 <p>OFFICE OF THE COMMISSIONER CUSTOM HOUSE, KANDLA NEAR BALAJI TEMPLE, NEW KANDLA Phone : 02836-271468/469 Fax: 02836-271467</p>		
A	फाइल संख्या/ File No.	S/7-72/CHA/2007-Pt.I
B	आदेश में मूल सं./ Order-in-Original No.	KND-CUSTM-000-COM-08-2019-20
C	पारितकर्ता/Passed by	SHRI SANJAY KUMAR AGARWAL, PRINCIPALCOMMISSIONER OF CUSTOMS, KANDLA
D	आदेश की दिनांक/Date of order	13.08.2019
E	जारी करने की दिनांक/Date of issue	13.08.2019
F	आदेशमूल सं, दिनांक/ Order-in-Original No & date	KDL/ADC/AK/05/2019-20 dated 16.03.2019 (F.No. S/10-73/ADJ/ADC/Ambiance/2018-19)
G	नोटीसी पार्टी /Noticee/Party	M/s Divine Shipping Services, Room No. 101, Radha Swami Kripa Building, Plot No. 261, Ward 12-B, Gandhidham-370201

- यह अपील आदेश संबन्धित को नि शुल्क प्रदान किया जाता है।
This Order - in - Original is granted to the concerned free of charge.
- Any person aggrieved by this Order - in - Original may file an appeal under Section 129A(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:

"केंद्रीय उत्पाद शुल्क एवं सेवाकर अपील अधिकरण"
पश्चिम क्षेत्रीय बेंच, द्वाितीयतल, आसरवा बहुमाली भवन
गिरधर नगर ब्रिज के समीप ००४ ३८० -अहमदाबाद ,गिरधर नगर ,
Customs Excise & Service Tax Appellate Tribunal,
West Zonal Bench, 2nd Floor, Bahumali Bhavan Asarva,
Nr. Girdhar Nagar Bridge, Girdhar Nagar, Ahmedabad - 380004

Spd (Edt)
- For necessary
action by
directed
for
14-8-2019

- उक्त अपील यह आदेश भेजने की दिनांक से 60 दिन के भीतर दाखिल की जानी चाहिए।
Appeal shall be filed within sixty days from the date of communication of this order.
- उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 2/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-
Appeal should be accompanied by a fee of Rs. 2/- under Court Fee Act it must accompanied by -
(i) उक्त अपील की एक प्रति और
A copy of the appeal, and
(ii) इस आदेश की यह प्रति अथवा कोई अन्य प्रति जिस पर अनुसूची-1 के अनुसार न्यायालय शुल्क अधिनियम-1870 के मद सं.-6 में निर्धारित 5.00/- रुपये का न्यायालय शुल्क टिकट अवश्य लगा होना चाहिए।
This copy of the order or any other copy of this order, which must bear a Court Fee Stamp of Rs. 5.00/- (Rupees Two only) as prescribed under Schedule - I, Item 6 of the Court Fees Act, 1870.
- अपील ज्ञापन के साथ ड्यूटी/ ब्याज/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।
Proof of payment of duty / interest / fine / penalty etc. should be attached with the appeal memo.
- अपील प्रस्तुत करते समय, सीमा शुल्क नियम (अपील), 1982 और सीमा शुल्क अधिनियम, 1962, के अन्य सभी प्रावधानों के तहत सभी मामलों का पालन किया जाना चाहिए।
While submitting the appeal, the Customs (Appeals) Rules, 1982 and other provisions of the Customs Act, 1962 should be adhered to in all respects.
- इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, न्यायाधिकरण के समक्ष मांग शुल्क का 5.7% भुगतान करना होगा।
An appeal against this order shall lie before the Appellate Authority on payment of 7.5% of the duty demanded wise duty or duty and penalty are in dispute, or penalty wise penalty alone is in dispute.

Subject:- Action under Regulation 15 of CBLR,2018 erstwhile Regulation 21 of CHALR,2004 against (i) M/s Divine Shipping Services, Room No. 101, Radha Swami Kripa Building, Plot No. 261, Ward 12-B, Gandhidham-370201.

