

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

F. No. GEN/CB/580/2022 CBS

Date: 02.02.2023

DIN: 2023027700000071767D

**ORDER NO. 74/2022-23**

M/s Sarajdeep Logistics Pvt. Ltd. (PAN No. ABDCS7938J), having address at Room No. 1 & 2, 1<sup>st</sup> floor, Shipping House, 26, Kumtha Street, Fort, Mumbai-400001, (hereinafter referred as the Customs Broker/CB) is holder of Customs Broker License No. 11/2551, issued by the Commissioner of Customs, Mumbai under Regulation 7(2)(a) of CBLR, 2014, and as such they are bound by the regulations and conditions stipulated therein.

2. The validity of the license No. 11/2551 held by M/s Sarajdeep Logistics Pvt. Ltd. is life time unless and until revoked in terms of provisions under sub-regulation (2) of Regulation 8A or regulation 14 of CBLR 2018, as amended and Shri Siraj Sadruddin Lalani, Shri Pradeep Kirit Thakker and Shri Vivek Kirit Thakker are the Directors of M/s. Sarajdeep Logistics Pvt. Ltd.

3. This office is in receipt of an Offence Report received vide letter F. No. GEN/INV/62/2022-CIU-O/o Pr. Comm-CUS-GEN-Zone-I Mumbai dated 02.12.2022 from the Addl. Commissioner of Customs, CIU, NCH w.r.t. role of CB M/s. Sarajdeep Logistics Pvt. Ltd. (CB No. 2551) in case of goods imported vide Bill of Entry No. 3108623 dated 31.10.2022 filed by the Importer namely M/s. Arise Enterprises (IEC No. AGVPL8960B) to Mumbai Port (India).

4. M/s. Arise Enterprises (IEC No. AGVPL8960B) (hereinafter referred to as the 'Importer') having address registered at Room No. 10, Ground Floor, 112A, Hasnabad, Dr. Mascareenhas Road, Hasnabad, Compound, Mumbai-400 010, had imported goods declared as Keychain Laser Light, Card

Holder, Ear Cover, Small Tap Faucet Filter, Small Hair Straightener (NOVA), Small Hot Water Pouch Electric, Small Travelling Coffee Mug, Small UFO Lamp, Beach Ball, Flask 500ML, Flask 500 ML with 2pc Cut Set. (All goods are o/t reputed brand) (hereinafter referred to as the 'goods') of total value declared as 11142.78 USD (CIF) from China. The Importer has filed Bill of Entry No. 3108623 dated 31.10.2022 for home consumption through Customs Broker M/s. Sarajdeep Logistics Private Limited (CB No. 11/2551) at Mumbai Port.

5. Examination of the said goods was carried out by the officers of CIU, NCH under panchnama dated 04.11.2022. On 100% examination, the following goods were found.

**TABLE-I**

Sr No	Goods declared	Item no as per packin g list	Total quantit y declare d	No. of CTN s foun d	Quantit y per CTNs	Total Quantit y found	Remarks
1	Keychain laser light	SL- 322-N	24000	50	480 -	24000	Found in pre- packaged condition
2	Card Holder	SL-56	9996	50	200	10000	Found in pre- packaged condition
3	Ear Cover	SL395 N	18000	15	1200	18000	Found in bulk packing
4	Small tap faucet filter	SL-307	7200	30	240	7200	Found in pre- packaged condition
5	Small hair straightne r (NOVA)	SL-14	5004	50	100 -	5000	Each carton contains hair straightner and respective packing materials

