ORDER

M/s Shree Gayatri Clearing Agency (PAN – AAPFS1992N), having their office at 502, Sukh Sagar Complex, Near Hotel Fortune Landmark, Usmanpura Circle, Ashram Road, Ahmedabad-380 013, is a Custom Broker holding Regulation License No.CHAN/AMD/1/5/2018 (AAPFS1992N) valid upto 06.12.2028 issued by this Commissionate under Regulation 7 of Custom Brokers Licensing Regulations, 2018 (‘CBLR, 2018’ for brevity) for transacting Custom Broker business within the jurisdiction of Customs Ahmedabad Commissionate.

2. An offence report was received from the Joint Director, Directorate of Revenue Intelligence, Ahmedabad Zonal Unit, Ahmedabad vide F.NoDRI/ AZU-02/ ENQ-95(Int-51)2019 dated 09.10.2019 outlining the role of Custom Broker in the case booked for import of old & used Multi-Function Digital Devices at ICD, Sachana.

2.1 It has been brought out that based on the specific intelligence gathered by Directorate of Revenue Intelligence, Ahmedabad Zonal Unit, a case of fraudulent import of old and used Multi-Function Digital Devices (Photocopiers) by M/s Radhika Traders, C-44, First Floor, Street No.14, Madhu Vihar Patparganj, New Delhi at ICD Sachana, Nr.Jakhvada Railway Station, Viramgam, Ahmedabad was booked under the Customs Act, 1962. The old & used Multi-Function Digital Devices (MFDDs) are restricted for import into India as per DGFT Notification No.05/2015-2020 dated 07.05.2019, requiring authorisation from DGFT for the said imports. As per the said notification, the said imported goods are also to be treated as prohibited goods unless goods are registered with the Bureau of Indian Standards (BIS). In this case, the Importer didn’t have necessary authorisation from DGFT and also the goods imported were not registered with BIS.

2.2 As per DGFT Notification No.35(RE-2012)/2009-2014, dated 28.02.2013 [now Para 2.31 of Foreign Trade Policy 2015-2020], import of second hand goods viz. Photocopy Machine/Digital Multi-function Print & Copying Machine, is restricted and can be imported only against authorisation.
2.3 Printers, Plotters are mentioned at Sl.No.7 of the Schedule to “Electronic and IT Goods (Requirement for Compulsory Registration) Order, 2012” of Ministry of Electronics and Information Technology (MeitY). A Circular No.1 of 2019 dated 02.05.2019 of MeitY clarified that the Multi Function Devices (MFDs), which are basically printers with additional features like photo copy, scan, Fax etc. and are covered in the category “Printers, Plotters” notified under the Order.

2.4 Subsequently, DGFT issued a Notification No.05/2015-2020 dated 07.05.2019, which amended the General Note No.2(c) of Import Policy for Electronics and IT Goods as: “The imports of Goods (new as well as second hand, whether or not refurbished, repaired or reconditioned) notified under the “Electronics and Information Technology Goods (Requirement of Compulsory Registration) Order, 2012, as amended from time to time is prohibited unless they are registered with the Bureau of Indian Standards (BIS) and comply to the ‘Labelling Requirements’ published by BIS, as amended from time to time’, or on specific exemption letter from Ministry of Electronics and Information Technology (MeitY) for a particular consignment as per provisions of Gazette Notification SO No.3022 dated 11.09.2013”.

2.5 Total five containers of old & used Multi-Function Digital Devices have been imported by M/s. Radhika Traders, C-44 First Floor, Street No.14, Madhu Vihar Patparganj, New Delhi at ICD, Sachana. Three (3) containers were imported vide Bill of Entry Nos. 4820640, 4820639 & 4820592 all dated 09.09.2019 and two (2) containers vide IGM No.2234197 dated 12.09.2019. The said consignments were examined by the officers of DRI, AZU under Panchnam dated 18.09.2019 and 21.09.2019 and were detained for further investigation. M/s. Shree Gayatri Clearing Agency, Ahmedabad has acted as Custom Broker and filed Bills of Entry for the clearance of old & used Multi-Function Digital Devices imported by M/s. Radhika Traders, C-44 First Floor, Street No.14, Madhu Vihar Patparganj, New Delhi.

