

Email**CRU, EXPORT, NCH****Speaking Order Damco India Pvt. Ltd. (11/1058)**

From : Customs Broker Section <cbsec.nch@gov.in>
Subject : Speaking Order Damco India Pvt. Ltd. (11/1058)

Thu, Feb 20, 2025 01:08 PM

 1 attachment

To : CCU Customs Mumbai Zone I <ccu-cusmum1@nic.in>, Chief Commissioner JNCH <chiefcom@jawaharcustoms.gov.in>, CCU Customs Mumbai Zone II <ccu-cusmum2@nic.in>, CCU Customs Mumbai Zone III <cczone3@mumbaicustoms3.gov.in>, pr.ccgeneral <pr.cc-general@gov.in>, Import I CRU <import-1nch@gov.in>, Tejas D Koli <commr.import2@gov.in>, CRU, EXPORT, NCH <cru-exportmcz1@gov.in>, Commissioner Customs Export Mumbai I <comcusexp-mum1@gov.in>, Audit Commissionerate Mumbai Zone I <audit-commr.cusz1mum@gov.in>, Commissioner Customs Audit Mumbai I <comcus-audit@gov.in>, ccappealszone. I <ccappealszone.1@gov.in>, Secretary CAAR <cus-advrulings.mum@gov.in>, DRI Adjudication <dri.adjnum@gov.in>, Commissioner NS GEN JNCH <commr-nsgen@gov.in>, Pr. Commissioner NS I <commr-ns1@gov.in>, Sanjeev Kumar Singh <commr-ns2@gov.in>, Sanjeev Kumar Singh <commr-ns3@gov.in>, D S GARBYAL <commr-ns5@gov.in>, Istikhar Baig <commr-ns4@gov.in>, EDI JNCH <commr-nsappeal@gov.in>, Principal Commissioner of Customs <commrap-cus1mum-3@nic.in>, Import Commissioner <import.acc@gov.in>, Commissioner Export Air Cargo Complex Mumbai <commr-cus4mum3@nic.in>, Commissioner General Air Cargo Complex Mumbai <commr-cus5mum3@nic.in>, commrpev-cusmum@nic.in, office of the Commissioner of Customs Appeals Mumbai Zone III <commissionerappeal-3@gov.in>, EDI Helpdesk <edi.helpdeskmcz1@gov.in>, chsmumzone1@gmail.com, Saddam Hussain <Chs-zone1@gov.in>

External images are not displayed. [Display images below](#)

Sir/ Madam,

Please find enclosed herewith an attachment on the above mentioned subject.

Regards,

Customs Broker Section
New Custom House,
Mumbai Zone - I



 **DAMCO SPEAKING ORDER WITH DIN_0001.pdf**
2 MB



प्रधानआयुक्त, सीमाशुल्क (सामान्य) कार्यालय
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS
(GENERAL),
नवीन सीमाशुल्क भवन, बेलार्ड इस्टेट, मुंबई - 400 001
NEW CUSTOM HOUSE, BALLARD ESTATE, MUMBAI - 400 001.

संचिका सं / F. No. - GEN/CB/LIC/F/60/2021-CBS आदेश दिनांक/Date of Order: 20.02.2025

जारी दिनांक/Date of issue: 20.02.2025

DIN:- 2025027700000000B278

द्वारा जारी : राजन चौधरी
प्रधान आयुक्त, सीमाशुल्क(सामान्य)
मुंबई -400 001

Issued By : Rajan Chaudhary
Pr. Commissioner of Customs (Gen.)
Mumbai - 400 001

SPEAKING ORDER

ध्यान दीजिए/ N.B. :

1. यह प्रति उस व्यक्ति को निजी उपयोग हेतु निःशुल्क प्रदान की जाती है, जिसे यह जारी की जा रही है।

This copy is granted free of charge for the private use of the person to whom it is issued.

2. इस आदेश के विरुद्ध अपील माँगे गए राशी के 7.5% के भुगतान पर सीमाशुल्क अधिनियम, की 1962 धारा 129A(1B)(i) के संबंधमें सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण में स्वीकार्य है, जहाँ शुल्क या शुल्क एवं जुर्माना विवादित हों, या जुर्माना, जहाँ सिर्फ जुर्माना ही विवादित हो। यह अपील इस आदेश के संप्रेषण की तारीख के तीन महीने के अंदर दायर की जाएगी। यह अपील सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण (कार्यविधि) नियमावली, 1982, के प्रावधानों के अंतर्गत, यथोत्खंडपीठ में स्वीकार्य है।

An appeal against this order lies with the Customs, Central Excise and Service Tax Appellate Tribunal in terms of section 129A(1B)(i) of the Customs Act, 1962 on payment of 7.5% of the amount demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute. It shall be filed within three months from the date of communication of this order. The appeal lies with the appropriate bench of the Customs, Central Excise and Service Tax Appellate as per the applicable provisions of Customs, Excise and Service Tax Appellate Tribunal (Procedure) Rules, 1982.

