



**OFFICE OF THE PR. COMMISSIONER OF CUSTOMS
(GENERAL),
CUSTOM BROKER SECTION, NEW CUSTOM HOUSE,
BALLARD ESTATE, MUMBAI - 400 001.
Email-Id: cbsec.nch@gov.in**

F.No.GEN/CB/219/2024-CBS/NCH
DIN NO: 2024057700000000D492

Date: 01.05.2024

ORDER No. 10 /2024-25

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

M/s. Saraimx Logistics Pvt. Ltd. CB No. 11/2640 (PAN NO. ABACS8742F), having address at Office No. 701, Raturaj CHS, Pendse Nagar, Cross Road, Dombivali, Thane, Maharashtra-421201, (hereinafter referred as the Customs Broker/CB) is holder of Customs Broker License No. 11/2640 (PAN NO. ABACS8742F), issued by the Commissioner of Customs, Mumbai under Regulation 7(2)(b) of the CBLR, 2018, and as such they are bound by the regulations and conditions stipulated therein.

2. An Offence Report in the form of Show Cause Notice No. 133/ADC/ADJ(X)/2022-23/ACC dated 31.03.2024, issued by ADC, Export, ACC, Mumbai Customs Zone-III was received by CBS, NCH, wherein inter-alia following were informed:

2.1 M/s. Askon Enterprises (IEC-GOFPP5832C), (hereinafter referred to as "the Exporter") having declared address in IEC as 1/6, Jai Ambika Niwas, Garibachawada Chawl, Phule Road, Ganesh Mandir, Dombivli West, Kalyna Thane, Maharashtra-421202 had filed Shipping Bill Nos. 2665503 dated 07.07.2022, 2679950 dated 08.07.2022, 2692376 dated 08.07.2022, 2702158 dated 08.07.2022, 2702251 dated 08.07.2022, 2798840 dated 13.07.2022, 2798851 dated 13.07.2022, 2799540 dated 13.07.2022, 2816791 dated 14.07.2022 hereinafter mentioned "The Subject Shipping Bills") through their Customs Broker M/s Saraimx Logistics Pvt. Ltd. (PAN No. ABACS8742F) having total declared FOB value of Rs. 2,78,58,255.5/- under the drawback/LUT scheme for the claim of drawback of Rs. 5,53,109.01/-, ROSCTL, Rs. 7,40,599/- and RODTEP Rs. 345/.

2.2. On the basis of Risk Analysis, the NCTC, Mumbai had informed to SIIB Export, ACC, vide their email dated 15.07.2022 that M/s. Askon Enterprises (IEC-GOFPP5832C), had filed the 09 risky SBs at INBOM4 i.e Air Cargo Complex, Mumbai Zone-III for Risky Commodity i.e Readymade Garments (RMGs) destined to risky countries i.e. Sudan and Nigeria.

2.3. The IEC was issued to the exporter M/s. Askon Enterprises on 12.05.2022 and the export data was retrieved from ICES system in respect of the exporter and it was found that the exporter had filed total 09 shipping bills between 12.05.2022 and 18.07.2022 as per data retrieved from EDI 1.5 System. It was further observed that out of total 09 Shipping Bills filed by the exporter LEO was already given for 05 shipping bills before receiving alert and remaining 04 shipping bills were purged after 30 days. Further, Data was retrieved from EDI 1.5 System and it was found that the exporter had not claimed IGST.

2.4 BRC Status of Past Exports-

Apart from above mentioned 09 shipping bills, there was no previous exports as per data retrieved from ICES system. BRC against these 09 Shipping Bills had not been realized till then.

2.5 Enquiry of GST Suppliers:

A letter dated 29.07.2022 was forwarded to AC/CGST, Thane City to investigate into existence of exporter, M/s Askon Enterprises; with a request for verification of GST Registration No. 27GOFPP5832C1ZU and the inward supply of M/s. Askon Enterprises. It was also requested to verify genuineness of ITC and comment on the admissibility of IGST refund in the instant Case as per the Circular No. 16/2019-Customs (F.No. 450/119/2017-Cus-IV(Pt.I) dated 17.06.2019. In this regard, a letter dated 20.07.2022 issued vide F. NO. V/CGST/TR/AE/Askon/464/22- 23/1686 from Joint Commissioner CGST & C. Ex, Thane Rural (RUD-1) was received. Vide the letter, it was stated that during the visit, the said address of the exporter was not found in existence. The SIIB (X) vide letter dated 26.09.2022 requested Director, General DGFT, to cancel the IEC No. GOFPP5832C of M/s. Askon Enterprises in view of the non-existence of the firm at the registered address. Further, a letter dated 23.09.2023 was sent to Joint Commissioner CGST & C. Ex, Thane Rural requesting to forwarded the outcome/action taken report in due course of the investigation done by their office.

