कार्यालय: प्रधान आयुक्त सीमाशुल्क, मुन्द्रा,
सीमाशुल्क भवन, मुन्द्रा बंदरगाह, कच्छ, गुजरात- 370421
OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS:
CUSTOM HOUSE, MUNDRA PORT, KUTCH, GUJARAT-370421.
PHONE : 02838-271426/271163 FAX :02838-271425
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A	**FILE NO.** फ़ाइल संख्या	**GEN/ADJ/ADC/829/2026-Adjn-O/o Pr. Commr-Cus-Mundra**
B	**OIO NO.** आदेश संख्या	MCH/ZDC/ADC/466/2026-27
C	**PASSED BY** जारीकर्ता	**Dipak Zala,** Additional Commissioner of Customs/अपर आयुक्त सीमा शुल्क, Custom House, Mundra/कस्टम हाउस, मुंद्रा।
D	**DATE OF ORDER** आदेश की तारीख	04.11.2026
E	**DATE OF ISSUE** जारी करने की तिथि	04.11.2026
F	**SCN No. & Date** कारण बताओ नोटिस क्रमांक	**76/2026-27/ADC/ZDC/MCH dated 04.06.2026**
G	**NOTICEE/ PARTY/ IMPORTER** नोटिसकर्ता/पार्टी/आयातक	**M/s. Skyline Global Traders (IEC: BYFPS5904R)**

1. यहआदेश संबन्धित को नि:शुल्क प्रदान किया जाता है।
This Order - in - Original is granted to the concerned free of charge.

2. यदि कोई व्यक्ति इस आदेश से असंतुष्ट है तो वह सीमाशुल्क अपील नियमावली 1982 के नियम 3 के साथ पठित सीमाशुल्क अधिनियम 1962 की धारा 128 के अंतर्गत प्रपत्र सीए- 1 में चार प्रतियों में नीचे बताए गए पते परअपील कर सकताहै-

Any person aggrieved by this Order - in - Original may file an appeal under Section 128 of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:

"सीमाशुल्कआयुक्त (अपील),

चौथी मंजिल, हुडको बिल्डिंग, ईश्वरभुवन रोड,

नवरंगपुरा,अहमदाबाद 380 009"

"THE COMMISSIONER OF CUSTOMS (APPEALS), MUNDRA

HAVING HIS OFFICE AT 4TH FLOOR, HUDCO BUILDING, ISHWAR BHUVAN ROAD,

NAVRANGPURA, AHMEDABAD-380 009."

3. उक्तअपील यहआदेश 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.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-
Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must be 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/- 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/- (Rupees Five only) as prescribed under Schedule – I, Item 6 of the Court Fees Act, 1870.

5. अपील ज्ञापन के साथ ड्यूटि/ 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.

6. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमाशुल्क 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.

7. इस आदेश के विरुद्ध अपील हेतु जहां शुल्क या शुल्क और जुर्माना विवाद में हो, अथवा दण्ड में, जहां केवल जुर्माना विवाद में हो, Commissioner (A) के समक्ष मांग शुल्क का 7.5% भुगतान करना होगा।

An appeal against this order shall lie before the Commissioner (A) on payment of 7.5% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.

BRIEF FACTS OF THE CASE

1.1 M/s. Skyline Global Traders (IEC: BYFPS5904R), having its registered office/principal place located at F-03, BLOCK S-7/1, SITE 4, GREATER NOIDA (hereinafter referred to as the *"Importer")*, imported goods vide **Bill of Entry No.4923077 dated 05.10.2025** at Customs House Mundra**.**

1.2 Specific intelligence gathered by the **Directorate of Revenue Intelligence (DRI)** indicated that the aforesaid consignment imported by M/s. Skyline Global Traders lying at Mundra Port and declared as "**Industrial Oil"** under **CTH 27101990**, were **mis-declared with respect to their description and nature,** with the deliberate intent to clear prohibited/restricted goods.

The details of the import consignment are as follows:

Table-I

	Details of Bill of Entry
Bill of Entry No.	4923077 dated 05.10.2025
Bill of Lading No.	RSTJEAMUN25000141
Declared Goods in BE	Industrial Oil
Declared Quantity	2,35,980 (in KGS)
Customs Broker	M/s Gaurav M Jhaverri
Country of Origin	UAE
Supplier	M/s EMIT INTERNATIONAL FZ LLC

1.3 Based on the aforesaid intelligence, the consignment imported by M/s. Skyline Global Traders lying at Mundra Port and declared as "Industrial Oil" under CTH 27101990 were put on hold by the DRI vide email dated 08.10.2025.

2. Examination and drawl of Samples:

The examination of aforesaid consignment was conducted by the DRI under panchnama dated 13/14.10.2025 at Mundra Port, in the presence of the authorized representative of the Customs Broker appointed by the importer. During the said examination proceedings, representative samples, in duplicate, were drawn from each of the 12 containers, for laboratory testing to ascertain the exact nature of the import goods in the said consignment.

3. <u>Testing of the Samples</u>:

3.1 The 12 samples drawn from the containers covered under Bill of Entry No. 4923077 dated 05.10.2025 were sent to Custom House Laboratory, Visakhapatnam for testing vide Test Memo No. 421/2025 to 432/2025 dated 16.10.2025 respectively.

3.2 The laboratory submitted the following test reports in connection with Bill of Entry No. 4923077 dated 05.10.2025:

- Lab Nos. 116-DRI, 117-DRI, 119-DRI, and 121-DRI, all dated 10.11.2025;
- Lab Nos. 122-DRI to 127-DRI, all dated 11.11.2025
- Lab Nos. 118-DRI dated 06.11.2025 and 120-DRI dated 07.11.2025.

3.3 The test reports in respect of all 12 samples pertaining to Bill of Entry No. 4923077 dated 05.10.2025, based on the parameters tested by the Custom House Laboratory, indicated that all the samples conform to the stringent parameters of Automotive Diesel Fuel. Since all the samples yielded similar findings, the report in respect of Lab No. 127-DRI is reproduced hereunder for illustration:

- ***The sample has been tested for all the characteristics parameters tested above & which are stringent parameters also to characterize petroleum fuels.***

- ***The sample meets all the stringent parameter of Automotive diesel fuel as mentioned in IS: 1460:2025 except flash point (which is 12°C lower than required (decreased by means of using lighter hydrocarbon) and distillation recovery at 360°C (which is 94% & 1% less than 95%).***

- ***The GCMS pattern of sample shows presence of lighter hydrocarbons, which can not a part of diesel fuels as per standard refinery protocol & classification of petroleum fuels. Minor deviation from the required values of above 02 parameters, does not affects its application as diesel fuel for Automotive purpose.***

- ***The sample is adulterated diesel in respect of the definition of "adulteration" as mentioned in 5.1 of marketing discipline guideline published by PSU's.***

- ***There is no specific available for industrial oil in National & International standards.***

- ***The sample also meets the specification of HFHSD (IS 16861) up to the extent of parameter tested above except, flash point which was lowered by using lighter hydrocarbons.***

3.4 For parameters not covered in the Custom Laboratory's Vishakhapatnam testing, additional samples were forwarded to Mangalore Refinery and Petrochemicals Limited (MRPL) vide Test Memo No. 835/2025 dated 03.12.2025 in respect of Bill of Entry No. 4923077 dated 05.10.2025 respectively, to ensure comprehensive testing of all specifications under IS 1460 and IS 16861, as mandated by the Hon'ble Supreme Court in ***Gastrade International v. Commissioner of Customs, Kandla.***

3.5 The Mangalore Refinery and Petrochemicals Limited (MRPL) has submitted their reports vide Test Report No. MRPL/DRI/2026/09 dated 26.12.2025.

The findings of the both aforementioned Test Reports are reproduced below at Table II:

Table-II

Sl. No.	**Bill of Entry No. & Dated**	**Quantity**	**Declared Description**	**Sample Test Result**	**IS Standards**
01.	4923077 dated 05.10.2025	235980 KGs	Industrial Oil	Conform to the parameters of Automotive Diesel Fuel (ADF)	IS 1460:2025

4. Whereas, the initial findings of the CRCL Visakhapatnam indicated that the sample conforms to all characteristic parameters of Automotive Diesel Fuel

(ADF) except Flash Point and distillation recovery. The said report further noted that the sample also meets the stringent parameters of High Flash High Speed Diesel (HFHSD) as per IS: 16861, except for Flash Point. Upon further testing of the samples at Mangalore Refinery and Petrochemicals Limited (MRPL), it was found that the sample conforms to 19 out of 21 parameters prescribed under IS 1460:2025, with only Flash Point, and Sulphur, falling outside the stipulated range. As observed in the CRCL report, the reduction in Flash Point is attributable to the deliberate addition of lighter hydrocarbons, while the elevated Sulphur content is a consequence of either the intentional addition of sulphur compounds or deliberately not undergoing de-sulphurization process (*discussed in the subsequent paragraphs*), both of which have caused the said parameters to deviate from the prescribed limits under IS 1460:2025. Based on the totality of the test findings and applying the "most-akin" principle as mandated by the Hon'ble Supreme Court in *Gastrade International v. Commissioner of Customs, Kandla*, the subject goods are determined to be Automotive Diesel Fuel (ADF) conforming to IS 1460:2025.