3. यह सूचित किया जाता है की इस आदेश के अमल में आते ही, न्याय निर्णयन अधिकारी का अधिकार क्षेत्र समाप्त होता है और सीमाशुल्क, केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण, पश्चिम क्षेत्री यखंडपीठ, के M/s Knowledge Infrastructure Systems Pvt. Ltd. & Others vs ADG, DRI, Mumbai के संदर्भ में जारी आदेश क्रमांक A/86617-86619/2018 दिनांक के अनुसार न्यायिक आदेश तदोउ प्रांत न्याय 31.05.2018 निर्णयन अधिकारी 'functus officio' बन जाता है

It is informed that the jurisdiction of the Adjudicating Authority stands alienated with the conclusion of the present adjudication order and the Adjudicating Authority attains the status of 'functus officio' as held by Hon'ble CESTAT, Mumbai in its decision in the case of M/s

4. यदि एक ही प्रकरण में उसी पक्षकार के विरुद्ध कई कारण बताओ नोटिस लगाकर आदेश पारित किया जाता है तो प्रत्येक प्रकरण में अलग अपील दायर की जाए।

In case where an order is passed by bunching several show cause notices on an identical issue against the same party, separate appeal may be filed in each case.

5. यह अपील फॉर्म C.A.-3 में दायर की जानी चाहिए जो कि सीमाशुल्क (अपीलस) नियमावली, १९८२ के नियम के तहत निर्धारित है एवं उसी नियमावली के नियम 3 के उपनियम 2 में उल्लेखित व्यक्ति द्वारा हस्ताक्षरित 6 एवं सत्यापित की जाएगी।

The Appeal should be filed in Form C.A.-3 prescribed under Rule 6 of the Customs (Appeals) Rules, 1982 and shall be signed and verified by the person specified in sub-rule 2 of rule 3 rules ibid.

6. शुल्क (i) रु. 1000/- ऐसे मामले में जहां मांग की गई शुल्क और ब्याज की राशि और अपील किए गए आदेश में लगाया गया जुर्माना पांच लाख रुपये या उससे कम है, (ii) रु. 5000/- ऐसे मामले में जहां ऐसी राशि पांच लाख रुपये से अधिक है लेकिन पचास लाख रुपये से अधिक नहीं है और (iii) रु. 10,000/- ऐसे मामले में जहां ऐसी राशि पचास लाख रुपये से अधिक है, राशि भुगतान ट्रिब्यूनल की बेंच के सहायक रजिस्ट्रार के पक्ष में उस स्थान पर स्थित किसी भी राष्ट्रीयकृत बैंक की शाखा में एक रेखांकित बैंक ड्राफ्ट के माध्यम से किया जाना आवश्यक है जहां बेंच स्थित है और डिमांड ड्राफ्ट अपील के साथ संलग्न किया जाएगा।

A fee of (i) Rs. 1000/- in case where the amount of duty and interest demanded and the penalty imposed in the impugned order appealed against is Rupees Five Lakhs or less, (ii) Rs. 5000/- in case where such amount exceeds Rupees Five Lakhs but not exceeding Rupees Fifty Lakhs and (iii) Rs. 10000/- in case where such amount exceeds Rupees Fifty Lakhs, is required to be paid through a crossed bank draft in favour of the Assistant registrar of the Bench of the Tribunal on a branch of any nationalized bank located at the place where the bench is situated and demand draft shall be attached to the Appeal.

7. अपील की एक प्रति में कोर्ट फी अधिनियम, की अनुसूची मद 6 के तहत निर्धारित रु. 50 1870का कोर्ट फी स्टैम्प लगा होना चाहिए एवं इसके साथ संलग्न इस आदेश की उक्त प्रति में रु 50 .का कोर्ट फी स्टैम्प लगा होना चाहिए।

One copy of the Appeal should bear a Court Fee Stamp of Rs. 50 and said copy of this order attached therein should bear a Court Fee Stamp of Rs. 50 as prescribed under Schedule item 6 of the Court Fee Act, 1870, as amended.

BRIEF FACTS OF THE CASE

M/s. Damco India Pvt. Ltd., (AAHCA6078Q) having office address at "401 & 402, Godrej two, Pirojshanagar Eastern Expressway Highway, Vikhroli (East), Mumbai - 400079." [hereinafter referred to as the Customs Broker/CB], is holder of Customs Broker License No. (11/1058), issued by the Commissioner of Customs, Mumbai under Regulation 10(1) of CHALR, 1984 (now regulation 7(2) of CBLR, 2018) and as such they are bound by the regulations and conditions stipulated therein.

2. This Office received CBLMS application No. 100000037011 dated 13.05.2024 for change of partner/director in the CB firm Customs Broker M/s Damco India Pvt. Ltd., (11/1058).