BRIEF FACTS OF THE CASE:

M/s Divine Shipping Services, Room No. 101, Radha Swami Kripa Building, Plot No. 261, Ward 12-B, Gandhidham-370201 (hereinafter referred to as 'the CB') was granted permission to transact business at Kandla Port & GAPL Mundra on the basis of Custom Broker License No. CHA/JMR/R/06/06-07 dated 21.04.2006, after subsequent renewal valid up to 20.04.2026, by the Principal Commissioner, Customs (Preventive), Jamnagar under Regulation 9 of the CHALR,2004 (now regulation 7(2) of CBLR,2018).

2. An Order-In-Original No. KDL/ADC/AK/05/2019-20 dated 21.06.2019 issued by the Additional Commissioner, CH Kandla from F. No. S/10-73/ADJ/ADC/Ambiance/2018-19 outlining the role of the Custom Broker in the case of export of inferior quality, mis-declared & overvalued goods viz 'Indian Hand Knotted Woolen Carpets' with an intention to avail higher amount of drawback and for the necessary action against the CB M/s Divine Shipping Services, Room No. 101, Radha Swami Kripa Building, Plot No. 261, Ward 12-B, Gandhidham-370201 under Customs Brokers Licensing Regulations, 2018.

3. The intelligence was gathered by the Directorate of Revenue Intelligence indicated that under below mentioned eight Shipping Bills filed by M/s. Ambiance Traders, Moradabad, (IEC No. 2909001032) showing description of export goods as "Indian Hand Knotted Woolen Carpets" and classifying the same under Customs Tariff Heading No. 57011000 were attempting to export carpets of inferior quality by mis-declaring its description and quantity and also declaring higher value of the consignment before the Customs, with an intent to avail higher and undue export benefit in the form of duty drawback.

TABLE-1
Details of Shipping Bills

Sr. No	Shipping Bill No.	Date of Shipping Bill	Declared Quantity(in square feet)	Declared FOB Value (in INRs)	Declared DBK amount(in INRs)
1	1155343	01.09.2009	4757.688	2445263.54	268978.99
2	1155346	01.09.2009	4843.800	2489521.68	273847.38
3	1155347	01.09.2009	4919.148	2528247.61	278107.24
4	1155348	01.09.2009	4919.148	2528247.61	278107.24
5	1155350	01.09.2009	4606.992	2367811.67	260459.28
6	1185351	01.09.2009	4757.688	2445263.54	268978.99
7	1155352	01.09.2009	4682.340	2406537.60	264719.14
8	1155353	01.09.2009	5005.260	2572505.75	282975.63
TOTAL			38492.064	19783399	2176173.89

4. The consignment being exported from Kandla Port under above eight Shipping Bills was examined on 17.09.2009 by the DRI Officers, in the presence of Shri Uday H. Dave, proprietor of the CHA firm M/s. Divine Shipping Services, Gandhidham under Panchnama dated 17.09.2009 at M/s. A.V. Joshi & Co. CFS, Mithi Rohar, Gandhidham. All copies of above mentioned eight Shipping Bills were taken over by the officers of DRI from Shri Uday H. Dave. In the said Shipping Bills name of the exporter was shown as M/s. Ambiance Traders, Moradabad, description of the export goods was shown as "Indian Hand Knotted Woolen Carpets" and the same were classified under Customs Tariff Heading No. 57011000. During the course of the

examination of the export consignment, the goods covered under all the eight Shipping Bills were found stuffed in a single container bearing number TCKU 9747092. The goods were de-stuffed, examined and measured. On examination and measurement, it was revealed that it contained total 487 pieces of carpets packed in 190 bundles and totally measuring 13,925.78 Square feet. No markings were found on the carpets/ bundles to indicate as to which Shipping Bill these bundles/ carpets pertained. Further, it was found that the total numbers of bundles declared in these eight Shipping Bills were 197 but on physical verification only 190 bundles were found. Similarly, it was also found that the total size of the carpets declared in these eight Shipping Bills was 38,492.064 square feet but on physical measurement it was found to be only 13,925.78 square feet, which is drastically less than declared Quality/ exact description and actual value of the same could not be ascertained on the spot for want of expertise. Therefore for further investigation the consignment was placed under detention vide the Panchanama dated 17.09.2010.