4.1 Further, the specifications of Automotive Diesel Fuel (ADF) as per IS 1460 of the Bureau of Indian Standards (BIS) are reproduced below:

Table 1 Requirement for Automotive Diesel Fuel

(*Clauses* 3.1.4, 3.2 *and Foreword*)

Sl No.	Characteristic	Requirement	Method of Test, Ref to Parts of IS 1448 ISO/EN/Annex
(1)	(2)	(3)	(4)
i)	Appearance	Clear, bright and free from sediments, suspended matter and undissolved water at normal ambient fuel temperature	Visual
ii)	Total Acid Number (TAN), mg of KOH/g, *Max*	0.20	(Part 2)[8]
iii)	Ash, percent by mass, *Max*	0.01	(Part 4/Sec 1)[8]
iv)	Carbon residue, on 10 percent residue[1], percent by mass, *Max*	0.30	(Part 8)[8] /(Part 189)
v)	Cetane number, *Min*	51[2]	(Part 9)[8]
vi)	Cetane index, *Min*	46[2]	(Part 174)[8]
vii)	Pour point[3], °C, *Max*:		(Part 10/Sec 2)[8]
	a) Winter	3	
	b) Summer	15	
viii)	Copper strip corrosion for 3 h at 50 °C, *Max*	Class 1	(Part 15)[8]
ix)	Distillation, 95 percent *v/v* recovery, °C, *Max*	360	(Part 18)[8]/ISO 3405

Table 1 (*Concluded*)

Sl No.	Characteristic	Requirement	Method of Test, Ref to Parts of IS 1448 ISO/EN/Annex
(1)	(2)	(3)	(4)
x)	Flash point, Abel[4], °C, *Min*	35	(Part 20)[8]
xi)	Kinematic viscosity, mm^2/s, at 40 °C	2.0 to 4.5	(Part 25/Sec 1)[8]/(Part 186)
xii)	Total contamination, mg/kg, *Max*	24	EN 12662[8]
xiii)	Density at 15 °C, kg/m^3	810 to 845[5]	(Part 16)[8] /(Part 32)/(Part 167)
xiv)	Total sulphur, mg/kg, *Max*	10	(Part 160)[8]/(Part 34)/ (Part 161)/(Part 159)
xv)	Water content, mg/kg, *Max*	200	(Part 182)[8]
xvi)	Cold Filter Plugging Point (CFPP)[3], °C, *Max*:		(Part 110)[8]
	a) Winter	6	
	b) Summer	18	
xvii)	Oxidation stability[6], g/m^3, *Max*	25	(Part 154)[8]
	Oxidation stability[6], minutes, *Min*	60	EN 16091[12]
xviii)	Oxidation stability (for diesel fuel having FAME content of above 2 percent *v/v*), hours, *Min*	20	EN 15751[8]
	Oxidation stability (for diesel fuel having FAME content of above 2 percent *v/v*), minutes, *Min*	60	EN 16091
xix)	Polycyclic Aromatic Hydrocarbon (PAH), percent by mass, *Max*	8	EN 12916[8]
xx)	Lubricity, wear scar diameter (wsd) at 60 °C, µm, *Max*	460	(Part 149)[8]
xxi)	FAME content[7], percent *v/v*, Max	7.0	Annex B[8]

4.2 And whereas on analysis of the parameters detailed in the Test Reports vis-a-vis the parameters stipulated in the BIS standards of IS 1460, it appears in accordance with the intelligence, that goods being imported under aforesaid Bills of appears to be mis-declared and following conclusion appears to flow from the analysis.

Table-III

Sr No	Bill of Entry No.	Quantity	Product description as per analysis of Test Report (CRCL+MRPL)
1	4923077 dated 05.10.2025	235980KGs	Automotive Diesel Fuel (ADF) conforming to Standards IS 1460:2025

4.3 As per Customs Tariff Act, it appears that the goods found as Automotive Diesel Fuel (ADF)) conforming to standard IS 1460:2025 are classifiable under CTH 27101944.The relevant descriptions of the above mentioned CTHs as per the Customs Tariff Act are as below:

HS CODE (1)	ITEM DESCRIPTION (2)	UNIT (3)	BASIC (4)	EFFECTIVE (5)	PRE. (6)	IGST (7)	SWS (8)	TOTAL (9)	POLICY (10)	REMARKS (11)
2710 19 43	---- Light diesel oil conforming to standard IS 15770	kg.	5.00	5.00	---	18.00	0.50	24.490	State Trading Enterprises	*Import as per Policy Condition (5) of Chapter 27*
2710 19 44	---- Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460	kg.	2.50	2.50	---	14% + Rs. 15 per litre	0.08		State Trading Enterprises	*Import as per Policy Condition (5) of Chapter 27 SWS - 3% by Ntfn 12/2018-Cus.*

Further, as per ITC(HS), 2022, Schedule 1: Import Policy, Section V: Mineral Products, Chapter 27: Mineral Fuels, Mineral Oils And Products Of Their Distillation; Bituminous Substances; Mineral Waxes: Goods falling under the description of "Automotive Diesel Fuel (ADF) conforming to standard IS 1460", the import policy makes the goods restricted by way of importation by State Trading Enterprises only by virtue of Policy Condition No. 5 which prescribes "Import allowed through IOC subject to para 2.21 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NGs Resolution No. P23015/1/2001-MKT. Dated 8.3.2002 including HPCL, BPCL and IBP who have been marketing transportation fuels before this date". The screenshots of the relevant extracts:

Sl.No.	Notes	Notification No.	Notification Date
1	Import of naphtha is free.		
2	Import of SKO shall be allowed through State Trading Enterprises (STEs) i.e. IOC, BPCL, HPCL and IBP for all purposes with STC being nominated as a State Trading Enterprise (STE) for supplies to Advance Licence holders. Advance Licence holders shall however, have the option to import SKO from the above mentioned STEs including STC		
3	Import is restricted in terms of Interim PIC Procedure of Rotterdam Convention on Prior Informed Consent procedure for hazardous chemicals and pesticides.		
4	Automobile industries, having RandD registration, are allowed to make free import of reference fuels (Petrol and Diesel) which are not manufactured in India, up to maximum of 5 KL per annum, subjects to the condition that the said imported reference fuels shall be used for RandD and emission testing purposes only		
5	Import allowed through IOC subject to para 2.21 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NGs Resolution No. P23015/1/2001-MKT. Dated 8.3.2002 including HPCL, BPCL and IBP who have been marketing transportation fuels before this date.	08/2023	29/05/2023
6	Import of pet coke for fuel purpose is prohibited. However, import of Pet coke of the following categories shall be permitted, subject to conditions : a. Import of Pet coke is free for cement, lime kiln, calcium carbide, gasification industries and graphite electrodo industries for use as feed stock or in the manufacturing process only on Actual User basis. b. Total import of 1.9 Million MTs of Raw Petroleum Coke(RPC) for manufacturing Calcined Petroleum Coke(CPC) and 0.5 Million MTs of CPC for Aluminium Industry respectively shall be permissible during 2024-25, and 1.9 Million MTs of RPC for manufacturing CPC Manufacturing and 0.8 Million MTs of CPC for Aluminium Industry respectively shall be permissible from 2025-26 onwards, subject to the following conditions: i. Import of RPC & CPC shall be permitted only as a feedstock / raw material and under no circumstances shall be used as fuel. ii.Import of RPC and CPC shall be permitted to cater entirely to the domestic needs of aluminium	27/2024-25	04/09/2024

5 Confiscation and Seizure:

5.1 As per the test results above, it is evident that the importer had imported restricted petroleum products, by mis-declaring the same as “Industrial oil”. The Custom Laboratory reports confirmed that the goods imported vide Bill of Entry No. 4923077 dated 05.10.2025 was in fact Automotive Diesel Fuel, which is restricted for import into India, and permissible only subject to Condition No. 5 of Chapter 27 of ITC(HS), 2022, Schedule 1 Import Policy issued by DGFT. Therefore, having a reasonable belief that the goods in **Table No-II** above, were liable to be confiscated under the provisions of the Section 111 of the Customs act, 1962, the same were placed under seizure as per the provisions of Section 110(1) of the Customs Act, 1962 vide seizure memo dated 15.11.2025**.**

6. During investigation, statements of following person were recorded under Section 108 of the Customs Act, 1962, which are briefly discussed herein-below:

6.1 Statement of Sh. Brijesh Kumar Singh, Son of Shri Ramanuj Singh, Aged 43 years (DOB: 18.06.1982), Proprietor of M/s. Skyline Global Traders was recorded on 13.03.2026, wherein he interalia stated that:

- On being asked about brief introduction of the firm, date of IEC and commencement of imports, he stated that his firm is a proprietorship concern engaged in import of Industrial Oil. He obtained IEC in the year 2024 and commenced import operations from July 2024.