2.6 Summons to the Exporter: -

In furtherance of the investigation, the Summons under Section 108 of the Customs Act, 1962 were sent to Mr. Rohidas Vithal Pednekar, Proprietor of M/s Askon Enterprises, to appear before SIIB(X) on 17.08.2022 and 29.08.2022, however, the same returned back. In this regard, a letter dated 29.08.2022 was received from the Exporter, stating therewith that they were unable to attend the said summons due to health reason. Thereafter, a summon was issued to Mr. Rohidas Vithal Pednekar on 06.10.2022 and 17.10.2022 but no one appeared for recording of the statement.

2.7 Address Verification of the Exporter:

Further, a visit was conducted by the Investigative Agency to the premises of M/s. Askon Enterprises on 01.03.2023. During the visit, the exporter appeared to be non-existent on its principal place of business. Whereas, various summons to the exporter on their addresses given on the Import Export Code were issued. However, they failed to attend the SIIB(X) office for giving oral as well as documentary evidences in support of genuineness of their export. Hence prima facie, it appeared that the exporter did not want to attend the investigation for giving evidences and oral statement.

2.8 Summons to the Customs Broker:

Summon under Section 108 of the Customs Act, 1962 was issued to the CB to be present on 04.10.2022 in the office of Investigative Agency. Shri Vishal Gyanchandra Gupta, CEO of Saraimx Logistics Pvt. Ltd. appeared before the Investigative Agency to provide evidence and requisite documents. He submitted Power of Attorney issued by F Card No. 1922/2021 holder Smt Ankita Girish Malhotra of M/s Saraimx Logistics Pvt. Ltd., authorising him to give the statement. The statement of Shri Vishal Gyanchandra Gupta, Employee of M/s Saraimx Logistics Pvt Ltd was recorded under section 108 of the Customs Act, 1962. In the said statement Shri Vishal Gyanchandra Gupta inter-alia stated that-

- M/s Saraimx Logistics Pvt. Ltd. is 04 years old in Mumbai. The company was incorporated as Pvt Ltd Company in 2018. He has been working in

the company for 02 Years and was appointed as CEO since his appointment.

- The appointment of M/s. Saraimx Logistics Pvt. Ltd. for acting as a Customs Broker on their behalf was done by the exporter M/s Askon Enterprises in June, 2022 and he submitted the authority letter for the same.
- Exporter contacted himself to the marketing team of their company, after that further communication work were done on phone calls by the marketing team.
- Further the exporter gave the Authority letter dated 15.06.2022 authorizing Saraimx Logistics Pvt. Ltd. for the customs clearance related work.
- He submitted copies of IEC, GST, PAN Card, ADHAAR Card, ITR for assessment year 2021-22, Bank Statement copy of Exporter.
- They verified office of M/s. Askon Enterprises, IE Code, PAN Card, GST registration Certificate, UDYAM Registration Certificate issued by MSME of M/s Askon Enterprises and submitted the KYC for the same.
- Their office person physically verified the address mentioned in GST registration copy i.e. 1/6, JAI AMBIKA NIWAS, GARIBACHAWADA CHAWL, PHULE ROAD, GANESH MANDIR, DOMBIVALI WEST, KALYAN, THANE, MAHARASHTRA, 421202. The Mobile number of exporter is 9152836830 and mail id - askonenterprises22@gmail.com. They were not getting any response now from the exporter on the said mobile number.
- They have carried out First time export procedure of M/s Askon Enterprises. They have last communicated exporter on 15/07/2022, when they raised all the bills and asked for their payment against custom clearance and forwarding, as the exporter committed that he will make the payment soon and till date they are following for their payment but no response was there from the exporter side.
- They received the export related documents by courier or by hand via exporter's representative, after receiving documents, they used to make checklist, they used to take approval also via phone call/whatsapp from the Exporter. M/s Askon Enterprises, then after approval from M/s. Askon Enterprises, they used to file Shipping Bill on ICEGATE portal. Once shipping bill generated, they would proceed to airline space for cargo booking.
- From 15th June, 2022, till date, they filed 5 SBs for M/s Askon Enterprises. On being asked about the status of shipping bills 2665503 dated 07.07.2022, 2679950 dated 08.07.2022, 2798851 dated 13.07.2022 and 2816791 dated 14.07.2022, he said Shipping Bills were filed by us but they did not receive the cargo from the exporter's side.
- They as a Custom Broker verified the correctness of the classification declared by the exporter, restrictions or prohibition. They used to take Invoice and Packing List and verify them for classification as per description in invoice. And the scrutinization for the same was done by the CB. They received the documents of M/s Askon Enterprises by courier/by hand via exporter's representative.
- The goods directly came to Air Cargo Complex by their transport and the goods were not verified before examination. They checked only number of cartons, marks and number at the time of carting the goods. During Examination of the goods their representative were present. They submitted the documents online on ICEGATE from their office.
- They charged Rs. 3000 per shipping bill. They had not received any amount till date.

