



प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, मुन्द्रा
OFFICE OF THE PRINCIPAL COMMISSIONER

CUSTOM HOUSE MUNDRA

5B, Port User Building, Mundra Port, Mundra (Gujarat)

Phone:02838-271426/271423 Fax:02838-271425/271169

A. File No.	:	F. No. S/07-62/CBS/Mundra/2019-20
B. Order-in-Original No.	:	MUN-CUSTM-000-COM-01-20-21
C. Passed by	:	Shri M. K. Srivastava Commissioner of Customs, Custom House, AP & SEZ, Mundra.
D. Date of Order	:	23.04.2020
E. Date of Issue	:	23.04.2020
F. Customs Broker	:	M/s AB Logistics, 208 Nirav Chamber, 2 nd Floor, Plot No. 13, Dena Bank Building, Sector 9/A, Gandhidham-Kutch (Guj)-370201

1. यह अपील आदेश संबन्धित को निःशुल्कप्रदान किया जाता है।
This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमाशुल्कअधिनियम 1962 कीधारा 129 A (1) के अंतर्गत प्रपत्र सीए- 3 में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-
Any person aggrieved by this Order - in - Original may file an appeal under Section 129 A (1) (a) of Customs Act, 1962 read with Rule 6 (1) of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -3 to:

“केन्द्रीय उत्पाद एवं सीमाशुल्क और सेवाकर अपीलीय प्राधिकरण, पश्चिम जोनल पीठ, 2nd फ्लोर, बहुमाली भवन, मंजुश्री मील कंपाउंड, गिर्धनगर ब्रिज के पास, गिर्धनगर पोस्ट ऑफिस, अहमदाबाद 380 004”

“Customs Excise & Service Tax Appellate Tribunal, West Zonal Bench, 2nd floor, BahumaliBhavan, Manjushri Mill Compound, Near Girdharnagar Bridge, Girdharnagar PO, Ahmedabad 380 004.”

3. उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।
Appeal shall be filed within three months from the date of communication of this order.

4. उक्त अपील के साथ 1000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, दंड या शास्ति रुपये पाँच लाख या कम माँगा हो -/5000 रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, व्याज, शास्ति या दंड पाँच लाख रुपये से अधिक किंतु पचास लाख रुपये से कम माँगा हो 10,000/- रुपये का शुल्क टिकट लगा होना चाहिए जहाँ शुल्क, दंड व्याज या शास्ति पचास लाख रुपये से अधिक माँगा हो। शुल्क का भुगतान खण्डपीठ बैंच आहरित ट्रिब्यूनल के सहायक रजिस्ट्रार के पक्ष में खण्डपीठ स्थित जगह पर स्थित किसी भी राष्ट्रीयकृत बैंक की एक शाखा पर बैंकड्राफ्ट के माध्यम से भुगतान किया जाएगा।
Appeal should be accompanied by a fee of Rs. 1000/- in cases where duty, interest, fine or penalty demanded is Rs. 5 lakh (Rupees Five lakh) or less, Rs. 5000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 5 lakh (Rupees Five lakh) but less than Rs.50 lakh (Rupees Fifty lakhs) and Rs.10,000/- in cases where duty, interest, fine or penalty demanded is more than Rs. 50 lakhs (Rupees Fifty lakhs). This fee shall be paid through Bank Draft in favour of the Assistant Registrar of the bench of the Tribunal drawn on a branch of any nationalized bank located at the place where the Bench is situated.

5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत -/5 रुपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची 1- , न्यायालय शुल्क अधिनियम, 1870 के मद सं 6-के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।
The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paise only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ ड्यूटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।
Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.

7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और CESTAT (प्रक्रिया) नियम, 1982 सभी मामलों में पालन किया जाना चाहिए।
While submitting the appeal, the Customs (Appeals) Rules, 1982 and the CESTAT (Procedure) Rules 1982 should be adhered to in all respects.

8. इस आदेश के विरुद्ध अपील हेतु जहाँ शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहाँ केवल जुर्माना विवाद में हो, न्यायाधिकरण के समक्ष मांग शुल्कका 7.5% भुगतान करना होगा।
An appeal against this order shall lie before the Tribunal on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.



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By Speed Post/Hand

Date: 23.04.2020

F. No. S/07-62/CBS/Mundra/2019-20

ORDER

Whereas M/s AB Logistics (AAQFA2312PCH001) 208 Nirav Chamber, 2nd Floor, Plot No. 13, Dena Bank Building, Sector 9/A, Gandhidham-Kutch (Gujarat)-370201 (hereinafter referred to as the 'CB') were allowed to transact business at Custom House, Mundra on the basis of their Custom Broker Licence No. KDL/CB/13/2016 dated 18.08.2016, valid upto 17.08.2026 issued by the Principal Commissioner, Custom House, Kandla.

