



**OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS  
CUSTOM HOUSE:: PORT AREA:: VISAKHAPATNAM :: 530035.  
[PHONE : ( 0891)2562295; e-mail: stats-cusvzq@gov.in]**

F. No. S2/3/2002-CHA

Date : 11.05.2017

**SUSPENSION ORDER No 03/2017**

**Sub: Prohibition Order Nos. 47/2017 dated 23.03.2017, 49/2017 dated 30.03.2017, 01/2017 dated 21.04.2017, 02/2017 dated 21.04.2017 issued by Mumbai Commissionerate from F.No. S/8-08/2016-17 CBS against M/s Bholu Kumar Parmar, customs Broker no. 02/2003 (AAFFB1678Q), Visakhapatnam for not exercising due diligence in discharging their obligation as required under various provisions of the Customs Brokers Licensing Regulation, 2013 – Reg.**

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M/s. Bholu Kumar Parmar, Visakhapatnam (hereinafter called as Customs Broker) is holding a customs Broker Licence No. 02/2003 (AAFFB1678Q) issued by the Commissioner of Customs, Visakhapatnam and is valid till 15.06.2018. The CB is also permitted to work in the jurisdiction of Mumbai, Kolkatta, Chennai, Hyderabad & Vijayawada Commissionerates as per Regulation 7(2) of the CBLR, 2013.

2. As per the information contained in the letter F.No. F.No. SG/Misc-157/2015-16 Part IV CIU JNCH dated 07.03.2017 issued by Deputy Commissioner, CIU/JNCH/Nhavasheva Commissionerate, M/s. Tasty Bite Eatables Ltd. (the Importer) had deliberately and wrongly claimed exemption Notification No.95/2009-Cus dated 11.09.2009 while importing items like Leepack Machine (Rotary Feeling & Sealing Machine), Canned Water Chestnuts, Alimentary, Pasta, Sauce Cooking Line, 1BT Trolley Freeze, Mixer, Food Processing Machine, Spiral Freezer etc. utilising Agri-Infrastructure Incentive Scheme issued in terms of Para 3.13.4 read with Annexure 37F of HBP Vol.I with a malafide intention to evade payment of Customs duty. Whereas the importer with the help of CB M/s. Bholu Kumar Parmar had filed the Bills of Entry for clearance of impugned goods and mis-declared the end use and category of goods deliberately and willfully by suppressing its true and correct declaration with an intention to evade customs duty and violated the provisions of Customs Act, 1962. The statement dated 07.04.2016 of Shri Ashok Sharma, Partner of CB, clearly establishes the fact that CB is well aware of the facts of mis-declaration vis-a-vis malafide intention of the importer to evade customs duty but willingly became a party to such omissions & commissions.

3 Where as it is seen from an offence report vide letter F.No. SG/Misc-103/2016-17 CIU/JNCH dated 14.02.2017 of the Commissioner (General), JNCH addressed to Principal Commissioner (General), New Custom House, Mumbai (received vide letter F.No.S/8-08/2016-17 CBS dated 18.04.2017 of AC(CBS), NCH, Mumbai) that the Customs Broker M/s Bholu Kumar Parmar on behalf of M/s. Vasant Overseas, Surat (IEC No.5213018793) had filed 07 Shipping Bills i.e. 2129668, 2130347, 2130857, 2131509, 2132145, 2132606 and 2132648 all dated 09.11.2016 for export of "Garden Umbrella Sticks" under RITC No.66020000 & Drawback Sr. No.660IA @5.5% & cap Rs.70/- per Kg. The said goods were classified under wrong RITC No. 66020000 which is for "walking sticks, seat-sticks, whips, riding-crops and the like" which appeared to have been done with the intention of claiming MEIS benefit @5%. The correct RITC No. for the subject goods is 66032000 which pertains to "Umbrella frames, including frames mounted on shafts (sticks)" and under which the exporter would have been eligible for Drawback under Sr. No. 6603A @5.5% with a cap value of Rs.10/- per Kg. without being eligible for any MEIS benefit. The total quantity declared in the said 07 Shipping Bills was 36605 Pcs. in 521 Packages and FOB value declared for all Shipping Bills was Rs.8.72 Crores. Total undue duty drawback claimed was Rs.17.51 lakhs and a claim of undue MEIS benefit of Rs.43.58 lakhs was also made. On examination of the goods, declared under the said Shipping Bills, were found to be "Threaded Rods of 10mm & 8mm" and not Umbrella Sticks as declared and a shortage of 466 Pcs. was also found. Shri Ashok Sharma has inter-alia stated in his statements dated 30.11.2016 & 04.01.2017 recorded under Section 108 of Customs Act, 1962 that he has been in partnership with the said Customs Broker since 2010 and the partnership deed has been notarized but not registered with Mumbai Customs; that the power of attorney is given to his employee Shri Ashok Dhanji. He has also stated that the said 07 Shipping Bills were filed by one of his employee, Shri Ashutosh Mishra without his knowledge and the goods were also carted by him without his knowledge. As per his statement he neither contacted the exporter nor verified their antecedents, correctness of IEC. It appears that the Customs Broker wrongly delegated the control & management of licence to another person who did not verify KYC norms of the exporter and once the goods were found mis-declared, he shifted the blame on his employee who is absconding.