- During the examination of the goods they or any representatives of M/s Saraimx Logistics Pvt. Ltd. did not find any discrepancy in valuation of goods covered under shipping bills of M/s Askon Enterprises.

2.9 Analysis of Financial Transaction:

Even after multiple summons, the exporter did not present himself/nor provided documentary evidence. In the furtherance of the investigation, the Bank details in respect of M/s. Askon Enterprises was retrieved from the system and it was found that the AD code of the exporter is IDIB000K683 and the Account No. 7206237914 of Indian Bank, Khar Branch, Mumbai. A letter addressed to Indian Bank, Khar Branch for provisional attachment of Bank account of M/s. Askon Enterprises u/s 110(5) of the Customs Act, 1962 was sent on 23.08.2022. Further, in the letter addressed to bank, KYC details and bank statement of the exporter were also requested. Moreover, a letter dated 23.08.2022 addressed to Income tax department was sent to provide any other bank details in addition to the bank details as mentioned above and address details in respect of the exporter available with them.

During scrutiny of Bank Statement of M/s Askon Enterprises, it was found that one transaction dated 06.09.2022 received Rs 10,00,000/- by M/s. Active traders in the account of M/s Askon Enterprises and thereafter on **07.09.2022** the amount of Rs 10,00,059/- was further transferred to M/s Saraimax Logistics Pvt Ltd. M/s Saraimx Logistics is the CB in the instant case. Such an evidence of a substantial transaction between the Exporter and the CB was in complete contradiction with the statement dated **04.10.2022** of Shri Vishal Gyanchand Gupta, CEO of Saraimx Logistics Pvt. Ltd wherein he, inter-alia stated that *“the exporter and CB had communicated last on 15.07.2022, when CB raised all the bills and asked for their payments against custom clearance and forwarding, as the exporter committed to make the payment soon and till date they were following for their payment but no response was from the exporter side.”* **However, the above said transfer of amount of Rs 10,00,059/- was done on 07.09.2022.** The emergence of such a material fact during the investigation, was in complete contradiction with the statement dated 04.10.2022 of the representative of the CB recorded under Section 108 of the Customs Act, 1962.

2.11 In this regard, again a summon, was issued to the CB M/s Saraimx Logistics Pvt. Ltd. to appear on 29.11.2022. However they submitted a letter for non- appearance on 29.11.2022 due to health reason. Accordingly, a summon was issued to M/s Saraimx Logistics Pvt. Ltd. to appear on 07.12.2022, further another summons issued to Custom Broker appear on 02.01.2023, However they submitted a letter dated 02.01.2023 for non-appearance on 02.01.2023 due to health reason. Further summons issued to appear on 23.01.2023, 20.02.2023, 17.03.2023. Further they also submitted a letter dated 17.03.2023 for non-appearance on 17.03.2023 due to health reason.

2.12 A search was conducted on 28.03.2023 under Search Warrant No. SW/13/22-23 ACC dated 28.03.2023 at the office premises of CB M/s Saraimx Logistics Pvt. Ltd. situated at Office No. 1011, 10th Floor, V Times Square, Plot. No.3, Sector-15, CBD Belapur-400614. The search was conducted under Panchanama dated 28.03.2023. During the search the officers found certain documents relevant to the investigations, which were taken over by the officers under the relevant provisions of the Customs Act, 1962. The list of the said documents is as follows:-

- (i) Copies of the KYC Documents;
- (ii) CHA Authority Letter of First Export Registration;
- (iii) Certificate of incorporation of Saraimx Logistics Pvt. Ltd.;

- (iv) Askon Enterprises- copies of shipment documents;
- (v) Accounts statements of Saraimx Logistics Pvt. Ltd. (ICICI Bank from Year 01/04/2022);
- (vi) Accounts statements of Saraimx Logistics Pvt. Ltd. (Indusind Bank from Year 01/04/2022)
- (vii) Ledger Details of Exporter Askon Enterprises

2.13 Statement dated 03.04.2023 of CB:

Further, in response to Summons No. AK/861/2022-23 ACC(X) issued on 29.03.2023 Shri Vishal Gyanchandra Gupta, CEO of M/s Saraimx Logistics Pvt. Ltd. appeared on 03.04.2023 to give statement under section 108 of the Customs Act, 1962. In the said statement Shri Vishal Gyanchandra Gupta, CEO of M/s Saraimx Logistics Pvt. Ltd. Inter-alia stated that:

- Against the invoice, packing list, they make the checklist and after getting approval of the checklist from the shipper they file the checklist in Icegate and once they receive the shipping bill no. they proceed with carting and custom examination.
- They charge, agency charges Rs 3000/- per shipping bill.
- They have received the amount of Rs. 10,00,059/- from M/s Askon Enterprises against air freight and custom clearance which they had done for this shipper. IATA buy bill and sell bill of this amount is submitted, and ledger is also submitted and balance amount of 17,51,535/- is pending from the shipper to be collected. They made Air freight payment to IATA agent regarding the export shipment in that Air freight, AMS charges, AWB Charges, GMAX charges, gate pass they paid.