- On being asked about my role in the firm, he stated that being the proprietor, he looks after all import operations and overall activities of the firm.

- On being asked about authorized signatory of the firm, he stated that he is the authorized signatory of the firm and no separate document evidencing the same is available.
- On being asked who places orders with overseas suppliers and mode of communication, he stated that he directly deals with foreign suppliers and communications are done through calls and WhatsApp.

- On being asked to produce order-related communications, he stated that he had submitted purchase order dated 17.09.2025 with the supplier for the consignment held by the department.

- On being asked about negotiation with overseas suppliers, he stated that he alone negotiates with suppliers, mainly through telephonic conversations.

- On being asked about supplier details of Bill of Entry No. 4923077 dated 05.10.2025, he stated that the supplier is M/s Emit International FZ-LLC, UAE. He came to know about the supplier through a friend and contacted Sh. Karan (owner) on mobile number +971504251901. He has have never visited the firm.

- On being asked about remittances and payment terms, he stated that he is responsible for payments and negotiations. 100% advance payment is made. He submitted SWIFT copy as proof of payment.

- On being asked about classification of imported goods, he stated that goods are classified as per Customs Tariff under CTH 27101990 as Industrial Oil.

- On being asked about usage of imported Industrial Oil, he stated that it is used for industrial purposes, mostly in furnaces, though he relies on buyer information as they are traders.

- On being confronted with IS standard (IS 11159) not mentioning such use, he stated that he is unable to comment as he relies on buyer's statements.

- On being asked about dealings with domestic buyers and advertisement, he stated that he personally handles buyer communication.

- On being asked about contracts with buyers, he stated that no formal contracts exist and transactions are done through telephonic communication.

- On being asked about major buyers, he stated that major buyers include:

  - M/s Shree Nath Petroleum Pvt. Ltd (Sh. Sandeep Singh – 7021290518)
  - M/s KGN Oil & Lubricants (Sh. Aneesh – 9217255555)
  - M/s Apex Petrochem Industries (Sh. Arun Solanki – 9848949999)

  All buyers are traders, and no formal agreements exist.

- On being asked about logistics arrangement, I state that transportation is managed by domestic buyers after taking delivery.

- On being asked about types of goods imported, he stated that only Base Oil and Industrial Oil have been imported till date.

- On being asked about specifications ordered, he stated that we specifically demand low flash point (~25°C), based on buyer requirements.

- On being asked difference between Base Oil and Industrial Oil, he stated that Base Oil is thicker; he does not have further technical knowledge.
- On being asked about requirement of low flash point, he stated that demand in market is for 20–25°C flash point, and higher flash point products become canalized items.

- On being asked to produce documents showing demand of low flash product, he stated that communications are verbal and no documentary evidence exists.

- On being asked for literature or specifications supporting low flash requirement, he stated that he understands that below 25°C it is treated as Industrial Oil, otherwise it may fall under diesel category.

- On being asked whether supplier manipulates parameters of diesel, he stated that he does not have knowledge about such manipulation and only know classification depends on flash point.

- On being confronted with CRCL test report findings, he stated that he has seen the report and acknowledge that the product resembles diesel. However, he placed order as per buyer demand of flash point below 25°C.

- On being asked whether he was aware goods fall under restricted diesel category, he stated that goods are tested at load port prior to shipment. He will provide load port test report.

- On being asked about presence during sampling, he stated that sampling was carried out in presence of authorized representative.

6.2 Further Statement of Sh. Brijesh Kumar Singh, Proprietor of M/s. Skyline Global Traders was recorded on 14.05.2026, wherein he interalia stated that:

- On being asked regarding MRPL Test Report No. MRPL/DRI/2026/09 dated 26.12.2025 in respect of Bill of Entry No. 4923077 dated 05.10.2025, wherein out of 11 parameters prescribed under IS 1460:2025, 09 parameters are met and only Sulphur and Flash Point are outside limits, he stated that he has seen the said test report and, in token of having seen the same, he put his dated signature on it. He admitted that the test report clearly establishes that apart from two parameters, i.e., Sulphur and flash point, the sample meets all the stringent parameters of Automotive Diesel Fuel as prescribed under IS 1460:2025.

- On being asked regarding the combined findings of CRCL Visakhapatnam and MRPL reports, which establish that the goods meet 19 out of 21 parameters of IS 1460:2025 and that deviation in flash point is due to presence of lighter hydrocarbons, and further being asked whether he was aware that the goods were diesel and consciously ensured deviation to bypass restrictions, he stated that he was not aware that the goods imported by him were diesel or any restricted commodity. He stated that he had placed the order strictly for Industrial Oil based on the Certificate of Analysis provided by the overseas supplier. However, he stated that as per the test reports of CRCL Visakhapatnam and MRPL, it is now established that the goods are Automotive Diesel Fuel, which appear to have been adulterated with lighter hydrocarbons to deviate certain parameters so as to fall outside IS standards. He further stated that they had not instructed or directed the supplier to add lighter hydrocarbons or to manipulate any parameters at any stage. The deviation in flash point and Sulphur, as observed in the test reports, pertains entirely to the supplier's end. The supplier has supplied/exported goods which are, in fact, Automotive Diesel Fuel (a restricted commodity), in place of the ordered Industrial Oil.

7 Hon'ble High Court of Gujarat at Ahmedabad order and judgement dated 09.03.2026 R/Special Civil Application No. 16799 of 2025 and allied matters:

7.1 During the course of investigation, the importer had filed **Special Civil Application 3491 of 2026** before the Hon'ble High Court of Gujarat at Ahmedabad, challenging the seizure memo and seeking provisional release of their consignment.

7.2 The observations of the Hon'ble High Court on the test reports issued by the Customs Laboratory, Visakhapatnam (CRCL) and Mangalore Refinery and Petrochemicals Limited (MRPL) are reproduced below:

"46. *Keeping in mind the aforesaid principles enunciated by the Supreme Court, we have attempted to distinguish the case of the petitioners for the following reasons.*

47. Significantly, in the Test Reports in the case of ***Gastrade International (supra),*** *the Apex Court has recorded that there was no opinion and finding expressed that the imported goods are "most akin" to HSD, which is not the issue in the Test Reports in question. In the first test report of CRCL, Visakhapatnam, out of 18 parameters tested, except for the parameters relating to flash point, distillation recovery and sulphur, the report categorically records that the sample is mainly composed of diesel fraction, is adulterated with lighter hydrocarbons, and is most "akin to HFHSD (IS 16861) / adulterated HFHSD". The diesel fraction is found to be between 95% to 98%). Thus, out of 21 parameters, the 18 parameters tested by CRCL, Visakhapatnam and MRPL, there is a clear opinion by the laboratory that the sample meets all characteristics of ADF and HFHSD, except the flash point, which is lowered by mixing lighter hydrocarbons. In this context, we may refer to the definition of 'adulteration' as supplied in the 'Malpractices Order,2005'. It reads thus:*

> *"2(a) "adulteration" means [presence of marker in motor spirit and high speed diesel and/or] [Inserted by Notification No. G.S.R. 18(E) dated 12.1.2007 (w.e.f. 21.12.2005).] the introduction of any foreign substance into motor spirit or high speed diesel illegally or unauthorisedly with the result that the product does not conform to the requirements of the Bureau of Indian Standards specifications number IS*

2796 and IS 1460 for motor spirit and high speed diesel respectively or any other requirement notified by the Central Government from time to time;"

Thus, any foreign substance, which is blended in high-speed diesel illegally or unauthorizedly, which ultimate results into failure of requirements of BIS specifications IS 1460 is an adulteration.

48. In the instant case, there is a definite conclusion that the flash point, which is one of the most important parameters as emphasized by the Supreme Court, has been lowered by the use of lighter hydrocarbons and the product is therefore characterized as adulterated HFHSD. No such clear and unambiguous opinion was rendered by any of the three laboratories in the case of ***Gastrade International(supra)*** *and also by the expert, who was examined during the inquiry."*

.

7.3 <u>Application of the "Most Akin Test" by the Hon'ble Gujarat High Court</u>:

"50. Thus, if the rule of the "most akin test" is applied, the product declared by the petitioners as industrial oil is found to be Automotive Diesel Fuel / HFHSD, which is a restricted commodity. Hence, in view of the settled legal position laid down in the cases of ***Om Prakash Bhatia (supra)*** *and* ***Raj Grow Impex (supra)****, we are not inclined to set aside the action of seizure of goods in question."*

7.4 <u>Observations of the Hon'ble Gujarat High Court on Testing Conducted at Different Laboratories:</u>

"Hence, even if there are two or more Test Reports from different laboratories, so long as they conform to the directions of the Supreme Court in the case of ***Gastrade International (supra)*** *and test the parameters prescribed under the relevant Indian Standards, such test results cannot be discarded merely because they were undertaken by different laboratories."*

7.5 <u>Emphasis by the Hon'ble Gujarat High Court on Environmental Impact</u>:

"53. The product imported by the petitioners, if released, will have a direct environmental impact affecting society at large. In such circumstances, having regard to the nature of the product, the Test Reports cannot be discarded merely because different parameters were tested in two different laboratories."

