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भारत सरकार

GOVERNMENT OF INDIA

कार्यालय आयुक्त सीमा शुल्क (निवारक),

OFFICE OF THE COMMISSIONER, CUSTOMS (PREV)

केन्द्रीय भवन, पॉचवा तल, सेक्टर-एच, अलीगंज, लखनऊ

5TH FLOOR, KENDRIYA BHAWAN, SECTOR-H, ALIGANJ, LUCKNOW

पत्रांक: सं०: VIII(48)43/Cust/C.B.Licence/Prakhar Gupta/2016 दिनांक: 15.02.2023

मूल आदेश संख्या-03/COMMR./CUSTOMS/LKO/2022-23 दिनांक: 15.02.2023

सुश्री आरती सक्सेना, आयुक्त, सीमा शुल्क (निवारक), लखनऊ द्वारा पारित।

1. जिस व्यक्ति के लिए यह जारी किया गया है उसके व्यक्तिगत व्यवहार के लिए यह प्रति निःशुल्क दी जाती है।
2. इस आदेश से प्रभावित कोई भी व्यक्ति इस आदेश के विरुद्ध
 - (i) कस्टम्स, एक्साइज एवं सर्विस टैक्स अपीलेंट ट्रिब्यूनल, नार्थ रीजनल बैंच, 38 एम0जी0 मार्ग, इलाहाबाद के पास अपील कर सकता है।
 - (ii) अपील, ट्रिब्यूनल के रजिस्ट्रार के समक्ष आदेश प्राप्ति के 03 माह के भीतर प्रस्तुत होना चाहिए।
 - (iii) अपील निर्धारित फार्म की चार प्रतियों दाखिल करना चाहिए व प्रत्येक प्रति के साथ अपील संबंधित सभी रिलाईड अपान डाक्यूमेंट लगे होने चाहिए। एक प्रति पर रू0 5/ की कोर्ट स्टाम्प शुल्क भी लगा होना चाहिए।
 - (iv) मेमोरंडम ऑफ अपील के साथ निम्न भी संलग्न होने चाहिए।
3. पारित आदेश की चार प्रतियाँ (एक प्रति सत्यापित होनी चाहिए)
4. आदेश की यह प्रति या दूसरी प्रति, जिसके साथ नीचे बतायी गई कोर्ट फीस अवश्य लगी होनी चाहिए:
 - (i) यदि विशयवस्तु की राशि या मूल्य पचास रुपये या उससे कम है तो रू0 0.25।
 - (ii) यदि राशि या मूल्य पचास रुपये से अधिक है तो रू0 01.75।
5. यदि अपील अधिकृत व्यक्ति या अधिवक्ता के माध्यम से दायर की जाती है तो अपील के साथ अधिकारनामा/वकालतनामा, जो भी हो, प्रस्तुत करना चाहिए तथा उस पर दस रुपये का कोर्ट फी स्टैम्प लगा होना चाहिए।
6. अपीलकर्ता का ध्यान सीमा शुल्क अपील नियम, 1982 की तरफ आकर्षित किया जाता है।

पक्षकार पार्टी का नाम व पता -

To

Shri Prakhar Gupta,
117/H-2/115, Pandu Nagar,
Kanpur-208025



भारत सरकार
Government of India
वित्त मंत्रालय, राजस्व विभाग
Ministry of Finance, Department of Revenue
कार्यालय आयुक्त सीमा शुल्क (निवारक), उत्तर प्रदेश एवं उत्तराखण्ड
Office of the Commissioner, Customs (Prev) Uttar Pradesh &
Uttarakhand
पांचवां तल, केंद्रीय भवन, सेक्टर एच, अलीगंज, लखनऊ
5th Floor, Kendriya Bhawan, Sector-H, Aliganj, Lucknow
दूरभाष सं०: 0522 2329828, फैक्स सं०: 0522 2329372

