goods becomes suspicious.

From the investigations it appeared that the exporter, M/s. Hasi Gold had grossly overvalued the impugned goods which were of inferior quality by way of procuring fake invoices and defrauded the exchequer by fraudulently availing drawback of Rs. 1.74 lakhs. The same has been admitted by the exporter in his statements dated 06.03.2019 and 11.03.2019.

From the investigations it also appeared that Shri Mitin Hasmukh Bagrecha and Shri Hasmukh Bhimraj Bagrecha partners of M/s Hasi Gold has made false and incorrect declaration with respect to value of the goods, liable to be penalized under Section 114 (i) / 114(iii) and also under 114 AA of the Customs Act, 1962.

Actual movements of goods are always under cover of Challan and Invoices. There are some other requirements of local Government which prevent movement of goods without documentation. It is also unlikely that the Customs Broker M/s Shivam Clearing Agency (Mumbai) Pvt. Ltd. has been receiving goods based on fictitious Bills and he was not aware. Further the CHA has responsibility to guide exporter and inform about the requirement that only in certain cases, both types of Drawbacks can be claimed by the exporter. Had the Customs Broker M/s Shivam Clearing Agency (Mumbai) Pvt. Ltd. seen these documents relating to meeting the criteria to claim both types of Drawbacks and checked the correctness of relevant declaration, such fraudulent export could not have possible. The Customs Broker M/s Shivam Clearing Agency (Mumbai) Pvt. Ltd. appears to have not advised the exporter 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.

From the investigations and from the BRC details of defaulting IECs (FOB yet to be realized) were generated from ICES System (Annexure-A)., it is found that FOB amount 4,98,780 in Foreign Currency has not been realized in respect of M/s. Hasi Gold (IEC 0312018321). It clearly shows that transaction value is incorrect, inflated, value of goods mis-declared by the exporter M/s. Hasi Gold. It appears that the Customs Broker M/s. Shivam Clearing Agency (Mumbai) Pvt. Ltd. appears to have not advised the exporter regarding realization of the exports proceeds within stipulated time-frame.

Thus, it appears that the Customs Broker M/s Shivam Clearing Agency (Mumbai) Pvt. Ltd. have contravened the provisions of Regulation 10 (d) of the CBLR, 2018.



ii. **Regulation 10(e) -**

*"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".*

From the investigations, it appeared that the exporter, M/s. Hasi Gold had grossly overvalued the impugned goods which were of inferior quality by way of procuring fake invoices and defrauded the exchequer by fraudulently availing drawback of Rs. 1.74 lakhs. The same has been admitted by the exporter in his statements dated 06.03.2019 and 11.03.2019.

From the investigation it also appeared that Shri Mitin Hasmukh Bagrecha and Shri Hasmukh Bhimraj Bagrecha partners of M/s Hasi Gold has made false and incorrect declaration with respect to value of the goods, liable to be penalized under Section 114 (i) / 114(iii) and also under 114 AA of the Customs Act, 1962. Therefore, it appears that no drawback is allowable in respect of export made vide 16 Shipping Bills including two shipping bills filed through the Customs Broker M/s. Shivam Clearing Agency (Mumbai) Pvt. Ltd. Had the exporter paid any duties in respect of processing, producing and manufacturing the goods, they would have provided the necessary documents with regard to duty payment of excise, customs and service tax duties. The fact of non-payment of duty is also gets support from the statement of the exporter wherein he has admitted that the bogus invoices were procured for the purpose of income tax only.