2. Whereas, an inquiry was initiated by the office of the Principal Additional Director General, DRI, Zonal Unit, Ahmedabad, and it was intimated to this office that an information was received by the officers of the Directorate of Revenue Intelligence (DRI), Zonal Unit, Ahmedabad, that one person ShriRishabhSanghvi was engaged in import of Water treatment membranes falling under CTH 8421 by resorting to mis-declaration and gross under valuation thereof with an intent to evade Custom Duty.

3. Intelligence further indicated that ShriRishabhSanghvi had floated various firms in the name of his family members and other persons and was importing these goods mainly through various name-sake IEC holders viz. M/s ABS International (IEC-0895001276), M/s Sure Water Technologies LLP (IEC-0814027865) and M/s Aquacare In Corporation (IEC-2416910086).

4. Acting on the above said information, simultaneous searches were conducted at the office premises and Godown of ShriRishabhSanghvi. During the search of the office premises at 4th Floor, Galaxy Complex, Opp. GLS Ground, near National Handloom off. CG Road, Ahmedabad, various incriminating documents, DVD's containing back-up of e-mails, Tally, WeChat conversation and one Apple i-Phone were resumed under Panchnama dated 12/13.06.2018 for further investigation.

5. During the course of investigations, ShriAmitsanghvi, proprietor of M/s ABS International and Partner of M/s Sure Water Technologies LLP vide letter dated 11.07.2018, stated that all the activities of import undertaken in 'ABS' and 'Sure' were handled by his son ShriRishabhSanghvi.

6. Further, Shri Mahesh TalshibhaiKhunt, proprietor of M/s Aquacare In Corporation, Rajkot, in his statement recorded under Section 108 of the Customs Act, 1962, on 17.09.2018, accepted that all the import related work in respect of M/s Aquacare In Corporation, Rajkot, was looked after by ShriRishabh and he did not have any knowledge about the import of water filter parts as it was handled by ShriRishabhSanghvi.

7. Further, Shri Akash Sanghvi, partner of M/s Sure Water Technologies LLP, in his statement recorded under Section 108 of the Customs Act, 1962, on 16.10.2018, accepted that all the activities viz. sales, purchase etc. were looked after by his elder brother Shri Rishabh Sanghvi.

8. Shri Rishabh Sanghvi in his statement recorded under Section 108 of the Customs Act, 1962, on 26.11.2018 and 28.11.2018, himself accepted that all the work related to import and sales of water filter membranes in M/s ABS International, M/s Sure Water Technologies LLP and M/s Aquacare In Corporation, were looked after by him. However his father Shri Amrit Kumar Sanghvi was the proprietor of M/s ABS International and one of the partners in M/s Sure Water Technologies LLP. His brother, Shri Akash Sanghvi is the other partner in M/s Sure Water Technologies LLP and Shri Mahesh Talshibhai Khunt was the proprietor of M/s Aquacare In Corporation.

9. Shri Rishabh Sanghvi had been filing the documents in respect of the Customs clearance of import shipments/consignments in the name of aforesaid firms through Pankaj Prakashchand Jain (Partner & Qualified under Reg. 6 of CBLR, 2013) of CB firm M/s AB Logistics, Gandhidham, under Custom Broker Licencing Regulation, 2018 and the Custom Broker is supposed to comply the obligations as stated in Regulation 10 of the CBLR, 2018, mentioned as under:

Obligations of Customs Broker – A Customs Broker shall –

- (a) obtain an authorisation from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Broker and produce such authorisation 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 authorised employee duly approved by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;
- (c) not represent a client in any matter to which the Customs Broker, as a former employee of the Central Board of Indirect taxes and Customs gave personal consideration, or as to the facts of which he gained knowledge, while in Government service;
- (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;
- (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;
- (f) not withhold information contained in any order, instruction or public notice relating to clearance of cargo or baggage issued by the Customs authorities, as the case may be, from a client who is entitled to such information;
- (g) promptly pay over to the Government, when due, sums received for payment of any duty, tax or other debt or obligations owing to the Government and promptly account to his client for funds received for him from the Government or received from him in excess of Governmental or other charges payable in respect of cargo or baggage on behalf of the client;

