

JT-DU - on tour
DDG (M TU)
DDG (F&A) / K 27/15

भारत सरकार
Government of India
पोत परिवहन मंत्रालय
Ministry of Shipping
परिवहन भवन/Transport Bhavan
1, संसद मार्ग /1, Parliament Street
नई दिल्ली-110001/New Delhi-110001

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Received Date:
29 FEB 2016
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आवक क्रमांक.....
INWARD No.....

No. SD - 11018/4/2015-MD - Part

Dated, the February 24, 2016

Subject - Transparency in transaction cost - regarding.

In continuation of this Ministry's Office Memorandum of even number dated February 05, 2016 constituting a team headed by officer not below the rank of Deputy Director General of Shipping to identify and examine grievances that have arisen in the calendar year 2015, the undersigned is directed to forward herewith a copy of letter dated July 19, 2014 addressed by M/s. Mumbaizone Customs Brokers Association to Hon'ble PM and other Ministers pointing out about the hardship being faced by the trade and stakeholders due to exorbitant charges being arbitrarily levied in non-transparent manner by shipping lines.

2. It is requested that grievances brought out by the petitioner in his representation may also be looked into by the said team.

Imp of Early P.M. ref.

(Signature)
(A. P. Goel)

Consultant (Shipping)
Tel. fax: 23715207
E. mail: aomd@nic.in

Enclosure: As above

To,

Director General of Shipping,
Beta Building,
i-Think Techno Park,
Kanjur Marg (East),
Mumbai-400 042



PA
Pl scan the doc
email to committee
members.

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MUMBAI ZONE CUSTOMS BROKERS' ASSOCIATION

(Formerly:- Mumbai Zone Customs House Agents Association)

Regd. No. M.S.M.2011/2011 G.B.B.S.D dated 09-08-2011 and F-44145 (Mumbai) dated 03-05-2012

235, P. D'Mello Road, Hussaini Building, 2nd Floor, Room No. 3, Fort, Mumbai 400 001.

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website: www.mcba.org.in

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Ref : MCBA / PMO / 2014

Date : 19/07/2014

The Hon'ble Prime Minister of India,
Office of the Prime Minister,
South Block,
New Delhi-110001

Hon'ble Minister (S,RT&H) has directed
to convey the information to JS (P)
for appropriate action and a note on the issues
raised with suggestions.

Respected Sir,

58119

05/08/14

OSD to Minister of S,RT&H

Sub.: Huge Revenue loot both in import duty and Duty Drawback, Siphoning out of Foreign

Exchange and looting Importers and Exporters. (RUPEES LAKHS OF CRORES)

We are stationed in Mumbai. What we are experiencing in Mumbai does not only exist in Mumbai but also exists in rest of the Country. We see every year from December to March, Government of India is unable to make their payments due to lack of fund. Why Government cannot pay? What are the reasons? We experienced the followings in Mumbai and these also exist in other Parts of the Country.

1. Huge Revenue Loss due to manipulative business of Shipping Lines. *Do R*
2. Huge Revenue Loss due to manipulative business of LCL Consolidators. *Do R*
3. Huge Revenue loss by way of Drawback due to manipulative business of LCL Consolidators. *Do R*
3. Huge Transaction costs for Importers due to nexus between Line and CFS. *Doc Doc*
4. Huge Transaction costs for Importers due to nexus between Line and Empty Yard. *MOS*
5. Huge Transaction costs for Importers due to nexus between Line and other Service providers such as Container Repairers, Surveyors and Container Cleaners. *Doc*
6. Huge Foreign Exchange being siphoned out of Country by Line / Consolidators due to nexus between Line/ Consolidators / CFS/ Repairers/ Cleaners/ Surveyors. *Doc*
7. Huge Transaction costs for Importers and Exporters due to illegal collections in the name of Waiver, Local Tempo union Collections etc. *M/O PTH MOS*

We now give below how revenue is being looted, Importers / Exporters are being looted and Foreign Exchange is being siphoned out of the Country

SHIPPING COMPANY (ANNEXURE- A)

Duty is generally on Assessable value. To ascertain assessable value of the Import consignment, it is necessary to add actual freight and Insurance costs on FOB value of the consignment. Shipping Company or their Indian Agent is supposed to charge only Delivery order and Terminal Handling charges as fixed in consultation with various stake holders and nothing else. But what we find today? In addition to Terminal Handling and DO charges, they also charge on account of various heads. Kindly see attached annexure 'A'. What these costs are? Do they have right to collect these charges? Absolutely not. Their excess charges could be considered on two counts

- (1) They quoted less freight and now compensating by collecting here or
- (2) By force collecting from Importers and as a result Importer's transaction costs goes up and which is finally pass on to consumer / public.