6	Small hot water pouch electric	SL-299-A	11196	56	200	11200	Found in bulk packing. Each carton contains equal no. of charging cable.
7	Small travelling coffee mug	SL-681	1500	25	60	1500	Found in pre-packaged condition. Each item have inbuilt stirrer operatable by cell
8	Small UFO Lamp	SL-76-N	9000	30	300	9000	Found in bulk packing. The goods appears LED lamp having two parts i.e. UFO containing LED light and decorative part to be inserted in said UFO.
9	Beach Ball	SL-654	15000	30	500	15000	Found in bulk packing
10	Flask 500 ML	SL-698 NB	22500	300	50	15000	Found in pre-packaged condition. Each item have inbuilt LED display lid which is operatable by inbuilt battery.
		SL-698-NW		50	50	2500	
		SL-698 BL		50	50	2500	
		SL-698 NM		50	50	2500	
11	Flask 500 ml with 2	SL-841M	2112	49	24	1176	Found in pre-

pc set	cup	SL-841 B		39	24	-	936	packaged condition
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6. On re-examination under panchnama dated 04.11.2022 by CIU officers, following violations were observed: -

i). Goods declared as Keychain laser light, card holder, small tap faucet filter, small hair straightener (NOVA), small travelling coffee mug, flask 500 ML, flask 500 ML with 2 cup set were found in pre-packaged condition and thus falling under the purview of General Note 5 "Packaged products" of ITC (HS) read with DGFT Notification No. 44 (RE-2000)/1997-2002 dated 24.11.2000 which require the declaration of;

- a. Name and address of the importer;
- b. Generic or common name of the commodity packed;
- c. Net quantity in terms of standard unit of weights and measures.  
If the net quantity in the imported package is given in any other unit, its equivalent in terms of standard units shall be declared by the importer;
- d. Month and year of packing in which the commodity is manufactured or packed or imported;
- e. Maximum retail sale price at which the commodity in packaged form may be sold to the ultimate consumer. This price shall include all taxes local or otherwise, freight, transport charges, commission payable to dealers, and all charges towards advertising, delivery, packing, forwarding and the like, as the case maybe

During the re-examination of the consignment by the officers of CIU/NCH it has been observed that the compliance of DGFT notification RE-44 was violated. However, the LMPC Certificate was uploaded in e-sanchit of ICES system.

ii). With respect to the one of the item declared as 'Beach Ball' found in bulk packing condition is actually 'inflatable toy ball' which is used for



children's play and recreation purpose only, hence mis-declaration with regard to description was found. As per the Gazette Notification SO 853 (E) dated 25.02.2020 issued by Ministry of Commerce and Internal Trade, Govt. of India which says as under: -

*'Quality Control Order' shall apply to (Toys) product or material designed or clearly intended, whether or not exclusively, for use in play by children under 14 years of age or any other product as notified by the Central Government from time to time.*

Hence, BIS is mandatory for the goods i.e. inflatable toy ball found during the examination by CIU/ NCH officers. For the purpose of BIS certification, toys have been classified into followings 02 types: -

Sr. No.	Types	Applicable Standard	Primary
01	Non electric toys (The are ordinary toys which don't have any function dependent on electricity)	IS 9873 (Part 1) :2019	
02	Electric toys (These are toys which have atleast one function dependent on electricity)	IS 15644: 2006	

iii). During examination of the consignment in MoD, MbPT neither G-card holder nor F-card holder was present at the place of examination. One person who was not even an employee of the CB firm was authorised by the G-card holder of the CB firm to be present during examination of the goods imported vide the B/E no. 3108623 dated 31.10.2022 on behalf of them.

7. Based on the above, goods imported vide B/E no. 3108623 dated 31.10.2022 were seized vide seizure memo dated 11.11.2022 under section 110(1) of the Customs Act, 1962.

8. In view of the above, *prima-facie*, it appears that the Customs Broker has contravened the following provisions of the CBLR, 2018:

### **8.1 Regulation 10(b)**

*(b) transact business in the Customs Station either personally or through an authorised employee duly approved by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;*

In the instant case, during the examination of the consignment in MoD, MbPT, neither a G-card holder nor a F-card holder was present at the place of examination. One person who was not even an employee of the CB firm was authorised by the G-card holder of the CB firm to be presented during examination of the goods imported vide the B/E no. 3108623 dated 31.10.2022 on behalf of them. By doing so, the Customs Broker appears to have violated the provisions of Regulation 10(b) of CBLR, 2018.