5. Enquiries were got conducted through the than jurisdictional Central Excise Authorities at the address of M/s. Ambiance Traders, as declared in the above mentioned eight Shipping Bills and IEC, i.e., at Village: Chapara, Dalpatpur Road, Moradabad. After conducting enquiries at the declared address of M/s. Ambiance Traders, Moradabad, the Assistant Commissioner of Central Excise, Central Excise Division, Moradabad issued letter C. No.: 8-Prev/Follow up/MBD/08 dated 29.09.2009. Vide the said letter it was informed that no firm in the name of M/s. Ambiance Traders was found in the said address. It further stated that enquiries were conducted in respect of the both the Directors of the firm namely, Mr. Uzma Qamar and Mr. Mohd. Agil but there were no persons of the said names at the declared address. Thus, M/s. Ambiance Traders, Moradabad was non-existent at the addresses declared in the Shipping Bill and IEC.

6. From the examination of the goods under Panchanama dated 17.09.2009, it was found that the quantity of the impugned Carpets was declared significantly less than actual and appeared to be of very inferior quality. It was also clear that the total value of Rs.1,97,83,399/-, declared for the consignment was a grossly overvalued figure in order to avail higher drawback benefit. As the mis-declaration in respect of quantity, value and description of the impugned carpets attempted to be exported was evident, the said 13,925.78 square feet carpets were placed under seizure vide Seizure Memo dated 27.10.2009, under the reasonable belief that the same were liable to confiscation under the provisions of the Customs Act, 1962. The seized goods were handed over to Shri V Selvaraj, Manger of private CFS of M/s AV Joshi and Co. CFS, Mithi Rohar, Gandhidham for safe custody under Supratnama dated 27.10.2009. Subsequently, the Technical Service Report No. 6/Physical Lab/4/IICT/2009 dated 16.11.2009, issued by the Indian Institute of Carpet Technology, also confirmed that the major part of the impugned carpets was not of "Hand Knotted Woolen Carpets", as declared by the exporter in the said eight Shipping Bills.

7. During the course of investigation, the statements of Shri Uday H. Dave, proprietor of M/s. Divine Shipping Services, 104, Sobhraj Complex Waghawadi Road, Bhavnagar, was recorded under Section 108 of the Customs Act, 1962, before the Sr. Intelligence Officer, DRI, Gandhidham on 20.11.2009 wherein he, interalia, stated that:-

He started the CHA firm in November 2007 in the name of M/s. Divine Shipping Services. Earlier the said firm's name was M/s. H. K. Dave which was a partnership firm, later on the said firm became a proprietary concern since 2006, whose name was later changed to M/s. Divine Shipping Services during 2007. The work pertaining to that CHA firm at Gandhidham was being looked after by Mr. V. R. Venkatraman. In respect of the parties approaching their Gandhidham office, Mr. Venkatraman looked after the documents and if the documents were to be accepted, he used to refer to him for the same and the documents were being signed by him only and no other person was authorized to sign the documents on his behalf at Gandhidham. Shri Venkatraman was the Branch Manager and handling the documents with the Customs, maintained liaison with the parties and looked after the routine Office work.

The documents in respect of Shipping Bills No. 1155343, 1155346, 1155347, 1155348, 1155350, 1155351, 1155352 and 1155353 all dated 01.09.2009 filed in the name of M/s Ambiance Traders Moradabad before Kandla Customs were not signed by him and only the declaration was signed by Mr. Venkatraman. On inquiry with Mr. Venkatraman he came to know that the Shipping Bills were signed by an unknown person, probably by Mr. Tushar. He was not aware as to when and how the cargo was reached to A.V. Joshi & Co. CFS Gandhidham. He had not seen the cargo attempted to be exported by M/s Ambiance Traders Moradabad. Mr. Rajiv Tushar is the person who represented or owned M/s Ambiance Traders Moradabad.

He had never met Mr. Tushar. It was the first consignment of M/s Ambiance Traders, Moradabad which was being attended by his CHA firm. He had not received any charges for the services provided to M/s Ambiance Traders, Moradabad. Mr. Venkatraman signed the declaration for generating the checklist with the customs. Mr. Rajiv Tushar, who introduced himself as representative M/s. Ambiance Traders, Moradabad was the contact person for the said export consignment.