SB No & Date	Air Freight	Agency Charges
2692376 & 08.07.2022	4,10,118/-	3000/-
2702251 & 08.07.2022	5,73,372/-	3000/-
2702158 & 08.07.2022	2,42,253/-	3000/-
2799540 & 13.07.2022	7,31,556/-	3000/-
2798840 & 13.07.2022	6,75,786/-	3000/-
TOTAL	26,33,085/-	15000/-

- As the total amount paid by them to IATA agent against the shipment of exporter for the shipment they had paid was Rs, 26,33,085/- out of which their total billing was of Rs. 27,51,537/- and he paid through NEFT Rs, 10,00,059/- to their company account and balance Rs. 17,51,535/- was still outstanding which was not paid by exporter till date. The entire bill related to that transaction i.e. buy bill and sell bill was also submitted. The Air freight, AMS charges, AWB Charges, paid by them to various authorities were also reflected in Bank Statements as well as ledger of IATA agent submitted.
- They verified the address mentioned in IEC and GST copies of M/s Askon Enterprises i.e 1/6, Jai Ambika Niwas, Garibchawada Chawl, Phule Road, Ganesh Mandir, Dombivali West, Kalyan, Thane- 421202 and it was verified by their office person Anil Kamble.
- They contacted the exporter on calls as major details were shared and communicated on calls;
- They had authority letter from exporter against that consignment in which he authorized them to do custom clearance.
- They do not have any idea of the suppliers of the exporter.

Investigation of M/s. Active Traders, who transferred Rs. 10,00,000/- to the Exporter

2.14. On further scrutiny of Bank statement of the exporter, M/s Askon Enterprises, it was found that there was one transaction of Rs 10, 00,000/- by M/s Active Traders. The bank statement along with KYC details of M/s Active Traders was obtained from the Bank. It is pertinent to mention here that M/s Askon Enterprises was found non-existent at their principal place of business. As reflected in the bank statement of M/s Active traders it was found that the amount of Rs 10,00,000/- was transferred to M/s Askon Enterprises. It was required to unveil the nexus behind the said transaction between M/s Active Traders and M/s Askon Enterprises. Therefore, a search was conducted on the address of M/s Active Traders, 45, Floor Ground, Shreeji Arcade Tata, Road No. 2, Near Roxy Cinema Opera, Mumbai-400004 as the same address was provided by the YES Bank, Khar Branch, Mumbai. In this regard search warrant no SW/10/2023-24 ACC was issued on 04.05.2023 for searching the premises of M/s Active traders. In the Search Report, it was found that there was no office in the name of M/s Active Trader. Accordingly, it appeared that M/s Active traders is non-existent at this address.

2.15. Further, a letter dated 10.05.2023 was issued to the Branch Manager, YES Bank, Dhobhi Talao, Mumbai regarding submission of detailed KYC of M/s Active Traders. An e-mail was received from YES Bank on 29.05.2023, wherein they annexed the detailed KYC of M/s Active Traders. On scrutiny of the detailed KYC, it was found in Adhaar Card of Shri Radheyshyam Nayak, proprietor of M/s Active Traders had address as Radheshyam Nayak S/o Ramlal Nayak, Subhash Colony, Dait Road, Pratap Nagar, Chittaurgarh, Rajasthan- 312001. A summon under section 108 of the Customs Act, 1962 was issued to Shri Radheyshyam Nayak, Proprietor of M/s Active Traders to appear on 21.06.2023, 07.07.2023, 08.08.2023. But no one appeared for the statement in this regard.