### **8.2 Regulation 10(d)**

*(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;*

In the instant case, it is the responsibility of the Customs Broker to inquire about the condition (i.e. pre-packaged or bulk), specifications of the goods etc. with the importer and advise the importer to comply with the extant rules which was not done. The Customs Broker has also failed to inform/bring this to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs. By doing so, the Customs Broker appears to have violated the provisions of Regulation 10(d) of CBLR, 2018.

### **8.3 Regulation 10(m)**

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

In the instant case, mis-declaration of goods with regard to description & valuation was found by CIU officers as mentioned above. From

the failure of CB for not seeking necessary clarifications from the importer, it appears that the Customs Broker has failed to discharge his duties with utmost efficiency and caused a significant delay in Customs clearance and thus appears to have violated the provisions of Regulation 10(m) of CBLR, 2018.

#### **8.4 Regulation 10(n)**

*(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;*

In the instant case, the Importer under his statement tendered under Section 108 of Customs Act, 1962 stated that he has no knowledge of the rules and regulations of the Customs and that aspects related to Customs Rules and Regulations for clearance of his consignments were handled by their Customs Broker. Further the importer was not in direct contact of CB. CB has neither verified the registered address of the importer nor inquired about the importer & other parameters as covered by Regulation 10(n) of the CBLR, 2018. By doing so, the Customs Broker appears to have violated the provisions of Regulation 10(n) of CBLR, 2018.

#### **8.5 Regulation 13(12)**

*The Customs Broker shall exercise such supervision as may be necessary to ensure proper conduct of his employees in the transaction of business and he shall be held responsible for all acts or omissions of his employees during their employment.*

In the instant case, it is observed that during examination of the consignment in MoD, MbPT by CIU, NCH, neither G-card holder nor F-card holder was present at the place of examination. One person who was not even an employee of the CB firm was authorised by the G-card holder of the CB firm to be present during examination of the subject goods. However, the

Customs Broker shall exercise supervision as may be necessary to ensure proper conduct of his employees in the transaction of business and shall be held responsible for all acts or omissions of his employees during their employment which in the instant case has not been done by the said Customs Broker since an unauthorized person was allowed to handle the Customs related work. By doing so, the Customs Broker appears to have violated the provisions of Regulation 13(12) of CBLR, 2018.

9. From the above facts, it appears that, *prima facie*, Customs Broker M/s. Sarajdeep Logistics Pvt. Ltd. (PAN No. ABDCS7938J) has violated Regulations 10(b), 10(d), 10(m), 10(n) & 13(12) of CBLR, 2018.

10. In view of the above facts, the CB License held by M/s. Sarajdeep Logistics Pvt. Ltd. (PAN No. ABDCS7938J) (CB No. 11/2551) was suspended by the Pr. Commissioner of Customs (General), NCH vide Order No. 66/2022-23 dated 10.01.2023 and personal hearing was granted to the CB on 18.01.2023 at 11.30 AM.

#### **WRITTEN SUBMISSIONS OF THE CB**

9. During the personal hearing, the CB through his authorized advocate Shri Lawrence Tauro submitted his submissions vide letter dated 17.01.2023 and the brief of the same is as under: -

9.1 The CB submitted that article of charge i.e. violation of provisions of Regulation 10 (b) of CBLR, 2018 are baseless and not sustainable in law since Shri Robert Chettiar (G-card holder of the said CB) was also present along with Shri Javed Lalani during the 100% examination of the impugned goods; that the statement given under pressure, threat or coercion, though not retracted has no evidentiary value and unilaterally reliance on this statement is otherwise bad in law and hence the said allegation requires to be set aside.