One Mr. Sanjay Mathur, having office at 107, Madhuvan Complex, Oslo, Gandhidham and doing business in the name of M/s. Global Cargo Movers introduced Mr. Nilesh Kataria in his office to Mr. Venkatraman as CHA working with M/s. Bajaj Enterprises, Mumbai on casual basis. Thereafter, Mr. Nilesh came to Mr. Venkatraman with Mr. Tushar and informed that Mr. Tushar was his brother and would like to export carpets from Kandla, however Mr. Venkatraman was reluctant in accepting the documents but Mr. Nilesh assured him and stood as guarantor for Mr. Tushar as he was also a CHA and working in name of M/s. Bajaj Enterprises. He also stated that Mobile number of Mr. Nilesh Kataria was 09321530645 and address was Block No. 127, G-8, Mulund Colony, Hindustan Chock, Mulund, Mumbai. He was not aware that M/S Ambiance Traders was non-existing firm.

8. Statement of Shri V. R. Venkatraman, Manager, M/s. Devine Shipping Services, Gandhidham was recorded under Section 108 of the Customs Act, 1962 before the Sr. Intelligence Officer, DRI, Gandhidham on 20.11.2009, wherein he interalia stated that:-

He was working as Manager in M/s. Devine Shipping Services since 1998. When any import/export documents were received for clearance, he used to seek advice of Mr. Uday Dave and the documents also got signed by him. In respect of export by M/s Ambiance Traders Moradabad, under Shipping Bill No. 1155343, 1155346, 1155347, 1155348, 1155350, 1155351, 1155352 and 1155353 all dated 01.09.2009, the export declaration format was signed by him and submitted to EDI for generating checklist. The said checklists were directly collected by Mr. Rajiv Tushar and without informing him he proceeded with the submission of documents with customs and got it processed which was not in his knowledge. He had not communicated the same to Mr. Dave or to Customs authority. Further, he stated that Mr. Sanjay Mathur, having office at 107, Madhuvan Complex, Oslo, Gandhidham, doing business in the name of Global Cargo Movers introduced him to Mr. Nilesh Kataria as CHA working with M/s. Bajaj Enterprises, Mumbai. Thereafter, Mr. Nilesh visited his office with one gentleman named Mr. Tushar and informed that Mr. Tushar was his brother and wanted to export carpets from Kandla. Rests of the formalities were completed by Mr. Rajiv Tushar without his knowledge. The contact No. of Mr. Rajiv Tushar was 09574184482 and of Mr. Nilesh Kataria was 09321530645, the address of Mr. Nilesh was Block No. 127, G- 8, Mulund Colony, Hindustan Chowk, Mulund, Mumbai. As Mr. Nilesh introduced Mr. Tushar as his brother, he presumed same address for both of them.

He further stated that the documents for the cargo attempted to be exported by M/s. Ambiance Traders, Moradabad, were for Hand Knotted Woolen Carpets, however the cargo was not physically seen by him at any stage of export. As only declaration was signed by him and rests of the formalities were completed by Mr Tushar he was not aware as to how and when the cargo reached A.V. Joshi & Co., CFS Gandhidham. He was not aware that M/s Ambiance Traders was a non-existing firm. Mr. Tushar was representative of the exporter in the case.

From the facts discussed in the foregoing paras and material evidences available on records, it was evident that it was a clear case of mis-declaration of description, size and value of the export goods to avail higher export incentive in the form of drawback, in the name of a non-existing firm to escape from law. M/s. Ambiance Traders, Moradabad had claimed drawback of Rs. 21,76,174/- under the said eight Shipping Bills. The drawback amount claimed by them, is in excess by Rs. 21,20,539/- (2176174 - 55635) than the amount lawfully admissible to them i.e., Rs. 55,635/-. M/s. Ambiance Traders, Moradabad, by their acts of omission and commission and using fraudulent practices to avail inadmissible drawback have contravened the provisions of Section 50(2) of the Customs Act, 1962 read with Section 7 and 11 of the Foreign Trade (Development & Regulation) Act, 1992 and Rule

2(c), Rule 12 and 14(ii) of the FTDR Rules 1993. Hence, they have rendered the seized 13,925.78 square feet carpets valued at Rs 4,59,634/- (re-determined FOB value) liable to confiscation under Section 113(h), (i) & (ii) of the Customs Act, 1962 and have also rendered the goods liable to be treated as smuggled goods within the meaning of Section 2(39) of the Customs Act, 1962. The said acts have rendered M/s. Ambiance Traders, Moradabad liable to penalty under Section 114(iii) of the Customs Act, 1962.