7.6 The High Court of Gujarat dismissed the SCA filed by the importer vide common oral judgment and order dated 09.03.2026, in R/Special Civil Application No. 16799 of 2025 and allied matters.

8. <u>Extension under Section 110(2) of the Customs Act, 1962</u>

Since the investigation could not be completed within the mandated six-month period, the competent authority granted a further extension of four months under Section 110(2) of the Customs Act, 1962, which was conveyed to the importer vide this office letter dated 06.04.2026**.**

9. Relevant Legal provisions:

9.1 The relevant portion of ITC(HS), 2022 Schedule 1 Import Policy Section V, MINERAL PRODUCTS Chapter 27 Mineral Fuels, Mineral Oils and Products Of Their Distillation; Bituminous Substances; Mineral Waxes is reproduced as under:

27101939	---	obtained from kerosene intermediate: ---- Aviation turbine fuels, kerosene type conforming to standard IS 1571	STE (State Trading Enterprise)	Import as per Policy Condition (5) of Chapter 27.
27101941	---	Gas oil and oils obtained from gas oil: ---- Gas oil	STE (State Trading Enterprise)	Import as per Policy Condition (5) of Chapter 27.
27101942	---	Gas oil and oils obtained from gas oil: ---- Vacuum gas oil	STE (State Trading Enterprise)	Import as per Policy Condition (5) of Chapter 27.
27101943	---	Gas oil and oils obtained from gas oil: ---- Light diesel oil conforming to standard IS 15770	STE (State Trading Enterprise)	Import as per Policy Condition (5) of Chapter 27.
27101944	---	Gas oil and oils obtained from gas oil: ---- Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460	STE (State Trading Enterprise)	Import as per Policy Condition (5) of Chapter 27.
27101949	---	Gas oil and oils obtained from gas oil: ---- High flash high speed diesel fuel conforming to standard IS 16861	STE (State Trading Enterprise)	Import as per Policy Condition (5) of Chapter 27.
27101951	---	Fuel oils conforming to standard IS 1593: ---- Grade LV	Free	

9.2 Further, Para 2.21 of the Foreign Trade Policy, 2023 reads as under:

"***2.21 State Trading Enterprises (STEs)***

(a) State Trading Enterprises (STEs) are governmental and non-governmental enterprises, including marketing boards, which deal with goods for export and /or import. Any good, import or export of which is governed through exclusive or special privilege granted to State Trading Enterprise (STE), may be imported or

exported by the concerned STE as per conditions specified in ITC (HS). The list of STEs notified by DGFT is in Appendix-2J.

(b) Such STE(s) shall make any such purchases or sales involving imports or exports solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale in a non-discriminatory manner and shall afford enterprises of other countries adequate opportunity, in accordance with customary business practices, to compete for participation in such purchases or sales.

*(c) DGFT may, however, grant an authorisation to any other entity to import or export any of the goods notified for exclusive trading through STEs.***"**

9.3 Further, Policy Condition of Chapter 27 of the Customs Tariff is reproduced as below:

"(5) Import allowed through IOC subject to Para 2.21 of the Foreign Trade Policy, except for companies who have been granted rights for marking of transportation fuels in terms of MoP&NG Resolution No. P-23015/1/2001-MKT dated 08.03.2022 for products excluding gasoline conforming to standard IS 2796 (ITC HS Code: 27101241) and Automotive Diesel Fuel, not containing Bio Diesel conforming to standard IS 1460 (ITC HS Code 27101944) which would be allowed to be imported by entities in terms of MoPNG Resolution No. P-12029(11)/2/2018-OMC-PNG dated 08.11.2019.

(B) RELEVANT PROVISIONS OF CUSTOMS ACT, 1962:

9.4 **Section 2(22):** *"goods" includes (a) vessels, aircrafts and vehicles; (b) stores; (c) baggage; (d) currency and negotiable instruments; and (e) any other kind of movable property;*

Section 2(23): *"import", with its grammatical variations and cognate expressions, means bringing into India from a place outside India;*

Section 2(25): *"imported goods", means any goods brought into India from a place outside India but does not include goods which have been cleared for home consumption;*

Section 2(26): *"importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes [any owner, beneficial owner] or any person holding himself out to be the importer;*

Section 2(39): *"smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113.*

Section 11A: *"illegal import" means the import of any goods in contravention of the provisions of this Act or any other law for the time being in force.*

9.5 Section 17 Assessment of duty:

(1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.

..

(4) Where it is found on verification, examination or testing of the goods or otherwise that the self-assessment is not done correctly, the proper officer may, without prejudice to any other action which may be taken under this Act, re-assess the duty leviable on such goods.

9.6 Section 46 Entry of goods on importation:

(4) *The importer while presenting a bill of entry shall make and subscribe to a declaration as to the truth of the contents of such bill of entry and shall, in support of such declaration, produce to the proper officer the invoice, if any, relating to the imported goods.*

(4A) *the importer who presents a bill of entry shall ensure the following, namely:*

(a) The accuracy and completeness of the information given therein;

(b) The authenticity and validity of any document supporting it; and

(c) Compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force.

9.7 Section 111. Confiscation of improperly imported goods, etc.:

The following goods brought from a place outside India shall be liable to confiscation:-

*--**(d)** any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;*

(m) *any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77 in respect thereof, or in the case of goods under transhipment, with the declaration for transhipment referred to in the proviso to sub-section (1) of section 54;*

Section 112 Penalty for improper importation of goods, etc.:

Any person,-

a. *who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or*

b. who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,

shall be liable,-

i. *in the case of goods in respect of which any prohibition is in force under this Act or any other law for the time being in force, to a penalty 5 [not exceeding the value of the goods or five thousand rupees], whichever is the greater;*

ii. *in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penaltyot exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever n is higher:*

Section 114AA Penalty for use of false and incorrect material:

If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

(C) Relevant Provisions of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007:

"*Rule 4. Transaction value of identical goods.* - *(1) (a) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of identical goods sold for export to India and imported at or about the same time as the goods being valued;*

……..

(3) In applying this rule, if more than one transaction value of identical goods is found, the lowest such value shall be used to determine the value of imported goods.

"Rule 5. Transaction value of similar goods . *- (1) Subject to the provisions of rule 3, the value of imported goods shall be the transaction value of similar goods sold for export to India and imported at or about the same time as the goods being valued:*

Provided that ……..

(2) The provisions of clauses (b) and (c) of sub-rule (1), sub-rule (2) and sub-rule (3), of rule 4 shall, mutatis mutandis, also apply in respect of similar goods.

Rule 7 of the CVR, 2007, stipulates that:-

(1) Subject to the provisions of rule 3, if the goods being valued or identical or similar imported goods are sold in India, in the condition as imported at or about the time at which the declaration for determination of value is presented, the value of imported goods shall be based on the unit price at which the imported goods or identical or similar imported goods are sold in the greatest aggregate quantity to persons who are not related to the sellers in India, subject to the following deductions : -

(i) either the commission usually paid or agreed to be paid or the additions usually made for profits and general expenses in connection with sales in India of imported goods of the same class or kind;

(ii) the usual costs of transport and insurance and associated costs incurred within India;

(iii) the customs duties and other taxes payable in India by reason of importation or sale of the goods.

(2) If neither the imported goods nor identical nor similar imported goods are sold at or about the same time of importation of the goods being valued, the value of imported goods shall, subject otherwise to the provisions of sub-rule (1), be based on the unit price at which the imported goods or identical or similar imported goods are sold in India, at the earliest date after importation but before the expiry of ninety days after such importation.

(3) (a) If neither the imported goods nor identical nor similar imported goods are sold in India in the condition as imported, then, the value shall be based on the unit price at which the imported goods, after further processing, are sold in the greatest aggregate quantity to persons who are not related to the seller in India.

(b) In such determination, due allowance shall be made for the value added by processing and the deductions provided for in items (i) to (iii) of sub-rule (1).

Rule 8 of the CVR, 2007, stipulates that:-

Subject to the provisions of rule 3, the value of imported goods shall be based on a computed value, which shall consist of the sum of:-

(a) the cost or value of materials and fabrication or other processing employed in producing the imported goods;

(b) an amount for profit and general expenses equal to that usually reflected in sales of goods of the same class or kind as the goods being valued which are made by producers in the country of exportation for export to India;

(c) the cost or value of all other expenses under sub-rule (2) of rule 10.