Actual movements of goods are always under cover of Challan and Invoices. There are some other requirements of local Government which prevent movement of goods without documentation. It is also unlikely that the Customs Broker M/s Shivam Clearing Agency (Mumbai) Pvt. Ltd. has been receiving goods based on fictitious Bills and he was not aware. Further the Customs Broker has responsibility to guide exporter and inform about the requirement that only in certain cases, both types of Drawback can be claimed by the exporter. Had the Customs Broker M/s Shivam Clearing Agency (Mumbai) Pvt. Ltd. seen these documents relating to meeting the criteria to claim both types of Drawback and checked the correctness of relevant declaration, such fraudulent export could not have been possible. Therefore, under the fact and such circumstances, it appears that the Customs Broker M/s Shivam Clearing Agency (Mumbai) Pvt. Ltd. actively connived with exporters in claiming undue Drawback and over valuing the export goods and mis-declaring in Shipping Bill. Therefore, the Customs Broker M/s Shivam Clearing Agency (Mumbai) Pvt. Ltd. has rendered themselves liable for Penal action under Section 114(i) / 114(iii) and also under 114 AA of Customs Act, 1962.

Thus, it appears that, the Customs Broker M/s Shivam Clearing Agency (Mumbai) Pvt. Ltd. failed to exercise due diligence and aided the exporter for availing the undue drawback by overvaluing the exports, whereas cheaper material was exported, and to justify the value of the goods, fake invoices from Suhel Ansari, were procured showing the higher purchase price and contravened the provisions of Regulation 10 (e) of the CBLR, 2018.

**Regulation 10 (m) -**

*"A Customs Broker shall discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay".*

Whereas in the instant case, CB M/s Shivam Clearing Agency (Mumbai) Pvt. Ltd. (11/1044) have failed to discharge their duties with efficiently as they allegedly actively connived with exporters in claiming undue Drawback and over valuing the export goods in Shipping Bill. The foreign remittance of all the Shipping Bills filed using these IECs have not been realized till date through formal banking channel; even after lapse of the time limit prescribed by the RBI guidelines, as per database available with the custom. Thus, it appears that the Customs Broker M/s Shivam Clearing Agency (Mumbai) Pvt. Ltd. have contravened the provisions of Regulation 10 (m) of the CBLR, 2018.

From the above facts, prima facie it appears that Customs Broker CB M/s. Shivam Clearing Agency (Mumbai) Pvt Ltd (PAN No. AAGC52827J) having Customs Broker Licence No. 11/1044 failed in discharging their obligation as required under provisions 10(d), 10(e), and 10(m) of CBLR, 2018. It is therefore apprehended that the Customs Broker may adopt similar modus operandi in future consignments and department cannot remain oblivious to the danger posed by such an eventuality.

**17. Accordingly, I pass the following Order:**


**ORDER**

- i. I, Principal Commissioner of Customs (General), in exercise of powers conferred upon me under the provisions of Regulation 16 (1) of CBLR, 2018 hereby suspend the licence of Customs Broker CB M/s. Shivam Clearing Agency (Mumbai) Pvt Ltd (PAN No. AAGC52827J), CB License No. 11/1044 with immediate effect, being fully satisfied that the Customs Broker have violated provisions of Regulation 10(d), 10(e), and 10(m) of CBLR, 2018.
- ii. However, I offer the Customs Broker CB M/s. Shivam Clearing Agency (Mumbai) Pvt Ltd (PAN No. AAGC52827J), an opportunity of personal hearing on **24.01.2023 at 11.00 am** through video conferencing facility. Any written representation against this order should reach the undersigned before the date of hearing.



- iii. CB M/s. Shivam Clearing Agency (Mumbai) Pvt Ltd (PAN No. AAGC52827J) bearing License No. 11/1044 is directed to surrender all the original Custom Passes issued to their employee/partner/director/Proprietor immediately.

35. 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,

CB M/s. M/s. Shivam Clearing Agency (Mumbai) Pvt Ltd (PAN No. AAGC52827JCH001),  
502, SHARDA CHAMBER NO.1, 31 KESHAVJI NAIK RD, MASJID - WEST

MUMBAI-400-009

Copy to:

- Received by Mr. Santosh V. Khazamkar  
T-114  
11/01/23*
1. The Pr./ Chief Commissioner of Customs, Mumbai I, II, III Zone
  2. CIU's of NCH, ACC & JNCH
  3. Pr. Additional Director General, DRI, MZU.
  4. EDI of NCH, ACC & JNCH
  5. Bombay Custom House Agent Association
  6. Office copy
  7. Notice Board

*O/C*