9. In the instant case, the total FOB value was falsely declared as Rs. 1,97,83,399/- in the eight Shipping Bills and accordingly the amount of drawback claim was Rs.21,76,174/-. The actual FOB value derived is only Rs. 4,59,634/- for which the admissible drawback claim comes to Rs. 55,635/- which indicates that the drawback amount was claimed in excess of Rs. 21,20,539/-, in the name of M/s. Ambiance Traders, Moradabad, The drawback claim in respect of the eight Shipping Bills, mentioned in TABLE-1 above, is liable to be restricted to the admissible drawback amount of Rs. 55,635/-, payable only in the event of exportation of the impugned goods, if any.

Role of M/s. Devine Shipping Services, Gandhidham., the Customs Broker

10. Shri V. R. Venkatraman, Manager of M/s. Devine Shipping Services, Gandhidham, in his statement dated 20.11.2009 had admitted that his firm had attended to the Customs clearance in respect of exports of M/s. Ambiance Traders, Moradabad; that he had never met the owner/ Proprietor of the said firm nor inquired about their whereabouts; Shri Rajiv Tushar represented M/s. Ambiance Traders, Moradabad, but he never enquired about his status in the said firm as well Shri Rajiv Tushar; that the IEC holders of the firm has not authorized them for clearing the said consignments. He had also admitted that the checklists were directly collected by Mr. Tushar and he proceeded with the submission of documents with customs and he had not communicated the same to Mr. Dave or to Customs authority. He has not obtained authorization of the exporter for attending their work. It appears that he had conveniently abetted M/s. Ambiance Traders, Moradabad in respect of mis-declaration of description, size and value, in the eight Shipping Bills mentioned in TABLE -1 above, in violation of Section 50(2) of the Customs Act 1962, which has rendered the 13,925.78 square feet carpets liable for confiscation under Section 113(h), (i) & (ii) of the Customs Act, 1962. Therefore, penalty under Section 114(iii) is clearly attracted against him.

11. No authorization for attending the work pertaining to the export under subject eight Shipping Bills was obtained by the CHA firm M/s Divine Shipping Services from the exporter i.e., M/s. Ambiance Traders, Moradabad, which is violation of erstwhile Regulation 13(a) of the Customs House Agents Licensing Regulations, 2004 (now Regulation 10 (a) of the CBLR,2018). Shri Uday H Dave, proprietor of licensed CHA firm M/s Divine Shipping Service of Gandhidham-Kutch failed to exert due diligence, mandatory for the proprietor of a licensed CHA, and the said eight Shipping Bills, mis-declaring the quality, quantity and value of the impugned goods were filed through his

CHA firm. Thus, M/s. Divine Shipping Services, the CHA firm has abetted M/s. Ambiance Traders, Moradabad in violating Section 50(2) of the Customs Act 1962 which has rendered the 13,925.78 square feet carpets liable for confiscation under Section 113(h), (i) & (ii) of the Customs Act, 1962. Therefore, penalty under Section 114 (iii) is clearly attracted against M/s. Divine Shipping Services, Gandhidham.

12. The Customs Broker did not receive the documents directly from the exporters and failed to produce the exporters before the Customs Authorities, they did not check the cargo and received the documents through an unknown person which was not found existing at the declared address. Thus none of them knew the exporters personally or had at any point of time were exposed to/ faced the exporters. It appeared that they had pre-knowledge about overvaluation of the cargo.

13. From the foregoing discussions in *para-supra* it appeared that the exporters were members of a syndicate, whose sole intent was to export the impugned cargo and avail drawback. The act of omissions and commissions done by the exporters, the Customs Broker defeat the very purpose of export benefits allowed to the genuine exporters under the Customs Law.