2.16. The Bank statement of M/s Active Traders was scrutinized and it was found that M/s Active Traders had transferred/ received huge amount (in Crores) in very short span of time. It appeared from the same that M/s. Active Traders was handling transfers of amount for various Traders/Vendors/Exporters. Also, it was found that M/s Active Traders accepted amount and transferred amount in very short duration of time and after that M/s Active Traders had ended activity of transferring of amount. Total Rs 62,87,35,345/- was Debited and Rs 62,87,36,557/- was credited in very short duration of time as the account was opened on 28.07.2022 and almost all the Transactions was made till December 2022 (i.e. 5 Months). In view of the above, some major Creditors/Debitors were identified from where M/s Active Traders accepted and Transferred huge amount. The details of the same is as follows: **(1) R K Industries (2) Shree Jewels (3) Kariox Impex Pvt Ltd (4) RS Enterprise (5) Farmico Commodities Pvt Ltd (6) Vikas Enterprises (7) Maruti Trading (8) Ananya**

2.17 Remittance Details:-

The exporter M/s Askon Enterprises filed total 09 Shipping Bills. The exporter had claimed Drawback under the said shipping bills under the provisions of Section 75 of the Customs Act, 1962 read with The Customs and Central Excise Duties Drawback Rules, 2017. The Section 75(1) of the Customs Act, 1962 makes it mandatory, for claiming drawback on any goods, to receive the sale proceeds in respect of such goods by or on behalf of the exporter in India within the time allowed under the Foreign Exchange Management Act, 1999 (42 of 1999). It was evident from the data available in ICES 1.5 System under the

category Details of Defaulting IECs (FOB yet to be realized), that the foreign remittance has not been realized even after the expiry of the prescribed time-limit. In the event of non-realisation of sale proceeds, the drawback benefit claimed/availed deemed never to have been allowed and becomes rejectable/recoverable under relevant rules of the Customs and Central Excise Duties Drawback Rules, 2017. Further, in terms of CBIC Notification No. 77/2021-Customs (N.T.) dated 24th September, 2021 as amended, the duty credit allowed under the ROSCTL Scheme shall be subject to realization of sale proceeds in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), failing which such duty credit shall be deemed to be ineligible. Thus, such duty credit allowed under ROSCTL Scheme becomes liable for cancellation and recovery in terms of para 3, 4 and 5 of the notification *ibid*. Further, in terms of CBIC Notification No. 76/2021-Customs (N.T.) dated 23rd September, 2021 as amended, the duty credit allowed under the RODTEP Scheme shall be subject to realization of sale proceeds in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), failing which such duty credit shall be deemed to be ineligible. Thus, such duty credit allowed under RODTEP Scheme becomes liable for cancellation and recovery in terms of para 3, 4 and 5 of the notification *ibid*.

2.18. Role of the Exporter:-

2.18.1 The Exporter, M/s Askon Enterprises had filed 09 shipping bills out of which 05 S/Bs with declared FOB value of Rs. 1,45,94,048/- claiming benefit of drawback of Rs. 3,11,710.02/-, RODTEP of Rs. 115/- and ROSCTL of Rs. 4,37,957/- were given LEO. Remaining 04, with declared FOB value of Rs. 1,32,64,207.08/- claiming benefit of drawback of Rs. 2,41,398.99/-, RODTEP of Rs. 230/- and ROSCTL of Rs. 3,02,642/- were not given LEO. All the shipping bills were filed under LUT scheme of IGST. All the 5 shipping bills have been filed through CHA M/s Saraimx Logistics Pvt. Ltd. The scrolls of these Shipping bills were not generated yet.

2.18.2 The summons dated 02.11.2022, 02.02.2023 and 15.03.2023 were again issued to Mr. Rohidas Vithal Pednekar, Proprietor of M/s Askon Enterprises. However, the exporter did not turn up for recording of his statement. Therefore, it appeared that the exporter had nothing in their defence and henceforth, he did not come forward to record his oral as well as documentary evidence to prove the genuineness of his business. Hence, it appeared that he was deliberately trying to avoid appearing before Customs to record his statement and thus was not co-operating with the investigation.

2.18.3 The exporter had not submitted Invoices, Proof of receipt of goods, Lorry Receipts, E-Way Bills for transporting of subject goods, Supplier's Invoices, Proof of payment made to the Suppliers, Proof of the Taxes paid on the purchased goods in respect of the goods covered the above said shipping bills. The Exporter has failed to produce any document to proof his genuineness of Business transactions. Therefore, it appeared that the export goods were purchased from non-registered suppliers and no statutory duty were paid/levied by their suppliers to the Government Exchequer. Thus, the non-duty paid goods clearly indicated the complete mis-match of the exporter's supply chain, fraudulent exports of goods and availment of undue drawback and other export benefits like ROSCTL & RODTEP etc.

2.18.4 The Exporter did not submit any Bank Realisation Certificate (BRC) for the goods exported for all the shipping bills. Therefore, the exporter did not appear to be eligible for export incentives viz Drawback, ROSCTL & RODTEP under the provisions of Section 75 of Customs Act, 1962 read with second

proviso to Rule 3(1) of the Customs and Central Excise Duties Drawback Rules, 2017, Notification No. 77/2021-Customs (N.T.) dated 24th September, 2021 and Notification No. 76/2021-Customs (N.T.) dated 23rd September, 2021.