JS (Shipping)

In file please.

Abhinav M
10/09/14

Handwritten signatures and initials including 'MOS', 'PTH', and '13/8'.



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If first point is correct, it could be nexus to reduce Assessable value which results in less of import duty and cheating. If second point is correct, it will be considered as looting of Importers. Both are criminal offence. It can be seen in Annexure-'A' wherein we explained with documentary evidence that during the period of last 20 years the Shipping Companies or their Agents collected Rs. 324680.00 Crores excess amount of which Rs. 81170.00 Crores could be treated as Import Duty. Almost entire illegal collection has been remitted outside.

Shipping Company also adopted one more method to collect extra. When world practically working 7 days a week, they work only 4-1/2 days a week. After 3 PM on Friday they do not entertain for any DO issuance or renewal. If one reason or other DO is required to be renewed or fresh DO is to be taken after 3 PM of Friday, we need to wait till Monday evening. They do not allow empty container to be offloaded in empty CFS without DO renewal inspite of having already received Bond, Blank Cheque, Insurance Policy and some cases security Demand Draft from Customs Broker and Importer. Off late Shipping Company is also insisting for counter Guarantee from Customs Broker. This is another way of earning 4 days container detention charges which is approx. Rs. 3500-6000.

LCL CONSOLIDATORS-IMPORT. (ANNEXURE-B)

To ascertain assessable value of import consignment, it is necessary to add actual freight and insurance costs on FOB value of the consignment. Consolidators (LCL operators) or their Indian Agent is supposed to charge only Delivery order and Terminal Handling charges as fixed in consultation with various stake holders. But what we find today? In addition to Terminal Handling and DO charges, they also collect on various other accounts. Kindly refer to Annexure 'B' attached. What these costs are? Do they have right to collect these charges? Absolutely not. Their additional charges could be considered on two counts:

- (1) Freight as they quote zero freight to Shipper and now compensate the same by collecting here or
- (2) By force collecting from Importer and as a result their transaction costs go up and finally pass on to consumer / public.

In some cases LCL Consolidators also collect Origin Terminal Handling Charges here. Both the points are correct as we experienced similar things for export from India. Due to First point, country loses huge amount of Import duty as Freight is not being considered to ascertain Assessable value and due to second point, Consolidators transfer huge amount overseas or adjust with the collection abroad and country loses huge Foreign Currency. It is big conspiracy and these LCL Consolidators could be called DACOIT and must be brought to JUSTICE.

It can be seen in Annexure-" B " wherein we explained with documentary evidence that during the period of last 20 years the LCL Consolidators or their Agent collected Rs. 86928.00 Crores excess amount of which Rs. 21732.00 Crores could be treated as Import Duty. Almost entire illegal collection are being remitted abroad or adjusted with collection outside.

LCL CONSOLIDATORS-EXPORT

In case of LCL Export shipment, LCL Consolidators carry consignment and does not collect any Freight from the Shipper and also some cases Origin THC. Consolidators compensate freight and Origin THC from the Import collection abroad. What is the consequent? Exporter's CIF Shipment become FOB or Ex-Factory and get more Duty Drawback whenever Drawback is on FOB. Here is again huge conspiracy on the part of LCL Consolidators.

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CFS CHARGES (ANNEXURE-C)

CFS is supposed to charge Lifting container from Port, transporting to CFS, Storing for a specific period and handling in the CFS, Handling charges which they collect under H&T (Handling and Transportation) charges covers all the above. These charges are also arbitrary and needlessly imposed. They also collect under the various other heads; details are as stated in Annexure No. " C ". These charges are extra costs being paid by Importers. Extra charges, CFS generally shares with Line. Line and their local Office / Agent here dictate their terms. This is one big nexus. Most of the shared CFS collection they remit outside. It is not that CFS made their rates fixed for all. CFS charges differently for different Lines. This proves the nexus.

It can be seen in Annexure-" C " wherein we explained with documentary evidence that during the period of last 20 years the CFS collected Rs. 121950.00 Crores excess amount of which Rs. 60975.00 Crores must have been passed on to Line or their Agent who in term remitted the same outside.