F.No.VIII(48)43/Cust/C.B.Licence/Prakhar Gupta/2016

Order No. 03/COMMR./CUSTOMS/LKO/2022-23 dated 15.02.2023

BRIEF FACTS OF THE CASE:-

M/s Prakhar Gupta, 117/H-2/115 Pandu Nagar, Kanpur-208025 (here-in-after referred as 'the Customs Broker') is holding a Customs Broker License No. 05/CB/REGULAR/KNP/2016 dated 28.09.2016 (PAN: ASLPG5339H) issued by the Commissioner of Central Goods and Service Tax, Kanpur. The Customs broker is registered under Regulation 7(3) of Customs Broker Licensing Regulation, 2018 (here-in-after referred as 'CBLR, 2018') to work in Customs Commissionerate - New Delhi.

2.1 M/s JCS Botanicals, 1st Floor, M-163, Greater Kailash, Part-II, New Delhi-110048 (hereinafter referred as 'the importer') filed a bill of entry No.7368812 dated 04.02.2022 at ICD Jhattipur, Panipat through the Customs Broker M/s Prakhar Gupta for clearance of their goods as declared by them. The details of goods are given below in Table-1:-

Table-1

Sl. No.	Description of Goods	Quantity (in Kg.)	Value (in Rs.)
1	Dried Root Crocus (CorcusSantivus L)	10000	1149033
2	Gulgafiz (Gentiana OlivieriGriseb)	2720	520895
3	Salab(DactylorhizaHatagira)	240	55154
4	Shikakal (Pastinaca Sativa Linn)	10000	1149033

2.2 As per Bill of Entry, exemption from the whole of the Customs Duty, was availed under Notification No.99/2011-Customs dated 09.11.2011 and exemption of AIDC under Notification No.11/2021-Customs dated 01.02.2021 was also claimed.

2.3 After the arrival of the said shipment on 19.02.2022 at ICD Jhattipur, Panipat, one Shri Sanjay Kumar (Aadhar No. 5348 3852 6736) on 21.02.2022, produced a scanned copy of a letter dated 21.02.2022, with signature of one Prakhar Gupta for M/s Prakhar Gupta (CHA No. 05/CB/REGULAR/KNP/2016) wherein Shri Sanjay Kumar was authorized to handle the shipment. He also presented a copy of a letter from M/s JCS Botanicals (the importer) authorizing M/s Prakhar Gupta having CHA No. R-05/2016 (ASLPG5339CH003) to deal with Customs for the purpose of clearance of their import consignment. On the basis of said two authorization letters, examination of the impugned consignment was conducted and recorded under Panchnama dated 21.02.2022.

2.4 Based on various risk parameters, the NCTC identified the said Bill of Entry filed at ICD Jhattipur, Panipat as very risky consignment in relation to mis-declaration and marked for 100% examination by RMS. The said BOE was examined on 21.02.2022 in the presence of two independent witness and Shri Sanjay Kumar, the authorized representative of CB M/s Prakhar Gupta.

2.5 The goods were detained / seized under Section 110 of the Customs Act, 1962 and three (03) representative samples of each item were drawn and packed under Customs seal and duly signed by the Panchas and Shri Sanjay Kumar, the representative of CB and Shri AshuJamdagni, Inspector. Further, on request of Importer, permission for warehousing of the said goods was granted under Section 49 of the Customs Act, 1962.

2.6 Meanwhile, an email was received from Shri Prakhar Gupta from email Id "prakhargupta39@yahoo.in" wherein it was stated that the Bill of Entry no. 7368812 had not been authorized to be filed for clearance on his licence and he requested to hold the shipment till the issue is resolved.

2.7 To investigate into the allegations made in above email, enquiry was conducted by way of recording statements of following individuals under Section 108 of the Customs Act, 1962.

- **Statement dated 24.02.2022 of Shri Sanjay Kumar (the authorized representative during examination process)** - In his statement dated 24.02.2022, he inter-alia stated that he was authorized by the CHA