2.18.5 Therefore, the non-submission of export related documents by exporter to prove genuineness of business transactions, has resulted into non-disclosure of correct material particular and thereby attracting the provisions of Section 113(i) & 113(ia) of the Customs Act, 1962.

2.18.6 As per Section 113(ja) of the Customs Act, 1962, any goods entered for exportation under claim of remission or refund of any duty or tax or levy to make a wrongful claim in contravention of the provisions of this Act or any other law for the time being in force shall be liable to confiscation. In the instant case, it appeared that the said exporter had filed the shipping bills for export under Letter of Undertaking (LUT) and availed the ITC credit through the supply chain, which seem non-existent, and availed undue drawback and other export benefits like ROSCTL & RODTEP etc without producing any relevant document to prove their genuineness of business transactions. The supplier of the exporter was been found to be fake. Thus, it appeared that the exporter was consciously involved in this whole racket of exporting the goods with mala-fide intention to avail undue drawback & other export benefits like ROSCTL & RODTEP and availment of wrongful ITC credit and subsequently claim the same as remission or refund and thereby attracting the provisions of Section 113 (ja) of Customs Act, 1962.

2.18.7 The above acts of omission and commission by exporter M/s Askon Enterprises and Mr. Rohidas Vithal Pednekar, Proprietor of M/s Askon Enterprises resulted in violation of provisions of Section 50(2), 50(3) & 75(1) of the Customs Act, 1962 read with Section 11(1) of the Foreign Trade (Development And Regulation) Act, 1992, Section 7(1) & 8 of the Foreign Exchange Management Act, 1999, Rule 11 of the Foreign Trade (Regulations) Rules, 1993 and Regulation 9 of the Foreign Exchange Management (Export of Goods & Services) Regulations, 2015. Thus, the all consignments appeared to be liable for confiscation (though not available physically) under Section 113(i), 113(ia) & 113(ja) of the Customs Act, 1962. The exporter and proprietor of M/s Askon Enterprises also appeared to be liable for penal action under Section 114(iii) and Section 114AA or section 117 of the Customs Act, 1962.

2.18.8 As per Rule 2 (a) of the Customs and Central Excise Duties Drawback Rules, 2017, the "drawback" in relation to any goods manufactured in India and exported, means the rebate of duty excluding integrated tax leviable under subsection (7) and Compensation Cess leviable under subsection (9) respectively of section 3 of the Customs Tariff Act, 1975 (51 of 1975) chargeable on any imported materials or excisable materials used in the manufacture of such goods. It is pertinent to mention that during investigation, the proprietor of the firm M/s Askon Enterprises or any other persons concerned with the firm did not produce any documents like Tax-Invoices etc, in respect of impugned export goods of Shipping Bills, which could support genuine purchase and prove the payment of duty/tax, though they were offered enough opportunity through Summons under Section 108 of the Customs Act, 1962. Therefore, it appeared from the investigation that necessary ingredient of second proviso to Rule 3(1) of the Customs and Central Excise Duties Drawback Rules, 2017 is attracted in this case which does not permit any amount of drawback in such cases where no duty has been paid. Due to nonproduction/submission of required documents/information, it appeared that no statutory duty was levied on the purchase of the exported goods by the Exporter as the same were procured from Local Unregistered Suppliers. Also, the sale proceeds of the goods exported vide Shipping Bills have not been realized till date as per ICES 1.5 system. Thus, the

drawback amount of Rs. 553109.01/- claimed/availed vide Shipping Bills appeared to be rejectable/recoverable with interest under the provisions of Rule 17, Rule 18(1) & Rule 18(2) of the Customs and Central Excise Duties Drawback Rules, 2017 read with Section 75(1) & 75A(2) of the Customs Act, 1962.

2.18.9 The duty credit under ROSCTL Scheme and RODTEP Scheme is allowed subject to realization of sale proceeds in respect of such goods in India within the period allowed under the Foreign Exchange Management Act, 1999 (42 of 1999), failing which such duty credit shall be deemed to be ineligible. The sale proceeds in respect of goods exported vide present as well as past Shipping Bills have not been realized so far. Further, the exporter appears to have violated the provisions of Customs Act, 1962 and other allied acts as enumerated above. Thus, the exporter's claim of Rs. 740599/- under ROSCTL scheme and Rs. 345/- under RODTEP Scheme appears liable for cancellation and recovery under Notification No. 77/2021-Customs (N.T.) dated 24th September, 2021 & Notification No. 76/2021-Customs (N.T.) dated 23rd September, 2021 as amended, read with Regulation 8 of Electronic Duty Credit Ledger Regulations, 2021.