CONTAINER DETENTION CHARGES AND CFS GROUND RENT (ANNEXURE-D)

When Line keeps their empty containers in Empty yard, they pay less than Rs. 10.00 for 20' or less than Rs.20.00 for 40' per day irrespective of number of days but if loaded container detained, their rates keeps on jumping every week. After 15 days they charge USD 26.00 per day for 20' container against leasing cost of less than USD 3.00 for 20'. Similarly if a container is kept in CFS for 15 days, CFS charges as ground rent Rs.900-1000 per day for 20'.

CFS keeps one container above another for 4 layers. Space occupied by 4x20' container is 160 Sq.ft. CFS charge Rs. 32000.00 as Ground Rent for 4 x 20 containers means Rs. 13.5 per sq.ft. Per day,

Lines charge approx. Rs.12000 for 15 days, means they charge Rs 5.00 per sq.ft per day.

Covered Bonded CFS rate is Rs. 80.00 Per Sq. Mtr. Per week means Rs.1.10 per sq.ft. per day, half of which is Insurance Charges.

Bandra Kurla Complex Commercial place rent rate is Rs. 8.00 per sq.ft per day.

What we see from the above is that if a consignment is kept in container and stored in CFS for 15 days, it costs the importer Rs. 18.5 (13.5 + 5) per day per sq.ft. which is 16 times more than CFS Covered Bonded place and 2.5 times more than BKC Commercial rent. ONLY LOOT. LOOT and LOOT only and nothing else. See Annexure-" D ". CFS and Lines collected approx. 100000.00 Crores during last 20 years

CONTAINER INTERNAL DAMAGED CHARGES:-

Collection under container repair has become practice of the day. It is not only for external damage but they also charge for internal damage. Even if delivery is taken from CFS (De-stuffed) , Shipping Line forced to deposit certain amount and finally in the name of internal damage, forfeit the deposit. How importer could be responsible for any internal damage of any container? How importer could be responsible if anything happened to internal painting of container ? Why damage charges could be applicable when de-stuffed delivery is taken from CFS or Port or ICD ? This is another type of loot. Lines in the name of internal damage, collect huge amount to compensate Freight. Their Freight should be all inclusive including risk of internal damage. All inclusive rate will generate huge amount of Import Duty.



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EMPTY YARD OFFLOADING CHARGES

THC (Terminal Handling Charges) Includes empty offloading charges in the empty Yard. Loots by others have also encouraged Empty Yards. They also started charging empty offloading charges varies from Rs. 500 to Rs. 1000.00. There is a possibility of nexus between empty yard Owners and Lines / Local Agent.

DE-STUFFED DELIVERY.

Line or their Agent and CFS charge extra charges for giving de-stuffed delivery but practically they force Importers and their Customs Broker to arrange Labours and load or required to pay for Fork Lift / Crane charges to load. They have no right to collect De-stuffed delivery charges unless they take care of complete delivery and Customs Brokers should not be forced to pay for anything including Gang / Labourers/ Forklift / Crane. Since CFS and Line collect De-stuffed delivery charges, it is the duty of Line/CFS to effect delivery through their labour gang / Forklift/Crane and Customs Brokers should not be forced to pay.

COLLECTION IN THE NAME TEMPO UNION ACTIVITIES (ANNEXURE-E)

We do not know other places but in Mumbai, Nhava Sheva and Sahar Cargo Complex, Tempo operators either ask for exorbitant charges or charge Rs. 1300/- per tempo if not taken from them. This collection also in hundreds of crores per year. This is a one major irritation of Importers. This illegal Collection needs to stop now otherwise Nhava Sheva will have the fate of Mumbai Port. This is a local issue but for the interest of Exporters / Importers, proper advisory should be sent to State Government for necessary actions be initiated to eliminate this illegal collections. This also exist all over the Country.

SUMMARY OF LOOTS BY SHIPPING LINES, LCL CONSOLIDATORS, CFS AND OTHERS DURING THE PERIOD OF LAST 20 YEARS.