Rule 9 of the CVR, 2007, stipulates that:-

(1) Subject to the provisions of rule 3, where the value of imported goods cannot be determined under the provisions of any of the preceding rules, the value shall be determined using reasonable means consistent with the principles and general provisions of these rules and on the basis of data available in India;

Provided that the value so determined shall not exceed the price at which such or like goods are ordinarily sold or offered for sale for delivery at the time and place of importation in the course of international trade, when the seller or buyer has no interest in the business of other and price is the sole consideration for the sale or offer for sale.

(2) No value shall be determined under the provisions of" this rule on the basis of –

(i) the selling price in India of the goods produced in India;

(ii) a system which provides for the acceptance for customs purposes of the highest of the two alternative values;

(iii) the price of the goods on the domestic market of the country of exportation; (iv) the cost of production other than computed values which have been determined for identical or similar goods in accordance with the provisions of rule 8;

(v) the price of the goods for the export to a country other than India;

(vi) minimum customs values; or

(vii) arbitrary or fictitious values.

***Rule 12. Rejection of declared value** . - (1) When the proper officer has reason to doubt the truth or accuracy of the value declared in relation to any imported goods, he may ask the importer of such goods to furnish further information including documents or other evidence and if, after receiving such further information, or in the absence of a response of such importer, the proper officer still has reasonable doubt about the truth or accuracy of the value so declared, it shall be deemed that the transaction value of such imported goods cannot be determined under the provisions of sub-rule (1) of rule 3.*

10. <u>Valuation:</u>

10.1 From the foregoing paras, it is evident that M/s. Skyline Global Traders was involved in mis-declaration of goods in terms of description and classification and the declared value in the corresponding Bill of Entry appears to be not acceptable as true transaction value and merits rejection in terms of Section 14 of Customs Act, 1962 read with Rule 12 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. The value is required to be re-determined by sequentially proceeding in terms of Rules 4 to 9 of Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Since exact comparative data in respect of the import goods covered under the subject consignment are not available in absence of clear descriptions and mis-declaration on the part of the importer, the value of the subject import consignments cannot be determined as per the provisions of Rule 4 to Rule 8 to the Customs Valuation (Determination of value of Imported goods) Rules, 2007. Since the goods cannot be fully compared with similar/identical imports as the same are restricted goods, their value appears to be determinable under Rule 9 (Residual method) of the Customs Valuation (Determination of Value of Imported

Goods) Rules, 2007 read with sub-section (1) of Section 14 of Customs Act, 1962 and on the basis of objective and quantifiable data available in India. For valuation of the seized goods-ADF, the prevailing market rates of the goods in the 1st week of October-2025 were taken, such as invoices generated by Nayara Energy Limited, ADF-**Rs 52,541.75/KL**. Accordingly, in terms of Rule 9 of the Customs Valuation Rules, 2007, the same value can be adopted for the offending goods in this case.

10.2 Further, import of "**Automotive Diesel Fuel *(ADF) as per IS 1460:2025***", is restricted into India, and the same can only be imported subject to Policy Condition No. 5 of Chapter 27 of Customs Tariff, which stipulates that only '*import is allowed through IOC subject to para 2.21 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NGs Resolution No. P23015/1/2001-MKT. Dated 8.3.2002*' to import the same. It therefore appears that said importer mis-declared restricted goods i.e. "**Automotive Diesel Fuel *(ADF) as per IS 1460:2025***" as "Industrial Oil" in the consignment.

10.3 As discussed above, the consignment covered under Bill of Entry No. 4923077 dated 05.10.2025 was reported as "***Automotive Diesel Fuel (ADF) as per IS 1460:2025***" by the Custom Laboratory, Vishakhapatnam and MRPL.The outcome of the test reports indicate that the invoice value declared by the importer does not reflect the actual value of the goods. Since the goods were mis-declared in the Bill of Entry, the declared assessable value of Rs **97,35,254/-** in Bill of Entry cannot be accepted as the true "transaction value" under Section 14 of the Customs Act, 1962, and is liable to rejection under Rule 12 of the CVR, 2007.

10.4 Accordingly, for valuation purpose, to arrive at a fair and reasonable value within the framework of law and procedures under the Valuation Rules, the ADF data dated 01.10.2025 of the Nayara Energy Limited was referred. The base price was noted as **Rs 52,541.75/KL**. Based on this, the re-determined value of the consignment of "***Automotive Diesel Fuel (ADF) as per IS 1460:2025***", having a total quantity of **2,35,980** KGs equivalent to 285.206 KL (using average density

of 0.8274 g/ml as reported by Custom House Laboratory, Visakhapatnam), is **Rs. 1,49,85,258/-**, in terms of provisions of Rule 9 of the CVR, 2007.

Thus, the value of the goods, as per the test reports of the Custom Laboratory and MRPL, is determined accordingly, are as below:

Table-IV

Sl. No.	Bill of Entry No.	Sample Test Result	Declared Description	Quantity (in KGs)	Declared value as per BoE	Approx. Market Value (in Rs.)
01.	4923077	Automotive Diesel Fuel (ADF)	Industrial Oil	235980	97,35,254/-	1,49,85,258/-
Total					**97,35,254/-**	**1,49,85,258/-**

Therefore, the said goods having declared value of Rs. **97,35,254/-** and re-determined value of Rs. **1,49,85,258/-** as per Table-IV, appear to be liable for confiscation under Section 111(d) and 111 (m) of the Customs Act, 1962.

11. Findings of the investigation:

11.1 Specific intelligence gathered by the Directorate of Revenue Intelligence indicated that M/s. Skyline Global Traders was indulged in import of restricted goods through mis-declaration. The importer had declared the consignment as Industrial Oil, whereas examination and sampling carried out by the DRI revealed otherwise. The representative samples drawn in respect of Bill of Entry No. 4923077 dated 05.10.2025 were forwarded to the Custom House Laboratory, Visakhapatnam which confirmed that the goods met all characterstics parameters of Automotive Diesel Fuel (ADF) under IS 1460:2025.

To ensure comprehensive testing of all parameters mandated by the Hon'ble Supreme Court in ***Gastrade International v. Commissioner of Customs, Kandla***, additional samples were sent to Mangalore Refinery and Petrochemicals Limited (MRPL). The combined reports from CRCL and MRPL conclusively established that the imported goods were in fact Automotive Diesel Fuel conforming to IS 1460, and not Industrial Oil as declared.

11.2 The sample Test report (CRCL Visakhapatnam, Lab No. 127-DRI, Test Memo No. 421/2025) in respect of Bill of Entry No. 4923077 dated 05.10.2025 is reproduced below:

TEST REPORT

Lab No: 127-DRI **Date:** 11.11.2025
F.No.DRI/GRU/Int-26/2025 **Date:** 22.10.2025
Test Memo No: 421/2025 **Date:**16.10.2025
B.E. No: 4923077 **Date:** 05.10.2025
Sample Received from: Senior Intelligence officer, (DRI), Gandhidham Regional Unit.
Description of Sample: Industrial Oil (CTH 27101990)
Date of Receipt: 22.10.2025
Sample Plan: Sample not Drawn by this laboratory
Report: The sample is in the form of pale yellow coloured oily liquid. It is mainly composed of Mineral Hydrocarbon Oils having mineral oil content more than 70 % by weight. It is having following characteristics:

1.	Appearance	= clear & bright, free from sediments, suspended matter & undissolved water
2.	Total Acid Number (mgof KOH/gr)	= Less than 0.20% by wt.
3.	Ash content	= Nil
4.	Carbon residue on 10% Residue	= Less than 0.30% by wt.
5.	Cetane Number	= To be done at Refinery end.
6.	Cetane Index	= 60.3
7.	Pour Point	= below 3^0C.
8.	Flash Point(Abel), deg. C	= 23.0 ^{0}C
9.	Density at 15^0 C	= 0.8274 g/ml
10.	Kinematic viscosity at 40^0 C	= 3.07 cSt.
11.	Sulphur Content	= 4.63 ppm.
12.	Distillation: IBP	= 105.6^{0}C
	50% distilled at, ^{0}C	= 295.5^{0}C
	85% Recovery by vol., at ^{0}C	=339.3^{0}C
	%Volume recovered at 360 deg. C	= 94% by vol.
	95% Recovery by vol., at ^{0}C	= 362.8^{0}C
13.	Cold Filter Plugging Point	= Facilility available at Refinery end only
14.	Oxidation stability	= To be done at refinery end only.
15.	Lubricity wear scan at 60° C	= Facility available at Refinery end only
16.	Fame Content	= Absent
17.	PAH % by max	= not determined as it is not an characteristic parameter.
18.	Water	= Less than 200 PPM.

The sample has been tested for all the characteristics parameters tested above & which are stringent parameters also to characterize petroleum fuels.