4. Whereas it is observed that Principal Commissioner of Customs (General), NCH, Mumbai – I vide order No.47/2017 dated 23.03.2017 (issued from F.No.S/8-08/2016-17 Admn.), prohibited the Customs Broker from working in all sections of the Mumbai Customs zones I, II & III with immediate effect in terms of Regulation 23 of CBLR, 2013, for non-fulfilment of their

obligations laid down under Regulations 11(b), 11(d), 11(e) and 11(n) of CBLR, 2013. It is also observed that the Principal Commissioner had forwarded the case to the original Licensing Authority i.e. Commissioner of Customs, Vizag for taking appropriate action under CBLR, 2013 against the said CB. It is further observed that Principal Commissioner of Customs (General), NCH, Mumbai, vide order No.01/2017 dated 20.04.2017 (issued from F.No.S/8-08/2016-17 CBS) ordered for continuation of the Prohibition imposed under Order No.47/2017 dated 23.03.2017.

5. It is also observed that Principal Commissioner of Customs, NCH, Mumbai vide order No. 49/2017 dated 30.03.2017 (issued from F.No.S/8-07/2016-17 CBS), had prohibited the CB from working in all sections of Mumbai Custom zones I, II & III with immediate effect under the Regulation 23 of CBLR, 2013 for non-fulfilment of the responsibilities give under Regulations 10, 11(d), 11(e) and 11(n) of CBLR, 2013, based on an offence report dated 06.02.2017 received from Commissioner (General), JNCH wherein it was informed that CIU/JNCH investigated the import of Cotton Fabrics 58" made by M/s. Robinson Enterprise, Ulhasnagar, Thane, Maharashtra under B/E No.8273749 dated 11.02.2015 filed by the Customs Broker. On examination, the goods were found to be different from the declared goods and also revealed an excess quantity of 5478.68 meters. The representation of the Customs Broker at Mumbai, Shri Ashok Sharma, (claimed to be a partner of the Customs Broker but not declared to the Department) informed that he was aware that the real owner of the goods was Shri Usman Saboowala (alias Osama) and that Shri Usman Saboowala was using he IEC code of M/s. Robinson Enterprises on monetary consideration of Rs.10,000/-. Despite knowing facts, Customs Broker actually aided and abetted Shri Usman Saboowala in committing the offence of illegally importing without a valid IEC and also failed to bring it to the notice of the Customs. It was also broughtout in the offence report that the Customs Broker had given the licence on rent to a third party for monetary consideration, which is in utter violation of the Regulation 10 of CBLR, 2013.

6. It is also observed that Principal Commissioner of Customs, NCH, Mumbai vide order No. 02/2017 dated 20.04.2017 (issued from F.No.S/8-07/2016-17 CBS) (received vide AC (CBS), NCH, Mumbai – I letter F.No. S/8-07/2016-17 dated 25.04.2017), had ordered for for continuation of the Prohibition imposed on him under Order No.49/2017 dated 30.03.2017. He also requested the Parent Commissionerate i.e. i.e. Commissioner of Customs, Vizag Custom House to take further action under CBLR, 2013, against the CB.

7. Whereas it is observed from an offence report dated 22.07.2016 submitted by DC/CIU, JNCH to DC (Preventive), CBS, NCH, Mumbai (attested copy is received vide letter F.No. S/8-07/2016-17 CBS dated 25.04.2017 of AC (Cus), CBS, NCH, Mumbai) that Customs Broker failed to verify the authenticity of the exporter i.e. M/s. Orient Corporation, India, who attempted to export Readymade Garments by filing 5 Shipping Bills Nos. 8838546/06.04.2015, 8838554/06.04.2015, 8861820/07.04.2015, 8838552/06.04.2015 & 8838471/06.04.2015. On examination, the goods were found to be Old, Used, Soiled, Worn, Chindi Readymade Garments having minimum commercial value whereas they declared high value of such goods and attempted to avail undue DBK benefit. Shri Ashok Sharma, Partner of CB informed that Shri R.K. Pandey, owner of M/s. Ocean Freight Forwarders had approached him for this job and handed over all the documents. He further informed that after filing the check list from his user ID and after taking Print out of the same, he had given check list along with invoice, packing list etc. to Shri R.K. Pandey who had carted those goods. On further investigation by CIU/JNCH, it was found that R.K. Pandey was not the owner of M/s. Orient Corporation Ltd. Shri Naval Kishore Madan Kasturi Lal, Director of export firm M/s. Orient Corporation informed in their letter dated 09.06.2015 that they had not sent any consignments pertaining to the subject Shipping Bills. The partner of the Customs Broker had no knowledge about the credentials and whereabouts of exporter M/s. Orient Corporation, India. Thereby the CB had not exercised due diligence in discharging his obligation as required under the Regulation 11(a), 11(e) and 11(n) of CBLR, 2013.