9.2 The CB submitted that article of charge i.e. violation of provisions of Regulation 10 (d) of CBLR, 2018 are baseless and not sustainable in law and further submitted the following:

9.2.1 The CB had verified the classification/notifications claimed by the Importer and advised them to comply with the provisions of the Act and filed the import documents on a reasonable belief that the goods imported are as declared in the import documents filed with the department and that the CB could only submit the documents given to them by the Importer and had a role only in preparing/filing B/E on the basis of declarations submitted by the Importer.

9.2.2 The CB has submitted that as per Rule 4 of LMPC Rules, the imported goods shall have a declaration and if it is found without a declaration it does not lead to violation of LMPC Rules but the goods require the declaration before clearance on the packages as per Rule 6 of LMPC Rules and that the labels can be affixed on imported packages for making the declaration in the Customs Area or Customs Bonded warehouse before clearance of the goods.

9.3 The CB submitted that article of charge i.e. violation of provisions of Regulation 10 (m) of CBLR, 2018 are baseless and not sustainable in law and further submitted that the CB filed the B/E on the basis of documents submitted by the Importer; that the CB was not aware about the actual goods in the consignment till the examination was conducted by the department; that the CB is not an expert or valuer to give any opinion on the value of the goods; that the value declared in the B/E is a negotiated price in the ordinary course of International Trade and CB had no role in it. Hence, the CB states that it is not proper for the department on its own to make allegations by twisting the Regulation of CBLR, 2018 to suit the department's own meaning and merely creating a false scenario to suspend the license.

9.4 The CB submitted that article of charge i.e. violation of provisions of Regulation 10 (n) of CBLR, 2018 are baseless and not sustainable in law and further submitted the following:

9.4.1 There was a partnership deed (MOU between Shri Anish Salim Lakhani (Proprietor of M/s. Arise Enterprises and Shri Shakil Ahmed Abdul Rashid Ansari (deemed partner of M/s. Arise Enterprises for the purpose of import business; that Shri Shakil Ahmed Abdul Rashid Ansari has provided the CB with an Authorization letter dated 15.04.2022 and other required documents for filing B/E; that the CB had taken KYC related documents viz. GST certificate, IEC certificate, PAN card & Aadhar Card from the Importer for verifying the antecedent of the Importer. The CB has submitted that they had verified the credentials of the Importer and having no knowledge of any attempt to import misdeclared goods in the import consignment, they cannot be held liable for aiding or abetting the Importer in an attempt to import the misdeclared goods.

9.5 The CB submitted that article of charge i.e. violation of provisions of Regulation 13 (12) of CBLR, 2018 are baseless and not sustainable in law and further submitted the following:

9.5.1 Shri Robert Chettiar (G-card holder of the said CB) was also present along with Shri Javed Lalani during the 100% examination of the impugned goods; that Shri Javed Lalani had a one day pass of MbPT to assist Shri Robert Chettiar in examining the impugned goods by opening the packages; that Shri Javed Lalani was not handling the import documents and was not allowed to touch the import goods except to open the packages; that Shri Robert Chettiar was put under pressure and mental agony by the investigating officers to admit that he was not present during the examination of the impugned goods.

10. In view of the above submissions, the CB prayed to drop the articles of charges levelled against them under Regulations 10 (b), 10(d), 10(m), 10 (n) & 13 (12) of CBLR, 2018 and set aside the impugned order dated

10.01.2023; revoke the suspension of the license of the said CB and allow the CB to continue the Customs Brokers work under the License No. 11/2551.

### **RECORD OF PERSONAL HEARING OF THE CB**

11. Sh. Lawrence Tauro, Advocate, on behalf of the CB along with Sh. Pradeep Kishor Gurav (Director of the CB) appeared for PH through physical mode on 18.01.2023 at 11:30 AM. The Advocate reiterated and summarised his written submissions dated 17.01.2022 and denied all the charges levelled against the CB under Regulations 10 (b), 10(d), 10(m), 10 (n) & 13 (12) of CBLR, 2018. The Advocate further stated that Sh. Siraj Lalani (Director & H-category) was present during the examination along with Sh. Robert Chettiar (G-card holder) and requested to revoke the suspension.