The sample meets all the stringent parameter of Automotive diesel fuel as mentioned in IS:1460:2025 except flash point (which is 12°C Lower than required (decreased by means of using Lighter hydrocarbon) and distillation recovery at 360^{0}C (which is 94% & 1% less than 95%)

The GCMS pattern of sample shows presence of lighter hydro carbons, which can not a part of Diesel fuels, as per standard refinery protocol & classification of petroleum fuels. Minor deviation from the required values of above 02 parameters, does not effects its application as diesel fuel for Automotive purpose.

The sample is adulterated diesel in respect of the definition of "adulteration" as mentioned in 5.1 of marketing discipline guideline published by PSU's.

There is no specification available for industrial oil in National & International standards.

The sample also meets the specification of HFHSD (IS 16861) up to the extent of parameter tested above except, flash point which was lowered by using lighter hydrocarbons.

Sealed remnant sample returned herewith.

The above test reports in respect of Bill of Entry No. 4923077 dated 05.10.2025 clearly establish, as the intelligence had suggested, that the importer

had in fact imported restricted goods, namely Automotive Diesel Fuel (ADF), conforming to the parameters and specifications of **IS 1460.**

11.2.1 As per Schedule 1 Import Policy under ITC(HS), 2022 for Chapter-27 (Mineral Fuels, Mineral Oils, etc.), import of "***Automotive Diesel Fuel (ADF) as per IS 1460***" covered under CTH 27101944, is restricted into India, and the same can only be imported subject to Policy Condition No. 5 of Chapter 27. Accordingly, there being a reasonable belief that that the said goods are liable for confiscation under the provisions of Section 111 of the Customs Act, the same were placed under seizure under Section 110 of the Customs Act, 1962,

11.3 During the investigation, DRI ensured that all 21 parameters under IS 1460 were tested, as mandated by the Hon'ble Supreme Court in ***Gastrade International v. Commissioner of Customs, Kandla.***

On analyzing the comprehensive test reports of CRCL, Visakhapatnam and MRPL, a combined parameter-wise assessment was carried out for both consignments against all 21 parameters prescribed under IS 1460:2025 for Automotive Diesel Fuel. The consolidated findings are summarised in the Table below:

Table-V:

Combined Parameter-wise Summary of Test Reports (CRCL + MRPL) vs. IS 1460:2025

Sr. No.	Parameter	IS 1460:2025 Limit	B.E. No. 4923077 (Result / Match) with IS 1460:2025	Remarks
1	Flash Point (°C)	Min. 35°C	~20°C / NOT MATCHING	Deliberately Lowered by addition of lighter hydrocarbons
2	Sulphur Content (ppm)	Max. 10 ppm	37 ppm (MRPL) / NOT MATCHING	Addition of Sulphur/not undergone Desulfurization

Sr. No.	Parameter	IS 1460:2025 Limit	B.E. No. 4923077 (Result / Match) with IS 1460:2025	Remarks
3	Lubricity	Max. 460	430 / MATCHING	Within range
4	Appearance (Visual)	Clear, bright, free from sediments, suspended matter & undissolved water	Clear & bright, free from sediments	Within range
5	Total Acid Number (mg KOH/g)	Max. 0.20	Less than 0.20% by wt	Within range
6	Ash Content (% by mass)	Max. 0.01	Nil	Within range
7	Carbon Residue on 10% Residue (% by mass)	Max. 0.30	Less than 0.30% by wt.	Within range
8	Cetane Number	Min. 51	56.8	Within range
9	Cetane Index	Min. 46	60.3	Within range
10	Pour Point (°C)	Max. +3°C (Winter)	-12°C	Within range
11	Copper Strip Corrosion (3h at 50°C)	Max. Class 1	Class 1	Within range
12	Distillation, 95% v/v Recovery (°C)	Max. 360°C	350°C	Within range
13	Kinematic Viscosity @40°C (mm^2/s)	2.0 – 4.5	3.07 cSt	Within range
14	Total Contamination (mg/kg)	Max. 24	12	Within range
15	Density @15°C (kg/m^3)	810 – 845	827.4	Within range
16	Water Content (mg/kg)	Max. 200	Less than 200 PPM	Within range
17	Cold Filter Plugging Point (CFPP) (°C)	Max. +6°C (Winter)	-6°C	Within range
18	Oxidation Stability (min)	Min. 60 min	>60 min	Within range

Sr. No.	Parameter	IS 1460:2025 Limit	B.E. No. 4923077 (Result / Match) with IS 1460:2025	Remarks
19	Polycyclic Aromatic Hydrocarbon (PAH) (% by mass)	Max. 8.0	0.73	Within range
20	FAME Content (% v/v)	Max. 7	Absent	Within range
21	Oxidation Stability (with FAME above/below 2%)	Required only if blended with biodiesel	Not applicable – FAME absent / Within range	Within range
TOTAL	**21 Parameters tested**	**—**	**19/21 Matching;**	**19/21 parameters found meeting**

11.4 The Flash Point of the imported goods was found to be less than 20°C (MRPL) / 23°C (CRCL) against the mandatory minimum of 35°C under IS 1460 for B.E. No. 4923077. The Custom House Laboratory, Visakhapatnam categorically concluded that the flash point was decreased by the adulteration of lighter hydrocarbons. This finding was explicitly upheld by the Hon'ble Gujarat High Court in its judgment dated 09.03.2026 on the Special Civil Application No. 3491 of 2026 filed by the Importer. The Hon'ble High court categorically recorded the following finding:

"*Thus, out of 21 parameters, the 18 parameters tested by CRCL, Visakhapatnam and MRPL, there is a clear opinion by the laboratory that the sample meets all characteristics of ADF, except the flash point, which is lowered by mixing lighter hydrocarbons*."

The intentional lowering of the flash point is a clear indicator of adulteration, undertaken to pass off Automotive Diesel Fuel. The combined reports from CRCL and MRPL conclusively established that the imported goods were in fact Automotive Diesel Fuel conforming to IS 1460:2025 and not Industrial Oil as declared.

11.4.1 Sulphur Content and BS-VI (Euro VI) Standards: The sulphur parameter is a critical quality and environmental compliance marker for diesel fuel. It may be noted that in Automotive diesel, sulphur parameters are quality parameters only and their focus is on reducing emissions, as required by latest emission standards (BS-VI/Euro V-VI) requiring Ultra-Low Sulphur Diesel (ULSD) at less than 10 ppm ,introduced through e-Gazette Notification dated 16.09.2016 (Central Motor Vehicles (11th Amendment) Rules, 2016),issued by Ministry of Road Transport and Highways . This limit is designed to significantly reduce Sulphur Dioxide (SO2) and particulate emissions from vehicles, thereby safeguarding public health and meeting India's environmental commitments. The reduction of sulphur to these levels ordinarily requires a process known as Desulfurization (generally through hydro-desulfurization). In the present case, the sulphur content of the imported goods was found to be 37 ppm for against the maximum permissible 10 ppm under IS 1460:2025. In the instant case, since lab reports have pointed out towards adulteration of diesel to make it fall out of IS standard parameters, the deviation of the said parameters by way of adulteration with Sulphur and lower hydrocarbons is expected to lead to these specious results in the aforesaid reports.

11.4.2 In this regard, it is pertinent to refer to the definition of "adulteration" as contained in Section 2(a) of the Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005 (hereinafter referred to as the "Malpractices Order, 2005"), issued by the Government of India in exercise of powers conferred by Section 3 of the Essential Commodities Act, 1955. The said provision defines "adulteration" as follows:

> *"2(a) 'adulteration' means [presence of marker in motor spirit and high speed diesel and/or] the introduction of any foreign substance into motor spirit or high speed diesel illegally or unauthorizedly with the result that the product does not conform to the requirements of the Bureau of Indian Standards specifications number IS 2796 and IS 1460 for motor spirit and high speed*

diesel respectively or any other requirement notified by the Central Government from time to time;

"

Thus, in terms of the aforesaid statutory definition, any introduction of a foreign substance into high speed diesel, illegally or without authorisation, which results in the product failing to conform to the BIS specification IS 1460, constitutes adulteration. The Hon'ble Gujarat High Court in its judgment dated 09.03.2026 expressly applied this definition and held that the lowering of the flash point through mixing of lighter hydrocarbons constituted adulteration of HFHSD within the meaning of Section 2(a) of the Malpractices Order, 2005.

11.4.3 In sum, viewed collectively, the deviations in sulphur content alongside the more pronounced deviation in flash point are not independent anomalies but form a coherent pattern consistent with deliberate adulteration of Automotive Diesel Fuel. The selective parameter deviations serve only to confirm that an otherwise conforming diesel product was manipulated with lighter hydrocarbons and other substances, with the deliberate design to render it non-compliant with IS 1460 specifications, so as to facilitate its illegal import as "Industrial Oil."