ANNEXURE	REVENUE LOSS IN RS. CRORES	LOOT IN RS. CRORES	FOREIGN CURRENCY LOOT IN RS. CRORES	LOOT BY TEMPO UNION RS. IN CRORES
ANNEXURE-A	81170	324680	243810	
ANNEXURE-B	21732	86928	65196	
ANNEXURE-C		121950	60975	
ANNEXURE-D		100000	50000	
ANNEXURE-D				26000
TOTAL	102902	633568	419681	26000

During the period of last 20 years Government of India lost Revenue approx. Rupees approx. ONE LAKH CRORE, Country Lost Foreign Currency approx. FOUR LAKHS CRORES, Importers were LOOTED approx. SIX LAKHS CRORES of which Three Lakhs could be Duty saved and Freight.



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WHO IS RESPONSIBLE:-

NUMBER ONE:- Customs Brokers Association (Customs House Agents Association) as they were aware of all these loot but refused to stand up. All those were and are at the helm of these Associations are self centric, and are involved directly or indirectly in CFS and Lines / Agency business. For them their own interest / pocket is more important than Country. In case of Mumbai it is BRIHANMUMBAI CUSTOMS HOUSE AGENTS ASSOCIATION (BCHAA)

NUMBER TWO:- Customs. Everything is happening under their nose. They know wrong doings of Lines and CFS. They are very much aware that full freight or part is being collected here. They are just not bothered. They are very happy to help Lines, Consolidators and CFS. They are also very much aware of Line-CFS nexus. Actually they are also part of the nexus. When a container is detained for a flimsy ground or delayed on one reason or others, it is the Lines and CFS who get benefited. They only know how to twist Customs Broker (Individual) to surrender to achieve their own target.

NUMBER THREE :- Importers, Trade Authorities/ Promotion Councils. Importers are blind when charges charged by Lines, LCL Consolidators and CFS; Importers only know how to twist Customs Broker. They become conscious if Customs Broker requests for enhancement. Actual fact is that the Customs Brokers service charges have been drastically reduced during the period of last 20 years even though their expenses have gone up.

WHAT NEED TO BE DONE NOW

1. Forming a SIT with necessary power to inquire from 1990 till date or
2. DRI or CBI must inquire and check books of all Shipping Lines, their Agents, Consolidators and recover excess charges they collected (other than approved DO and THC) along with applicable duty with 18% interests from 1990 till date.
3. Now onward there should be only two payments to Shipping Lines, their Agents and consolidators i.e DO Charges and THC plus freight if payable. THC and DO charges will be decided in consultation with all stake holders.
4. All books of Lines, Agents and Consolidators from 1990 till date be audited and be ascertained how much money they have illegally collected and remitted abroad. All excess collection and money remitted abroad be recovered along with 18% interest.
5. All CFS books from 1994 till date be audited and be ascertained how much money they have passed on to Line or their Agents. All money paid to Lines or their Agents be recovered along with 18% interest. All they collected over and above H&T and excess ground rent be forced to refund.
6. Unloading rates be fixed. There should be no extra charges not even waral
7. Tempo Union Raj must come to an end. If required adequate police force be deployed.
8. **REGULATOR** is a must today. All stake holders representative must be included.
9. Customs Assessment and Examination method need to be reformed. Today's method which was formulated very very long time back, requires immediate reforms. Methods followed lead to creation of file work and black mail. Concept of Chor - Police need to end. Both Customs and Customs Broker need to work as a team for the interest of Nation and Trade.
 - (9a) There should be only one Group in Customs House.
 - (9b) System should be allowed to assess (RMS) all document except where Customs