2.6 A statement of Shri Rajesh Dorilal Khatri, G-Card Holder & Partner of M/s. Shree Gayatri Clearing Agency (Custom Broker) was recorded by the Officers of DRI on 20.09.2019 under Section 108 of the Customs Act, 1962 wherein he inter-alia stated that he was entrusted with CHA work of the import consignment of Old & Used MFDs of M/s. Radhika Traders by Shri Punit Verma; that Shri Punit Verma is son of Shri Anil Kumar Verma, the Proprietor of M/s. Radhika Traders, New Delhi; that he asked Shri Punit Verma to provide documents regarding goods to be imported and KYC documents; that documents viz. Authorisation letter to CHA, Packing list, Bill of Lading, EPR Certificate, IEC Certificate, GST Certificate, PAN Card & Aadhar Card, and a blank cheque, all signed by Shri Anil Kumar Verma, were supplied via email punit26a@gmail.com; that the documents provided were for import of 5 containers of old and used MFDs; that he had
never met with and talked to Shri Anil Kumar Verma, the proprietor of firm; that he had not visited the premises of the firm i.e., in person verification was not done. He further stated that he was aware that a case of import of old and used Multi Functional Devices without obtaining requisite authorisation from DGFT, was booked at Pipavav Port by DRI in the year 2018. He further stated that despite knowing about the said case and aforesaid requirements i.e., BIS Registration & DGFT authorisation for such import of old and used MFDs, he entertained the importer M/s.Radhika Traders, New Delhi and filed BEs in respect of imported old and used MFDs at ICD, Sachana. He further stated that he didn’t make any correspondence with M/s.Radhika Traders to intimate them regarding requirement of BIS and DGFT authorisation and to get the same.

2.7 A letter dated 23.09.2019 issued by the DRI, Ahmedabad Zonal Unit to M/s.Radhika Traders, C-44 First Floor, Street No.14, Madhu Vihar Patparganj, New Delhi, was returned with remark ‘Left’ by Postal Authorities. The address was provided by Shri Rajesh Dorilal Khatri, as available in the documents he received by email from the importer.

3. In view of the above, it appeared that Shri Rajesh Dorilal Khatri, G-Card Holder & Partner of M/s.Shree Gayatri Clearing Agency, had misused his position/role contrary to the provisions of CBLR, 2018 by way of facilitating M/s.Radhika Traders in clearance of old & used Multi-Function Digital Devices contrary to the provisions of Notification No.05/2015-2020 dated 07.05.2019. Accordingly, it appeared that M/s.Shree Gayatri Clearing Agency has contravened the following provisions of CBLR, 2018.

3.1 Regulation 10(d) of the CBLR, 2018, puts an obligation on the Customs Broker to “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;” The Custom Broker appeared to have violated this regulation in as much as he failed to advise the said importer regarding the requirement of statutory documents – authorisation from DGFT & BIS Registration and further he also failed to bring these facts to the notice of the Assistant Commissioner of Customs, ICD, Sachana.

3.2 Further, Regulation 10(n) of CBLR, 2018, puts an obligation on the Customs Broker to “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;”. The Custom Broker appeared to have violated this regulation in as much as he failed to verify the identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information.
4. In view of the above, if the Customs Broker is allowed to continue to operate, it would be detrimental to the interest of revenue and therefore it is necessary to take immediate action against the Custom Broker to prevent them from further misuse of the Customs Broker license.

5. If any other relied upon documents are sent by DRI, Ahmedabad at a later stage and if department considers it fit for action against the said Custom Broker under any other regulations also, that will be issued separately after receipt of the same.

6. From the foregoing, I am of the view that there are sufficient ground for immediate suspension of the Custom Broker License No.CHA/AMD/R/05/2018 (AAPFS1992N) of M/s.Shree Gayatri Clearing Agency, Ahmedabad.

7. Now, therefore, I, in my capacity of Principal Commissioner of Customs, Ahmedabad, in exercise of powers conferred under Regulation 16(1) of CBLR, 2018 read with Regulation 10 of CBLR, 2018, suspend the Custom Broker License No.CHA/AMD/R/05/2018 (AAPFS1992N) dated 21.12.2018 valid upto 06.12.2028, issued to M/s.Shree Gayatri Clearing Agency, Ahmedabad, with immediate effect, and pursuant to the suspension, all the identity cards issued to the said Custom Broker, their Partners, employees etc. shall be surrendered to the Technical Section of this Commissionerate immediately.

8. Now, therefore, I, the Principal Commissioner of Customs, Ahmedabad in exercise of powers conferred under Regulation 16(2) of CBLR, 2018, grant a post decisional hearing on 26.11.2019 at 12.30 hrs. to the said CB – M/s.Shree Gayatri Clearing Agency, Ahmedabad.

(Kumar Santosh)
Principal Commissioner

To
M/s.Shree Gayatri Clearing Agency
502, Sukh Sagar Complex,
Near Hotel Fortune Landmark,
Usmanpura Circle, Ashram Road,
Ahmedabad-380 013

Copy to: The Deputy/Assistant Commissioner of Customs, ACC/ICDs/Custom Divisions of Ahmedabad Commissionerate for information.