11.5 From the above, it is evident that the importation made by the importer is in violation of the Import Policy pertaining to CTH 27101944 and thereby it is in violation of Para 2.01 and 2.21 of the Foreign Trade Policy 2023 as extended. As per Para 2.01 of the FTP, the imports shall be free, except when regulated by way of prohibition, restriction or exclusive trading through State Trading Enterprises (STEs) as laid down in the Indian Trade Classification (Harmonized System) [ITC (HS)] of Exports and Imports. Looking to the aforesaid facts, since the goods falling under HS Code 27101944 not being freely importable, the same would fall in the exceptional character with importation through the STEs only. As per Para 2.21 of the FTP, any goods, import of which is governed through exclusive or special privilege granted to the STEs, may be imported by the concerned STEs as per the condition specified in the ITC (HS). DGFT has however been given authority to grant an authorization to any other person to import the goods notified for exclusive trading through the STEs.

11.5.1 As per Para 11.41 of the FTP,2023, "Prohibited" indicates the import/export policy of an item, as appearing in ITC (HS) or elsewhere, whose import or export is not permitted. In the instant case, since the import of ADF classifiable under CTH 27101944 is not permitted by the entities other than STEs, the import of said goods by the private entities is prohibited.

11.5.2 As per Section 3 (2) of the FTDR Act, 1992 empowers the Central Government to issue order, making provisions for prohibiting, restricting or otherwise regulating, the import of goods. As per Section 3(3) of the FTDR Act, 1992, all goods to which the order under Section 3(2) applies shall be deemed to be goods the imports of which has been prohibited under Section 11 of the Customs Act, 1962 and all the provisions of that Act shall have effect accordingly.

11.6 And whereas the provisions of Section 17(1) of the Customs Act, 1962 read with Section 2(2) of the Customs Act lay down onus on the importer to determine duty, classification etc. by way of self-assessment. The importer, at the time of self-assessment, is required to ensure that he declares the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry. By furnishing incorrect and wrong information in the import documents, it appears that the importer has violated the provisions of the said Section 17(1) read with Section 2(2) of the Customs Act, 1962.

11.7 And whereas in terms of Section 46(4) of the Customs Act, 1962, the importer has to certify the truth of the contents of the Bill of Entry. Further, in terms of Section 46(4A) of the Customs Act, 1962, the importer who presents a bill of entry shall ensure the accuracy and completeness of the information given therein; shall ensure the authenticity and validity of any document supporting it; and shall ensure compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force. In the instant case it appears that the importer was fully aware of the actual goods imported by them. Thus, in view of the facts discussed in the foregoing paras and

material evidences available on records, it appears that M/s Skyline Global Traders has contravened the provisions of Section 46(4) and 46(4A) of the Customs Act, 1962, in as much as they had intentionally mis-declared the description of the goods imported by them with a malafide intention to import restricted goods under the garb and guise of freely importable goods.

12 Role and Culpability:

12.1 Role played by M/s. Skyline Global Traders (IEC: BYFPS5904R), located at F-03, BLOCK S-7/1, SITE 4, Greater Noida-201310:

From the facts narrated in foregoing paras and evidences gathered during investigation, it appears that M/s. Skyline Global Traders, Greater Noida imported consignment covered under 4923077 dated 05.10.2025 filed at Mundra, by mis-declaring the import goods as "Industrial Oil" classified under CTH 27101990. The investigation conducted by DRI revealed that the actual goods were "***Automotive Diesel Fuel (ADF) as per IS 1460***", which is a '***Restricted***' commodity permitted for import only into India under Policy Condition No. 5 of the Customs Tariff. The inquiry further established that the importer deliberately adulterated the goods by mixing lighter hydrocarbons in order to manipulate certain parameters, thereby attempting to disguise the restricted product as Industrial Oil. This act of mis-declaration and adulteration was intended to circumvent import restrictions and facilitate the clearance of restricted goods for sale in the domestic market.Therefore, it appears that M/s. Skyline Global Traders, by filing incorrect declarations and failing to ensure proper classification of the goods, knowingly violated the provisions of Section 17(1), Section 46(4) and 46(4A) of the Customs Act, 1962 by deliberately mis-declaring and mis-classifying the imported goods with intent to import restricted goods under the garb of freely importable goods, thereby contravening the import restrictions prescribed under the Foreign Trade Policy and rendering the goods liable to confiscation under Section 111(d) and 111(m) of the Customs Act, 1962. Therefore, M/s Skyline Global Traders have made themselves liable for penalty under Section 112(a) and 112(b) of the Customs Act, 1962. Furthermore, M/s Skyline Global Traders have deliberately filed false and incorrect documents with the Customs Authorities, suppressing the actual nature of the goods, in order to

import restricted goods, M/s Skyline Global Traders are also liable for penalty under Section 114AA of the Customs Act, 1962.

13. Accordingly, M/s. Skyline Global Traders (IEC: BYFPS5904R), located at F-03, BLOCK S-7/1, SITE 4, Greater Noida-201310' were hereby called upon to Show cause in writing to **the Additional Commissioner of Customs, Customs House, Mundra**, having office situated at office of the Pr. Commissioner of Customs, 5B, Port User Building, Adani Ports & SEZ, Mundra, Kutch, Gujarat – 370421 within 30 (thirty) days from the date of receipt of this notice, as to why:-

(i) The classification of goods covered under Bill of Entry No. 4923077 dated 05.10.2025 filed at Mundra Port, declared as 'Industrial Oil', under CTH 27101990, should not be rejected and the same should not be re-classified as 'Automotive Diesel Fuel (ADF) as per IS 1460:2025' under CTH 27101944;

(ii) The declared value of the said goods declared as 'Industrial Oil', as **Rs. 97,35,254/-**) should not be rejected in terms of Rule 12 of the CVR, 2007 and the same should not be re-determined as **Rs 1,49,85,258/- (Rupees One Crore Forty-Nine Lakh Eighty-Five Thousand Two Hundred Fifty-Eight Only),** as discussed in foregoing para;

(iii) The goods declared as 'Industrial Oil', under the Bill of Entry No. 4923077 dated 05.10.2025 filed at Mundra Port having re-determined value of Rs **1,49,85,258**/-**(Rupees One Crore Forty-Nine Lakh Eighty-Five Thousand Two Hundred Fifty-Eight Only), as** discussed in Table-IV, should not be held liable for confiscation under Section 111(d) and 111(m) of the Customs Act, 1962.

(iv) Penalty should not be imposed upon the importer under Sections 112(a), 112(b), and114AA of the Customs Act, 1962, separately.

WRITTEN SUBMISSION

14. M/s. Skyline Global Traders (IEC: BYFPS5904R) vide their written submissions dated 22.06.2026, submitted their written reply to the Show Cause Notice No. 76/2026-27/ADC/ZDC/MCH dated 04.06.2026. Additionally, an Application for Re-Export dated 01.04.2026 was filed by the Noticee before this authority, pursuant to the directions of the Hon'ble High Court of Gujarat in SCA

No. 3491 of 2026. The substance of the submissions made by the Noticee, ground-wise, is as follows:

A. On the Test Reports being Inconclusive:

A.1 The Noticee submitted that the test reports issued by CRCL Visakhapatnam (Lab Nos. 116-DRI to 127-DRI, dated 06.11.2025 to 11.11.2025) are inconclusive and legally insufficient to sustain classification of the subject goods as Automotive Diesel Fuel (ADF). Out of 21 parameters prescribed under IS 1460:2025, CRCL Visakhapatnam tested only 17 parameters, leaving 4 parameters — Cetane Number, Cold Filter Plugging Point (CFPP), Oxidation Stability, and Lubricity (wear scar diameter) — untested, with the remark that the said parameters are relevant at the "refinery end". Even among the 17 parameters tested, 3 parameters failed to conform to IS 1460:2025: (i) Flash Point — found at 11°C as against the minimum required 35°C; (ii) Sulphur content — found to exceed the maximum permissible limit of 10 ppm; and (iii) Distillation Recovery at 360°C — found at 94% as against the minimum required 95%. The Noticee submitted that since not all parameters prescribed under IS 1460:2025 have been tested, and 3 of those tested are non-conforming, the test reports are inconclusive and cannot form the basis of confiscatory proceedings. Reliance was placed on Commr. of Cus. v. Magus Metals Pvt. Ltd. [2017 (355) ELT 323 (SC)] to the effect that inconclusive test reports cannot be relied upon to support adverse classification.

A.2 The Noticee further submitted that the MRPL Test Report No. MRPL/DRI/2026/09 dated 26.12.2025 is also inconclusive. Out of 11 parameters tested by MRPL, 2 parameters — Flash Point (found below 20°C as against the minimum 35°C) and Sulphur content (found at 37 ppm as against the maximum permissible 10 ppm) — were found non-conforming. The Noticee submitted that even combining the CRCL and MRPL reports, the test results do not conclusively establish that all 21 mandatory parameters of IS 1460:2025 are satisfied; to the contrary, they establish non-conformity on critical parameters. The language employed in the reports ("most akin", "meets … except") is inherently qualified and approximative, and not a categorical declaration that the

goods are ADF. On this ground, the MRPL report also cannot be treated as establishing the case of the Department.