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- (9c) All Officers should be posted for examination. During examination all officers must check document thoroughly after or before examination, if an officer feels that amendment of the document is necessary, same be communicated to the Customs Broker.
- (9d) Customs Broker after proper consultation with Importer if agrees with the amendment, department should do amendment the document on spot.
- (9e) In case Importer does not agree with the suggestion of amendment, matter may be referred to a Jt./Addl Commissioner and if Importer still disagrees, they be allowed to clear under protest.
- (9f) Officers must be made accountable. Today officers are not bothered about detention and demurrage Charges. Most of the cases it is found that Importers were right and Officers point was wrong but Importer in spite of being right were required to pay heavy detention and demurrage. Now Officer must be made accountable and if found officer was wrong, all demurrage and detention must be waived or borne by him and not by Government/ Importer. This will work as deterrent for harassment
- (9g) Customs should not think they are Police and all are Chor. Today Customs Broker does 99. % works and officer just authenticates. Why not officer counter check to correct mistakes if needed? Why he needs to open a file under mis-declaration? If a value can be corrected then why not description or classification? Amendment should be first option. Government does not need fine penalty. Government policy should be to prevent any wrong doings and revenue loss. This will serve three purposes :
- (1) If option of amendment is applied, 90% of officer's time will be saved and can be utilized for constructive work or for assessment work. Customs Broker or Importer will not be subject to a black mail as once file is opened, it will take atleast a month to solve and there will be huge detention and demurrage. Customs Broker is now fed up of listening threat of cancellation of Customs entry pass or cancellation of License. From Clerk to Commissioner use these threats. Enough is enough. This needs to be stopped. We must be trusted and we are not less patriotic than any Customs officer. Actually it is other way. We care for the country and they care for their pocket and luxurious life.
 - (2) Customs Department officially can collect huge amount as amendment fees say Rs.250.00 per amendment. If Customs Broker and Customs Officer work in tandem for the interest of Nation, there will be no need to create thousands of files. Need service 24x7 in Customs formations like Mumbai.
 - (3) REFORMS AS SUGGESTED ABOVE IS THE NEED OF THE TIME. If AMENDMENT OPTION IS ACCEPTED, CORRUPTION WILL COME DOWN TO ZERO.

CUSTOMS OFFICER'S POSTING:

Respected Sir, your Teacher appointment system in Gujarat, when you were Hon'ble Chief Minister of Gujarat should be applied for Posting of Customs Officers. Computer should decide posting. Today's

System is dangerous and need immediate reforms. All higher postings should be only on merit and honesty. Proactive Officer should only be at the helm of CBEC and Customs Field Formations. Officer with doubtful past should never be allowed to get palm posting.

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CUSTOMS BROKER'S ASSOCIATION:-

Customs Brokers' official representative must be in all points to keep watch on all and report to Regulators or DRI or CBI. CB Association should have right to check or inspect any consignment if they feel there is something wrong. If Customs Brokers' Association is active, all under invoicing and illegal Import will stop as a result Government/ Nation will save huge Foreign Exchange and also earn huge Import Duty.

BANNING OF COLLECTION BOY / AGENT

Today Collection Boy / Agent work for each and every Customs Officer mainly in Group and Sheds. These peoples are generally employees of Customs Broker. Customs Broker issues Customs Pass to these people and work as collection boy/agent of particular Officer. This need to be stopped. Collection boy must be put behind bars and both Officer and Customs Broker must be questioned and punished. Today monopoly and caged Customs Brokers' Association is aware of this menace but they are silent.

FINANCE OF ASSOCIATION AND REGULATOR:-

1. Regulator's Finance:- A very negligible percentage of import duty may be charged and passed on to Regulator's fund. It will not be a burden on Importers instead they will be benefited most after Government.
2. Association's Finance : Association be allowed to collect Rs. 200/- per Shipping Bill to finance their expenses. A strong and vigilant Association will not only be asset of the Country but will benefit all including consumer.

Hon'ble Supreme Court's famous comment of CAGED PARROT is very much applicable on our ASSOCIATION. CBEC and Customs Field Formation do believe in Caged Parrot Association. Even after a lot of correspondence and follow up, we failed to get recognition of our Association from Customs. They do not want proactive and patriotic Association. Forming an Association is Citizen's fundamental right and Mumbai Customs Field Formations and CBEC denied us our right Guaranteed in our Constitution.

Finally respected Sir, we are writing to you as multi Ministry and departments are involved and also like everyone in the Country, we believe and expect complete action once this presentation reaches in your office.

Thanking you,

Yours faithfully,
For MUMBAIZONE CUSTOMS BROKERS' ASSOCIATION

D. K. ROY
President.

Encl : Annexure A to E along with documents

CC To : The Hon'ble Finance Minister

✓ The Hon'ble Shipping and Transport Minister

: The Hon'ble Minister of State for Commerce

: The Hon'ble Revenue Secretary



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- : The Member-CBEC (Customs)
- : The Director General- DRI
- : The Director General of Shipping
- : The Chairman, Jawaharlal Nehru Port Trust
- : The Chief Commissioner of Customs- Mumbai Zone-I
- : The Chief Commissioner of Customs- Mumbai Zone-II
- : The Chief Commissioner of Customs- Mumbai Zone-III
- : The Addl. Director General - DRI (Mumbai)
- : To Major Media Houses,
- : To All Export Promotion Councils,
- : To Major Industrial Houses