8. As per Regulation 10 of the Customs Broker Licensing Regulations, 2013, every licence granted or renewed under these regulations shall be deemed to have been granted or renewed in favour of the licensee, and no licence shall be sold or otherwise transferred.

9. As per Regulation 11 of the Customs Broker Licensing Regulations, 2013, A customs broker shall: -

- (a) obtain an authorization from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Broker and produce such authorization whenever required by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;
- (b) transact business in the Customs Station either personally or through an employee duly approved by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;

- (d) advise his client to comply with the provisions of the Act 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;
- (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;
- (n) verify antecedent, correctness of Importer Exporter Code (IEC) number, identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information.

10. As per Regulation 12 of the Customs Broker Licensing Regulations, 2013, in case a company holding a licence under regulation 7 undergoes any change in the directors, or managing director, such change shall forthwith be communicated by such licensee to the Commissioner of Customs within one month of such change.

11 In view of above foregoing paras, the CB have played a key role towards the clearance of impugned goods and mis-declaration of the RITC, description of goods, end use and category of goods deliberately and willfully by suppressing its true and correct declaration with an intention to evade customs duty and derive undue export incentives and has therefore blatantly violated the provisions of the Customs and the allied Acts and also appears to have contravened the provisions of CBLR, 2013. Thus, they have failed to discharge their duties as a Customs Broker and prima-facie, they are liable for their acts of omissions and commissions leading to contraventions of the Regulations of CBLR, 2013 which also amounts to breach of trust and faith imposed on the Customs Broker by Customs. Thus, they have failed to fulfil their responsibilities as per Regulations 10, 11(a), (b), (d), (e) & (n) and 12 of the CBLR, 2013.

12. In view of the facts stated above, I come to the conclusion that, prima-facie, the Custom Broker is liable for their acts of omissions and commissions for contraventions of the provisions of CBLR, 2013, which also amounts to breach of trust and faith imposed on the Customs Broker by Customs. Thus, they appear to have failed to fulfill their responsibilities as per Regulations 10, 11(a), (b), (d), (e) & (n) and 12 of the CBLR, 2013, which warrants immediate action.

13. Accordingly, I pass the following order:

ORDER

14. I, Commissioner of Customs, Custom House, Visakhapatnam, therefore, in exercise of powers conferred upon me under the provisions of Regulation 19(1) of CBLR, 2013 hereby suspend the Customs Broker Licence No. 02/2003 (PAN No. AAFB1678Q) in the name of M/s. Bholu Kumar Parmar, with immediate effect, being fully satisfied that the Custom Broker had prima facie not fulfilled their obligations as laid down under Regulations 10, 11(a), (b), (d), (e) & (n) and 12 of the CBLR, 2013. The Customs Broker M/s. Bholu Kumar Parmar is directed to submit all the Customs Identity Cards issued to Customs Broker and its employees, immediately.

15. However, I offer the Customs Broker an opportunity to represent their case. A Personal Hearing is fixed on 25.05.2017 at 11.30 AM under Regulation 19 (2) of CBLR, 2013 Any written representation against this order shall reach the undersigned before the date of hearing.

*Bm Ram*  
(B. HARE RAM) 11/5/2017  
COMMISSIONER OF CUSTOMS

To

M/s. Bholu Kumar Parmar,  
Room No.9, 1st Floor,  
Ram's Arcade, Dabagardens,  
Visakhapatnam - 530 020.

*Received original  
order*

*4/12-5-17*  
*S. RAJU*  
*Sr. Executive*  
*for M/s: Bholu Kumar Parmar*

o/c

Copy to

1. The Asst./Dy. Commissioner of Customs, Customs Broker Section, New Customs House, Ballard Estate, Mumbai - 400 001.
2. The Assistant Commissioner, Customs Broker Section, O/o the Principal Commissioner of Customs, Airport & Administration, Custom House, Kolkata - 700 001.
3. The Asstt./Dy. Commissioner (CHA), O/o The Commissioner of Customs, Chennai Seaport, No.60, Rajaji Salai, Chennai-600 001.
4. Assistant Commissioner, CBS, O/o the Principal Commissioner of Customs, L.B. Stadium Road, Basheer Bagh, Hyderabad - 500 004.
5. The Deputy Commissioner, O/o the Commissioner of Customs, (Preventive Commissionerate), 55-17-3, C-14, 2<sup>nd</sup> Floor, Road No.2, Industrial Estate, Auto Nagar, Vijayawada - 520 007.
6. All Sections of this Commissionerate
7. Notice Board
8. Office copy
9. Supdt/ED2. for uploading in the official website.