2.18.10 Therefore, the exporter M/s Askon Enterprises and Mr. Rohidas Vithal Pednekar Proprietor of M/s Askon Enterprises who had deliberately attempted to defraud the Government by claiming undue higher amount of drawback as well as export benefits. Thereby they acted in a manner which rendered the said goods liable for confiscation in terms of the provisions of Section 113 (i), 113(ia) and 113 (ja) of the Customs Act, 1962. Thus, they have rendered themselves liable to penalty in terms of Section 114 (iii) and 114AA or section 117 of the Customs Act, 1962.

3. Role of the Customs Broker:

3.1 During investigation, the registered office of the Exporter was verified by SIIB(X), ACC, Mumbai and it was found that the office of the Exporter did not exist at its principal place of business. The non-existence of the Exporter at its registered address was also corroborated by the jurisdictional GST Commissionerate. In view of these, it appeared that the firm is non-existent at the registered address.

3.2 Therefore, it appears that the submission of the CEO cum Authorized Representative of the Customs Broker, M/s Saraimx Logistics Pvt. Ltd, namely Vishal Gupta, in his statement dated 04.10.2022 & 03.04.2023 recorded under Section 108 of the Customs Act, 1962, that they had verified the premises of the Exporter, is incorrect and false. Hence, it appears that they tried to mislead the investigation. Thus, it appears that the CB did not verify the functioning of the exporter at the IEC address and failed to comply with the requirements of Regulation 10(n) of CBLR, 2018. The CB also failed to verify the credentials of the exporter.

3.3 During the scrutiny of Bank Statement of M/s Askon Enterprises, it was found that one transaction dated 06.09.2022 received Rs 10,00,000/- by M/s. Active traders in the account of M/s Askon Enterprises and thereafter on **07.09.2022** the amount of Rs 10,00,059/- was further transferred to the CB, M/s Saraimax Logistics Pvt Ltd. Such an evidence of a substantial transaction between the Exporter and the CB was in complete contradiction with the statement dated **04.10.2022** of Shri Vishal Gyanchand Gupta, CEO of Saraimx Logistics Pvt. Ltd wherein he, inter-alia stated that "*the exporter and CB had communicated last on **15.07.2022**, when CB raised all the bills and asked for their payments against custom clearance and forwarding, as the exporter committed to make the payment soon and till date they were following for their payment but no response was from the exporter side.*" **However, the above said**

transfer of amount of Rs 10,00,059/- was done on 07.09.2022. The emergence of such a material fact during the investigation, was in complete contradiction with the statement dated 04.10.2022 of the representative of the CB recorded under Section 108 of the Customs Act, 1962.

3.4 The Investigation of the entity, M/s. Active Traders, which transferred Rs. 10,00,000/- to the Exporter reveals that the trader was not only non-existent at its registered address but also was also involved in the transaction of amount (in Crores) in a very short span of time. It appeared from the same that M/s. Active Traders was handling transfers of amount for various Traders/Vendors/Exporters. Also, it was found that M/s Active Traders accepted amount and transferred amount in very short duration of time and after that M/s Active Traders had ended activity of transferring of amount. Total Rs 62,87,35,345/- was Debited and Rs 62,87,36,557/- was credited in very short duration of time as the account was opened on 28.07.2022 and almost all the Transactions was made till December 2022 (i.e. 5 Months). Hence, it appears that the creation of an entity like M/s Active Traders was done primarily for effecting quick and fraudulent transfers with layering mechanism, and such an entity transferred the amount to the Exporter on 06.09.2022 and the Exporter in turn transferred the amount to the CB, M/s Saraimx Logistics Pvt. Ltd on 07.09.2022.

3.5 In view of the findings as above, it appears that there was a nexus for defrauding the government exchequer and the export beneficiary is CB firm, M/s Saraimx Logistics Pvt. Ltd. It appears that the CB aided, abetted and connived with Mr. Rohidas Vithal Pednekar in effecting fraudulent exports through M/s Askon Enterprises for availing ineligible export incentives. The above act of omissions and commissions by the Customs Broker has resulted in contravention of the provisions of Regulation 10(d),10(e), 10 (m) & 10(n) of the CBLR, 2018, and 50(2), 50(3) & 75(1) of the Customs Act, 1962 read with Section 11(1)of the Foreign Trade (Development And Regulation) Act, 1992, Section 7(1) & 8 of the Foreign Exchange Management Act, 1999, Rule 17 & 18 of the Customs and Central Excise Duties Drawback Rules, 2017, Rule 11 of the Foreign Trade (Regulations) Rules, 1993 and Regulation 9 of the Foreign Exchange Management (Export of Goods & Services) Regulations, 2015. The failure of CB to verify the credentials of the exporter has resulted in violation of Regulation 10(n) of the CBLR, 2018 and Section 7 of the Foreign Trade (Development and Regulation) Act, 1992 read with Rule 12 of the Foreign Trade (Regulation) Rules, 1993 & Para 2.05(II)(i) of the foreign Trade Policy 2015-20.