3. Legal Provision of the CBLR, 2018:-

3.1 Regulation 7(2) of the CBLR, 2018: - *Provided further that where a company or a firm which has been granted a license under this regulation undergoes any change in the directors, or managing director or partner, such change shall forthwith be communicated by such licensee to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, within one month of such change:...*

4. The CBLMS application No. 100000037011 dated 13.05.2024 for change partner/director, was scrutinized by this office. As per the various documents attached to the application, the meeting of board of directors of CB M/s Damco India Pvt. Ltd., (11/1058) was held on 15.01.2024. The Board of directors passed the resolution on 15.01.2024 vide which Ms. Thierno Bah Maadjou was appointed Director in the CB firm. The Board Resolution was passed and executed on the same day i.e, 15.01.2024. But the CB M/s Damco India Pvt. Ltd. intimated the abovesaid changes made vide the resolution dated- 15.01.2024, to this office, through mail on 13.03.2024.

In this context, as per regulation 7(2) of CBLR, 2018, *where a company or a firm which has been granted a license under this regulation undergoes any change in the directors, or managing director or partner, such change shall forthwith be communicated by such licensee to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, within one month of such change.*

In view of the above, CB informed to this office of their Directors' change in CB firm after two months from date of Board Resolution and hence, violated the regulation 7(2) of CBLR, 2018.

5. Submission of the Custom Broker

5.1 M/s. Damco India Pvt. Ltd., (11/1058) vide a letter dated 06.02.2025, wherein they requested to condone the delay. They stated that the said delay was due to another application pending for approval. Further, vide letter dated 06.02.2025 the CB has submitted that they do not want any SCN or PH for violation of regulation 7(2) of CBLR, 2018.

6. DISCUSSION AND FINDINGS: -

I have gone through the facts of the case, and submissions of the CB. For brevity, I refrain from reproducing the brief facts of the case which have already been discussed above. I now proceed to examine the charge framed against the CB M/s. Damco India Pvt. Ltd., (11/1058).

6.1 I observe that the said CB is charged for violation of regulation 7(2) of CBLR, 2018 by not intimating to this office of their **Directors' change within one month.**

6.2 With regard to violation of Regulation 7(2) of the CBLR, 2018: -

I observe that Proviso to regulation 7(2) of CBLR, 2018 reads as

Provided further that where a company or a firm which has been granted a license under this regulation undergoes any change in the directors, or managing director or partner, such change shall forthwith be communicated by such licensee to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be, within one month of such change:

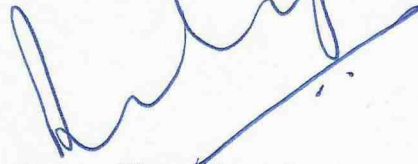
From the records, I find that CB have submitted Email dated 06.02.2025 regarding condonation of delay. They have stated that since a previous Application No. 100000024995 dated- 06.09.2023, was in the process CB was not able to submit application for addition of director. I find that the CB could have intimated regarding the change in partners, by Sevottam, but the CB has refrained from doing the same. I find that M/s. Damco India Pvt. Ltd. (11/1058), failed to inform to this office of their Partners' Change within one month as per regulation 7(2) of CBLR, 2018 and hence, violated the said provision.

7. Thus, in view of the above, I hold that the CB M/s. Damco India Pvt. Ltd. (11/1058) have failed to inform Change of their Directors within one month as per regulation 7(2) of CBLR, 2018. Hence, CB have failed to comply with the Regulation 7(2), of the CBLR, 2018, as discussed *supra* and is liable for penal action under Regulation 7(2) of CBLR, 2018. Accordingly, I pass the following order.

ORDER

8. (i) I, hereby, impose penalty of Rs. 5,000/- (Rupees Five Thousand only) on M/s. Damco India Pvt. Ltd. (11/1058 & PAN No. AAHCA6078Q), for violation of provisions under Regulation 7(2) of the CBLR, 2018 as elaborated above.

This order is passed without prejudice to any other action which may be taken or purported to be taken against the Customs Broker and their employees under the Customs Act, 1962, or any other act for the time being in force in the Union of India.



(Rajan Chaudhary)

PR. COMMISSIONER OF CUSTOMS (GENERAL),
MUMBAI ZONE-I.

To,

CB M/s. Damco India Pvt. Ltd. (11/1058)
401 & 402, Godrej two, Pirojshanagar Eastern Expressway Highway,
Vikhroli (East), Mumbai - 400079.

Copy to,

1. The Pr. Chief Commissioner/Chief Commissioner of Customs, Mumbai I, II, III Zone.
2. All Pr. Commissioners/Commissioners of Customs, Mumbai I, II, III Zone
3. CIU's of NCH, ACC & JNCH.
4. EDI of NCH, ACC & JNCH.
5. ACC (Admn) Mumbai with a request to circulate among all departments.
6. JNCH (Admn) with a request to circulate among all concerned.
7. Cash Department, NCH, Mumbai.
8. Notice Board
9. Office Copy
10. Guard File (Admin).