14. Both the above persons were also involved in this syndicate inasmuch as they produce/cause to produce the impugned cargo before the Customs Authorities, which they knew or had reason to believe, was liable to confiscation, inasmuch as they did not check the cargo or any sample of it before producing the same to the Customs; none of them had ever met the exporters personally or had verified the antecedents of the exporters through some independent source and that is why they failed to produce the exporters before Customs. The Customs Broker verified the documents from Mr. Rajiv Tushar, which apparently was non-existing. The shipping bills filed by the Customs Broker on behalf of the exporters read the nature of Contract as CIF which could not be substantiated from other documents viz. the corresponding invoices produced by them along with the cargo. It appears that the Customs Broker only negotiated their monetary consideration and were careless about fulfilling the recruitment of law and their statutory duties.

15. The act of omissions and commissions committed by the Customs Broker rendered themselves liable to penal action under Section 114 (iii) of the Customs Act, 1962 and made violation of Regulation 13(a) of the Customs House Agents Licensing Regulations, 2004 (now Regulation 10 (a) of the CBLR,2018).

16. Accordingly, SCN No. DRI/GRU/INV-4/09-10 dated 16.03.2010 was issued the Exporters & Customs Broker (Co-noticee) under Customs Act,1962 and same was adjudicated by the Additional Commissioner, Custom House Mundra vide Order-in-Original No. KDL/ADC/AK/05/2019-20 dated 21.06.2019, wherein a penalty of Rs. 5,00,000/- (rupees five lakhs only) was imposed on the Custom Broker M/s Divine Shipping Services, Gandhidham and penalty of Rs. 3,00,000/- (rupees three lakhs

only) was imposed on Shri V R Venkatraman, Manager of M/s Divine Shipping Services, Gandhidham under Section 114(iii) of the CA, 1962.

17. From the above it appeared that the Custom Broker M/s Divine Shipping Services, Gandhidham failed to obtain authorization, KYC, other documents from the Exporter as they were receiving documents from the unauthorized person instead of exporter and also failed due diligence to ascertain the correctness of any information related to Export and Exporter. Further, they also failed to advise their client to comply with provisions of the Customs Act, 1962. The CB knowingly and intentionally involved himself in the export of overvalued goods and used false and incorrect material by filing the Shipping Bills to facilitate the impugned exporters, produced false and incorrect declaration before the department and statements. The shipping bills filed by the Custom Broker on behalf of the exporters declared the terms of payments CIF which could not be substantiated with any other documents as well as the declared value which in itself is misleading and mis-stated. The Customs Broker was evidently careless about fulfilling their statutory duties under CHALR, 2004 (now CBLR, 2018) as a Custom Broker. Therefore, they failed to observe the obligations entrusted upon them under various clauses of Regulation 10 of the CBLR, 2018 erstwhile Regulation 13 of the CHALR, 2004).

18. As per Regulation 13(12) of Customs Brokers Licensing Regulations, 2018 (erstwhile Regulation 19 (8) of CHALR, 2004) 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. The Customs Broker failed to supervise the activities of their Manager Shri Venkatraman, who indulged in the act of export of cheap quality overvalued goods to facilitate the unscrupulous exporters for self-monetary consideration, Thus, the CB have violated the provision of Regulation 13(12) of CBLR, 2018 (erstwhile Regulation 19 (8) of CHALR, 2004).

19. From the above, it appeared that;

19.1 The Custom Broker M/s Divine Shipping Services, Gandhidham suppressed the material facts from the Customs authorities. They failed to comply with the Regulation 10(a) of CBLR, 2018 (erstwhile regulation 13(a) of CBLR, 2004) in as much as they failed to obtain proper authorization from the exporters (who later were found to be non-existent) by whom they were employed as Customs Broker for clearance of export of subject goods and therefore, they failed to produce original authorization before the authority during the investigation as well as during the adjudication process.

19.2 They failed to comply with the Regulation 10(d) of CBLR, 2018 (erstwhile 13(d) of CBLR, 2004) in as much as they failed 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, Kandla regarding the cargo, which is of inferior quality i.e. "Tufted Carpet" though they are much aware for the cargo as in their written statement they have submitted that after filing of shipping Bills.