### **DISCUSSION AND FINDINGS**

12. I have gone through the records of the case, material facts on record, Offence Report vide letter F. No. GEN/INV/62/2022-CIU-O/o Pr. Comm-CUS-GEN-Zone-I Mumbai dated 02.12.2022 received from the Addl. Commissioner of Customs, CIU, NCH, regulations relevant to the case, written submissions made by the CB and examined the role and conduct of CB in the case before me.

13. I find that charges against the CB i.e. violation of Regulation 10 (b), 10(d), 10(m), 10 (n) & 13 (12) of CBLR, 2018 were alleged in the said Offence Report dated 02.12.2022.

14. In view of the above, I find the following:

14.1 That as per the voluntary statement dated 11.11.2022 of Shri Robert Chettiar (G-card holder in the said CB), he himself stated that he was not present at the time of examination of the impugned goods and the same was done in the presence of Shri Javed Lalani, representative of the CB who was authorized by him. Further, he stated that Shri Javed Lalani is the



brother of Shri Siraj Lalani and does not have any Customs agent I-card and concluded by stating that the voluntary statement given by him is true and without any threat, force and coercion and recorded on his behest as per his request running in to 07 pages on which he had put his dated signatures. I find that since the examination of the impugned goods was carried out by Shri Javed Lalani who is not an authorized employee duly approved by the Deputy Commissioner of Customs, the submissions of the CB mentioned above at para 9.1 are liable to be set aside and the Customs Broker appears to have violated the provisions of Regulation 10(b) of CBLR, 2018.

14.2 The said CB has submitted that they had verified the classification/notifications claimed by the Importer and advised the Importer to comply with the provisions of the Act and that as per Rule 4 of LMPC Rules, the imported goods shall have a declaration and if it is found without a declaration it does not lead to violation of LMPC Rules but the goods require the declaration before clearance on the packages as per Rule 6 of LMPC Rules and that the labels can be affixed on imported packages for making the declaration in the Customs Area or Customs Bonded warehouse before clearance of the goods. I find that though the CB had advised the Importer to comply with the provisions of the Act, they failed to properly advise their said client regarding the rules and regulations of customs and allied acts by not informing them about the applicability of BIS on certain products and declarations to be made for pre-packaged goods falling under the purview of General Note 5 "packaged products" of ITC (HS) read with DGFT Notification No. 44(RE-2000)/1997-2002 dated 24.11.2000 and the corresponding provisions of the Legal Metrology Act, 2009 and the Legal Metrology (packaged Commodities) Rules, 2011. Further, I find that the CB had filed the impugned B/E for Home consumption and the same was given Out Of Charge (OOC) and no letter/intimation was submitted by the CB to the Customs before OOC for affixing of labels as per Rule 6 of LMPC Rules. I find that had if the impugned container was not kept on hold by CIU, the same would have been taken out of the Customs area in violation with LMPC Rules already mentioned above. Thus, I find that the submissions of



the CB mentioned above at paras 9.2.1 & 9.2.2 are liable to be set aside and the Customs Broker appears to have violated the provisions of Regulation 10(d) of CBLR, 2018.

14.3 The said CB has submitted that they filed the B/E on the basis of documents submitted by the Importer; that they were not aware about the actual goods in the consignment till the examination was conducted by the department; that they are not an expert or valuer to give any opinion on the value of the goods; that the value declared in the B/E is a negotiated price in the ordinary course of International Trade and CB had no role in it and that it is not proper for the department on its own to make allegations by twisting the Regulation of CBLR, 2018 to suit the department's own meaning and merely creating a false scenario to suspend the license. However, I find that the mis-declarations and undervaluation of goods was found in the impugned container and from the failure of CB for not seeking these necessary clarifications from the Importer, the CB has failed to discharge their duties with utmost efficiency and caused a significant delay in Customs clearance and hence, the Customs Broker appears to have violated the provisions of Regulation 10(m) of CBLR, 2018.

