

Instruction No. 20/2024-Customs

F.No. 520/01/2023-Cus.VI
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs

Room No.252A, North Block, New Delhi
Dated: 03-09-2024

To,

All Principal Chief Commissioners/Chief Commissioners of Customs/
Customs (Preventive)/ Customs and Central Taxes,
All Principal Commissioners/Commissioners of Customs/Customs
(Preventive),
All Principal Director Generals/Director Generals of Directorates under CBIC.

Subject: Implicating Customs Brokers as co-noticee in cases involving interpretative disputes-reg.

Madam/Sir,

Representations have been received by the Board from the Customs Brokers' Associations in respect of implicating Customs Brokers as co-noticee in the show cause notices issued to importers/exporters in matters involving interpretative disputes.

2. The matter has been examined. Customs Brokers Licensing Regulations, 2018 (CBLR, 2018) regulates provisions for action to be initiated against Custom Brokers for lapses on their part. Therefore, proceedings contemplated against a Customs Broker should be done as per the provisions contained in the CBLR, 2018 and must be distinguished from the proceedings for demand of duty/interest/imposing penalty under Customs Act, 1962. The competent authority must ensure the strict compliance of detailed procedure and timelines as prescribed under Regulation 16 and 17 of CBLR, 2018 while contemplating any action against a Customs Broker under CBLR, 2018.

3. Pr. Bench of CESTAT, New Delhi in its Study Report on the Final Orders has also highlighted that the offence report sent by the organization booking such offence case should clearly contain the role played by the Custom Broker in the offence case. The Custom Broker being a Co-noticee in the offence case under Customs Act 1962 has to be linked to the proceedings initiated against the Custom Broker under CBLR, 2018. In these Offence cases, it is necessary to prove the element of 'abetment' of Custom Broker in the offence.

4. Accordingly, implicating Customs Brokers as co-noticee in a routine manner, in matters involving interpretation of statute, must be avoided unless the element of abetment of the Customs Brokers in the investigation is established by the investigating authority. Further, the element of abetment should be clearly elaborated in the Show Cause Notice issued for the offence case under the

provisions of the Customs Act, 1962. Further, as regard the suspension of licenses of Customs Brokers, Instruction No. 24/2023 dated 18/07/2023 shall continue to be followed.

5. Difficulty, if any, in the implementation of this instruction may be brought to the notice of the Board.

Hindi version follows.

Yours faithfully,

(Vivek Kumar)
Dy. Commissioner /OSD, Cus-VI
[Email-uscus6-dor@gov.in]