4. In view of the above facts and findings, it appears that the Customs Broker, M/s. Saraimx Logistics Pvt. Ltd. CB No. 11/2640 (PAN NO. ABACS8742F), has failed to comply with the following Regulations of the Customs Brokers Licensing Regulations, 2018: -

(i) Regulation 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 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;*

During investigation it was found that, the exporter, exported the goods with mala-fide intention to avail undue drawback & other export benefits like ROSCTL/RODTEP and availment of wrongful ITC credit in violation of 50(2), 50(3) & 75(1) of the Customs Act, 1962 read with Section 11(1)of the Foreign Trade (Development And Regulation) Act, 1992, Section 7(1) & 8 of the Foreign Exchange Management Act, 1999, Rule 17 & 18 of the Customs and Central Excise Duties Drawback Rules, 2017, Rule 11 of the Foreign Trade (Regulations) Rules, 1993 and Regulation 9 of the Foreign Exchange Management (Export of Goods & Services) Regulations, 2015.

In the instant case, the CB appears to have failed in advising his client to comply with the above mentioned provisions of the Customs Act, 1962 and other Allied Acts. Moreover, the CB also failed to bring the matter of such non-compliance to the Deputy Commissioner or Assistant Commissioner of Customs.

(ii) Regulation 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;*

The Customs Broker (CB) is an agent authorized by the exporter to work on their behalf. It is the obligation of the Customs Broker to exercise due diligence to ascertain the correctness of any information he imparts to a client with reference to any work related to clearance of cargo.

In the instant case, it appears that the CB not only failed in his duty as mandated in Regulation 10 (e) of CBLR, 2018 but also appears to be the beneficiary of the subject export.

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

The Customs Broker (CB) is an agent authorized by the exporter to work on their behalf and they are entrusted with discharging their duty with utmost speed and efficiency.

In the instant case, it appears that the CB not only delayed the investigation proceedings by not attending the recording of statement when they were summoned for the second time but also failed to present the Exporter or locate his whereabouts to the Investigative Agency.

Therefore, it appears that the CB failed to comply with the duty mandated in Regulation 10 (m) of CBLR, 2018.

(iv) Regulation 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;*

As per regulation 10(n), it is mandatory for a Customs Broker to 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; Whereas, the C.B in their statement dated 04.10.2022 & 03.04.2023 has submitted that they had verified the premises as mentioned in IEC of the exporter, however, on departmental enquiry the address of the exporter was found to be fictitious/non-existent/false.

Therefore, it appears that the CB failed to comply with the duty mandated in Regulation 10 (n) of CBLR, 2018.

5. I have gone through the facts of the case. I observe that the Customs Broker M/s Saraimx Logistics Pvt. Ltd. CB No. 11/2640 (PAN NO. ABACS8742F) has failed to discharge his obligations as required under Regulation 10(d), 10(e), 10 (m) and 10(n) of CBLR, 2018. As per the outcome of the investigation, the CB appears to be the beneficiary of the subject export and therefore, it is apprehended that the Customs Broker may adopt similar modus opernadi in future consignments and department cannot remain oblivious to the danger posed by the such an eventuality. Hence, I observe that this is a fit case, where immediate action is needed for invoking Regulation 16 of the CBLR, 2018.

6. 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 license of M/s Saraimx Logistics Pvt. Ltd. CB No. 11/2640 (PAN NO. ABACS8742F) with immediate effect, being fully satisfied that the Customs Broker had prima facie not fulfilled their obligations as laid down under Regulation 10(d), 10(e), 10 (m) and 10(n) of CBLR, 2018.
- II. However, I offer the Customs Broker, M/s Saraimx Logistics Pvt. Ltd. CB No. 11/2640 (PAN NO. ABACS8742F) an opportunity of Personal Hearing on **13.05.2024 at 12:30 PM** through in person/video conferencing facility. Any written representation against this order should reach before the date of hearing.
- III. This order is being issued without prejudice to any other action that may be taken or purported to 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,

M/s. Saraimx Logistics Pvt. Ltd. CB No. 11/2640 (PAN NO. ABACS8742F),

Office No. 701, Raturaj CHS, Pendse Nagar,

Cross Road, Dombivali, Thane, Maharashtra-421201.

Copy to:

1. The Pr./Chief Commissioner of Customs, Mumbai I, II, III Zone
2. CIUs of NCH, ACC & JNCH
3. The Commissioner of Customs, Mumbai I, II, III Zone
4. EDI of NCH, ACC & JNCH
5. Bombay Custom House Agent Association
6. Office copy
7. Notice Board