14.4 The CB has submitted that there was a partnership deed (MOU between Shri Anish Salim Lakhani (Proprietor of M/s. Arise Enterprises and Shri Shakil Ahmed Abdul Rashid Ansari (deemed partner of M/s. Arise Enterprises for the purpose of import business; that Shri Shakil Ahmed Abdul Rashid Ansari has provided the CB with an Authorization letter dated 15.04.2022 and other required documents for filing B/E; that the CB had taken KYC related documents viz. GST certificate, IEC certificate, PAN card & Aadhar Card from the Importer for verifying the antecedent of the Importer. I find that the as per the voluntary statement dated 09.11.2022 of Shri Anish Salim Lakhani, he stated that he does not have any idea about the Imports, Remittance, Customs, BIS, RE-44 Notification and that all that is handled by Shri Shakil Ahmed Abdul Rashid Ansari. Further, he stated that CB never contacted him to verify the KYC documents provided by him nor any CB person visited his registered premises. I find that the CB did not

establish contact with the actual Importer i.e. Shri Anish Salim Lakhani for all Import-related work and instead coordinated with Shri Shakil Ahmed Abdul Rashid Ansari for the same. Also, I find that the CB has neither verified the registered address of the importer nor inquired about the importer & other parameters as covered by Regulation 10(n) of the CBLR, 2018 and hence appears to have violated the provisions of Regulation 10(n) of CBLR, 2018.

14.5 The CB submitted that Shri Robert Chettiar (G-card holder of the said CB) was also present along with Shri Javed Lalani during the 100% examination of the impugned goods; that Shri Javed Lalani had a one day pass of MbPT to assist Shri Robert Chettiar in examining the impugned goods by opening the packages; that Shri Javed Lalani was not handling the import documents and was not allowed to touch the import goods except to open the packages; that Shri Robert Chettiar was put under pressure and mental agony by the investigating officers to admit that he was not present during the examination of the impugned goods. However, I find that as per the voluntary statement dated 11.11.2022 of Shri Robert Chettiar (G-card holder in the said CB), he himself stated that he was not present at the time of examination of the impugned goods and the same was done in the presence of Shri Javed Lalani, representative of the CB who was authorized by him. Further, I find that Shri Robert Chettiar (G-card holder in the said CB) had authorized Shri Javed Lalani for examination related work of the impugned goods. I also find that any authorization to any person for Custom-related work is given by Deputy Commissioner of Customs and not any G-card holder of the CB. I find that the CB should have exercised supervision to ensure proper conduct of his employee Shri Robert Chettiar (G-card holder) by not allowing him to authorize any other person to work on behalf of the CB and else is liable to be responsible for acts and omissions of their employee Shri Robert Chettiar (G-card holder). Hence, the CB appears to have violated the provisions of Regulation 13 (12) of CBLR, 2018.

Accordingly, I pass the following Order:

## ORDER

01. I, Principal Commissioner of Customs (General), in exercise of powers conferred upon me under the provisions of Regulation 16(2) of CBLR, 2018 order that the suspension of the Customs Broker Licence M/s Sarajdeep Logistics Pvt. Ltd. (PAN No. ABDCS7938J) (CB No. 11/2551) ordered vide Order no. 66/2022-23 dated 10.01.2023 shall be continued, pending inquiry proceedings under Regulation 17 of CBLR, 2018.

02. 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.

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(SUNIL JAIN)

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

To,  
Sarajdeep Logistics Pvt. Ltd. (PAN No. ABDCS7938J),  
Room No. 1 & 2, 1<sup>st</sup> floor, Shipping House,  
26, Kumtha Street, Fort, Mumbai-400001

Copy to:

1. The Pr./Chief Commissioner of Customs, Mumbai Customs Zones-I, II, III
2. CIU's of NCH, ACC & JNCH
3. The Commissioner of Customs, Mumbai Customs Zones-I, II, III
4. EDI of NCH, ACC & JNCH
5. BCBA
6. Office copy
7. Notice Board