- (h) not procure or attempt to procure directly or indirectly, information from the Government records or other Government sources of any kind to which access is not granted by the proper officer;
- (i) not attempt to influence the conduct of any official of the Customs Station in any matter pending before such official or his subordinates by the use of threat, false accusation, duress or the offer of any special inducement or promise of advantage or by the bestowing of any gift or favour or other thing of value;
- (j) not refuse access to, conceal, remove or destroy the whole or any part of any book, paper or other record, relating to his transactions as a Customs Broker which is sought or may be sought by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be;
- (k) maintain up to date records such as bill of entry, shipping bill, transshipment application, etc., all correspondence, other papers relating to his business as Customs Broker and accounts including financial transactions in an orderly and itemised manner as may be specified by the Principal Commissioner of Customs or Commissioner of Customs or the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;
- (l) immediately report the loss of license granted to him to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be;
- (m) discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay;
- (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;
- (o) inform any change of postal address, telephone number, e-mail etc. to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, of all Customs Stations including the concerned Deputy Commissioner or Assistant Commissioner of the Commissionerate who has granted the license immediately within two days;
- (p) maintain all records and accounts that are required to be maintained under these regulations and preserve for at least five years and all such records and accounts shall be made available at any time for the inspection of officers authorised for this purpose; and
- (q) co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees.
10. Further, in his statement, Shri Pankaj Prakashchand Jain, Partner & Qualified under Reg. 6 of CBLR, 2013, of M/s AB Logistics inter alia stated that they had filed import documents for (i) M/s ABS International (IEC-0895001276), (ii) M/s Sure Water Technologies LLP (IEC-0814027865) and (iii) M/s Aquacare In Corporation (IEC-2416910086). Shri Pankaj Prakashchand Jain stated that the formality of KYC for all these firms was done by him and he received KYC documents through courier in covers from the respective firms. He further stated that initially Shri Rishabh Sanghvi approached him on behalf of M/s Sure Water Technologies LLP, for Customs clearance. After that Shri Rishabh Sanghvi was in touch with him but he never met any IEC holders except Shri Rishabh Sanghvi for Customs clearance work of these firms. He further stated that for all the import related activities of the said three IEC's, he had interacted with Shri

RishabhSanghvi only. Further, he was having knowledge that M/s ABS International and M/s Sure Water Technologies LLP are owned by his family members and M/s Aquacare In Corporation is owned by one of the friends of ShriRishabhSanghvi.

11. The above commission and omission of Acts on the part of ShriPankajPrakashchand Jain, Partner of M/s AB Logistics - A Custom Broker - is a violation of Regulation 10(n) of Custom Broker Licencing Regulation, 2018 (earlier Regulation 11 (n) of Custom Broker Licencing Regulation, 2013), which puts an obligation on the Custom Broker to:
"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 and authentic documents, data or information."

Thus, the CB M/s AB Logistics has failed to fulfil their statutory obligation under Regulation 10(n) of Custom Broker Licencing Regulation, 2018, mentioned as above, to verify the antecedent and identity and functioning of his client at the declared address. Despite fully knowing the fact that the above said firms were dummy firms floated by ShriRishabhSanghvi, which is evident from the facts mentioned in the para 10 above, they performed the Customs clearance work of the above mentioned firms.

In view of the above, I am of the opinion that the continuation of business operations of the CB in the jurisdiction of Customs Mundra, is to be prohibited, as they failed to follow the conditions of Regulation 10(n) of Custom Broker Licencing Regulation, 2018 (earlier Regulation 11 (n) of Custom Broker Licencing Regulation, 2013).

Now, therefore, in exercise of the powers vested in me under the provisions of Regulation 15 of Customs Broker Licencing Regulation, 2018, I, the undersigned, hereby prohibit the CB M/s AB Logistics, 208 Nirav Chamber, 2nd Floor, Plot No. 13, Dena Bank Building, Sector 9/A, Gandhidham-Kutch (Gujarat)-370201, from transacting their business at Custom House, Mundra and other ports under the jurisdiction of this Commissionerate, for 30 days, with immediate effect. The said CB is directed to immediately surrender the Customs Cards in Form-F, G & H, if any, issued to them and their employees for working at Custom House, Mundra.


(M. K. Srivastava),
Commissioner

Date: 23.04.2020

To,
M/s AB Logistics,
208 Nirav Chamber, 2nd Floor,
Plot No. 13, Dena Bank Building, Sector 9/A,
Gandhidham-Kutch (Gujarat)-370201

Copy to:

1. The Chief Commissioner of Customs, Ahmedabad Zone, Ahmedabad.
2. The Commissioner of Customs, Custom House Kandla, for information and necessary action.
3. The Additional Director General, DRI, Ahmedabad Zonal Unit, Ahmedabad, for information.
4. EDI Section, Custom House, Mundra.
5. Notice Board, Custom House, Mundra.