19.3 Shri V R Venkatraman, Manager of the Customs Broker in his statement admitted that, they had received the documents through Sh. Shri Tushar only; he was not in direct touch of the exporters. The Customs Broker was supposed to get verify the check list from the exporter instead of Shri Tushar, because Shri Tushar was getting the documents from another persons, who were non-existing. Further, even after getting notice of fraudulent attempt of export by the exporters, the CB has never tried to contact the exporters nor they got done the verification of the existence of the exporter company. From the records it is not forthcoming that after receiving documents from Shri Tushar, the CB had ever tried to contact the exporters. The CB had not verified the antecedent, identity of the exporters and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information, particularly when the exporters had not approached the CB directly for their export work. Thus, the CB has contravened the provisions of regulation 10(n) of CBLR,2018 (erstwhile regulation 13 (o) of the CHALR, 2004).

20. **Regulation 15 of CBLR,2018 – Prohibition from transact business.**

Prohibition. Notwithstanding anything contained in these regulations, the Principal Commissioner or Commissioner of Customs other than those referred to in regulation 7 may prohibit any Customs Broker from working in one or more sections of the Customs Station, if he is satisfied that such Customs Broker has not fulfilled his obligations as laid down under regulation 10 in relation to work in that section or sections:

Provided that the period for which any Customs Broker may be prohibited from transacting business in one or more of the Customs Stations shall not exceed one month from the date of such prohibition:

Provided further that where the license of the Customs broker is suspended as a consequence to prohibition, the time period specified in regulation 16, shall be reckoned from the date of such suspension.

Regulation 21 of the CHALR, 2004

Prohibition.-

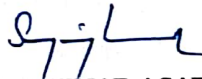
Notwithstanding anything contained in regulation 22, the Commissioner of Customs may prohibit any Customs House Agent from working in one or more sections of the Customs Station, if he is satisfied that such Customs House Agent has not fulfilled his obligations as laid down under regulation 13 in relation to work in that section or sections.

21. In view of the facts enunciated above, it appeared that the CB has contravened/failed to comply with above discussed provisions of Customs Brokers Licensing Regulations, 2018 (erstwhile CHALR,2004). I am of the considered opinion that the license of the CB M/s Divine Shipping Services, Gandhidham is required to be placed under immediate prohibition as per Regulation 15 of Customs Brokers Licensing Regulations (CBLR),2018 (erstwhile Regulation 21 of CHALR,2004) read with Regulation 10 of CBLR, 2018 (erstwhile Regulation 13 of CHALR,2004) to prevent further misuse of the Customs Broker Licence and to safeguard the interest of revenue.

ORDER

22. Now, therefore, I, the Principal Commissioner of Customs, Kandla, in exercise of powers conferred under Regulation 15 of Customs Brokers Licensing Regulations (CBLR),2018 (erstwhile Regulation 21 of CHALR,2004) read with Regulation 10 of CBLR, 2018 (erstwhile Regulation 13 of CHALR,2004) hereby order to prohibit M/s Divine Shipping Services, Radha Swami Kripa Building, Room No. 101, Plot No 261, Ward 12-B, Gandhidham, Kutch-370201 holding Custom Broker License No.CHA/JMR/R/16/06-07 issued by the Commissioner of Customs (Preventive), Jamnagar, from transacting business at all the Sections of Customs House Kandla with immediate effect for a period of one month.

23. This Order relies on the Order-in-Original No. KDL/ADC/AK/05/2019-20 dated 21.06.2019 issued by the Additional Commissioner, Custom House Kandla. (Copy of said OIO is available with the Customs Broker.)


(SANJAY KUMAR AGARWAL)
Principal Commissioner
Customs House Kandla

By RPAD/Speed Post

F. No. S/7-72/CHA/2007 Pt-I

Date:-13.08.2019

To,
M/s Divine Shipping Services,
Radha Swami Kripa Building,
Room No. 101, Plot No 261, Ward 12-B,
Gandhidham, Kutch -370201



Copy to:-

1. The Chief Commissioner of Customs, Custom Gujarat Zone, Ahmedabad.
2. The Commissioner of Customs (Preventive), Jamnagar alongwith copy of OIO No. KDL/ADC/AK/05/2019-20 dated 21.06.19 for further necessary action.
3. All Section Heads, Custom House, Kandla.
4. ✓ The Deputy/Assistant Commissioner of Customs, EDI Section, Custom House, Kandla with a request to take necessary action against the CB in system.
5. Office copy.
6. Notice Board.

ACSPD0023E