A.3 The Noticee challenged the authority of the Customs Department to rely upon the MRPL Test Report on the additional ground that MRPL is not a laboratory designated or notified under the Customs Act, 1962 for testing petroleum products. Referring to CBIC Circular No. 43/2017-Cus. dated 16.11.2017 and Circular No. 15/2019-Cus. dated 07.06.2019, the Noticee submitted that after the issuance of Circular No. 15/2019-Cus., Customs authorities are required to first send samples to their own revenue laboratory; and only if the revenue laboratory lacks testing facilities, they may send samples to specified outside laboratories — which are exclusively IOCL/HPCL/BPCL at Mumbai, Chennai, Kochi, Visakhapatnam, Kolkata and Kandla. MRPL does not figure in either of these Circulars and has not been notified as an outside laboratory for Customs testing purposes. The Noticee submitted that the said Circulars are binding on the Department and cannot be departed from, placing reliance on Paper Products Ltd. v. Commissioner of Central Excise [1999 (8) TMI 70 (SC)].

A.4 The Noticee additionally submitted that MRPL is a laboratory listed under Schedule III of the Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005 issued under the Essential Commodities Act, 1955 — a statute governing the domestic marketing chain of petroleum products — which is not applicable to importers or to Customs classification proceedings under the Customs Act, 1962.

A.5 The Noticee further submitted that the MRPL report suffers from inordinate and unexplained delay. The goods were imported in October 2025, samples were drawn under Panchnama dated 13/14.10.2025, the samples were forwarded to MRPL only vide Test Memo No. 835/2025 dated 03.12.2025, and the MRPL report is dated 26.12.2025 — nearly two months after sampling and over two and a half months after importation. The Noticee submitted that the Motor Spirit and High Speed Diesel Order, 2005 prescribes mandatory statutory timelines — forwarding of samples within 10 days of seizure; laboratory report within 20 days of receipt; communication to the party within 5 days — which have been violated

in this case. Such non-compliance, the Noticee submitted, undermines the reliability and credibility of the MRPL report and vitiates reliance on it. Reliance was placed on Venkatesan @ Venkatesh v. State [Crl.O.P. Nos. 17889 of 2021, Order dated 06.01.2023 (Madras HC)], wherein non-compliance with prescribed timelines for forwarding samples and obtaining laboratory analysis was held to vitiate the proceedings in their entirety.

A.6 The Noticee further submitted that the conclusions of Shri Pradeep Maroo, the officer who tested the samples at CRCL Visakhapatnam, are demonstrably inconsistent with his conclusions in other cases involving goods of an identical nature, where similar non-conformities were observed but a different finding on classification was recorded. The Noticee submitted that such contradictory conclusions on materially identical facts undermine the credibility of the CRCL report.

A.7 The Noticee also submitted that the Hon'ble Gujarat High Court in its judgment dated 09.03.2026 (in SCA No. 16799 of 2025 and connected matters) did not give any specific finding on the conclusiveness of the test reports or on the submissions of the importers regarding the same, and therefore the said judgment on this aspect amounts to a decision sub silentio which cannot be treated as a binding precedent. Reliance was placed on Collector of Central Excise, Rajkot v. Surgichem [1987 (27) ELT 548] and Collector of Central Excise, Meerut v. Maruthi Foam (P) Ltd. [1996 (85) ELT 157].

B. On the Allegation of Deliberate Adulteration:

B.1 The Noticee submitted that the allegation in the SCN that the imported cargo was deliberately adulterated or blended with lighter hydrocarbons and/or sulphur-bearing compounds so as to manipulate flash point, distillation characteristics, sulphur content, cetane number and/or lubricity is wholly misconceived, speculative, and unsupported by any legally admissible evidence. Neither CRCL Visakhapatnam nor MRPL has identified the precise composition, source, quantity or nature of any alleged adulterant. The reports contain only inferential and presumptive observations that the flash point "appears" to have been lowered by lighter hydrocarbons, without any scientific test to identify the

foreign substance, the stage at which it was introduced, or the person responsible for its introduction.

B.2 The Noticee submitted that there is no evidence whatsoever that: (i) the imported goods were originally Automotive Diesel Fuel; (ii) any foreign substance was added by the Noticee; (iii) any blending activity was undertaken by the Noticee; or (iv) the Noticee had knowledge of any alleged adulteration. The Noticee ordered Industrial Oil from the overseas supplier M/s Emit International FZ-LLC, UAE, and the supplier certified the goods as Industrial Oil in the commercial invoice, packing list, Certificate of Origin and Certificate of Analysis. The Noticee had no occasion to physically examine or chemically test the cargo before shipment or before filing the Bill of Entry. The Department has not alleged, much less established, that the Noticee owned or controlled the overseas loading facility, had access to the tanks from which the goods were loaded, or supervised any blending operation. The Noticee submitted that suspicion, however strong, cannot substitute for proof, and that the entire case of adulteration is founded on assumptions and inferential observations without direct evidence linking the Noticee to any act of adulteration.

C. On the Internal Contradiction in the SCN:

C.1 The Noticee submitted, without prejudice, that the SCN is internally self-contradictory. The SCN simultaneously alleges: (a) that the goods were adulterated by the introduction of foreign substances resulting in failure to conform to IS 1460:2025; and (b) that the goods are nonetheless classifiable as Automotive Diesel Fuel conforming to IS 1460:2025. The Noticee submitted that once the Department alleges that foreign substances were introduced resulting in non-conformity with IS 1460:2025, it cannot simultaneously maintain that the same goods are ADF conforming to IS 1460:2025. The statutory definition of "adulteration" in Section 2(a) of the Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005 itself proceeds on the basis that adulteration results in the product not conforming to BIS specification IS 1460. Accordingly, the SCN's proposal to classify the goods as restricted ADF conforming to IS 1460 is legally unsustainable on the Department's own case.

D. On the Reliance on the Gujarat High Court Judgment:

D.1 The Noticee submitted that the Department has placed excessive and misplaced reliance upon the judgments dated 09.03.2026 (SCA No. 16799 of 2025) and 13.03.2026 (SCA No. 3491 of 2026) passed by the Hon'ble High Court of Gujarat. The Noticee submitted that these proceedings arose solely in the context of a challenge to the seizure action and a request for provisional release of goods. The limited issue before the Hon'ble Court was whether the seizure was without jurisdiction or arbitrary at the threshold stage of judicial review. The Hon'ble Court was not conducting a final adjudication on classification, confiscation, valuation, mens rea or penalty under the Customs Act, 1962. The issue of final tariff classification and confiscability was expressly left open for adjudication by the competent authority.

D.2 The Noticee further submitted that the expression "most akin" employed by the Hon'ble High Court shows approximation and similarity, not exact identity. Mere resemblance to certain characteristics of diesel cannot automatically convert the imported goods into Automotive Diesel Fuel under IS 1460, particularly when several mandatory parameters admittedly fall outside the prescribed standards. The observations of the Hon'ble Court in paragraph 50 of the judgment were prima facie findings for the limited purpose of sustaining seizure and do not constitute a finding of conclusive classification. The Hon'ble Court also made no finding of any act of adulteration attributable to the Noticee and did not hold that the Noticee had consciously or intentionally misdeclared the goods. Accordingly, no adverse inference of any kind can be drawn from the said judgments in adjudication proceedings.

E. On the Precedent — Gastrade International and Related Decisions:

E.1 The Noticee submitted that the issue of classification of goods as ADF or HFHSD in the absence of a conclusive test report is squarely settled in favour of the Noticee by the judgment of the Hon'ble Supreme Court of India in Gastrade International v. Commissioner of Customs, Kandla [SLP (Civil) No. 6470 of 2022]. The Noticee submitted that the facts of the present case are identical — only a subset of parameters was tested; flash point, sulphur content, and distillation

recovery at 360°C are found non-conforming; 4 parameters were left entirely untested; and no conclusive expert opinion has been rendered that the goods are ADF. The Hon'ble Supreme Court held that where all 21 parameters prescribed under IS 1460 have not been tested, and where flash point and distillation range are non-conforming, it cannot be said that there is substantial compliance with IS 1460, classification remains doubtful, and such doubt must be resolved before initiating confiscatory proceedings.

E.2 The Noticee also placed reliance on the judgment dated 09.12.2025 of the Hon'ble Gujarat High Court in Rajattam Sarbottam Ganguly & Ors. v. Union of India & Ors., wherein on identical facts, relying on Gastrade International (supra), the seizure based on inconclusive test reports was set aside and release of the cargo was directed. The Noticee further relied upon Vegetable Products Ltd. [1988 LTR 196 (SC)] to the effect that when two views are possible, the view favouring the assessee must prevail; and Shri Lakshmi Cotsyn Ltd. v. Commissioner of Customs and C.Ex., Kanpur [2011 (263) ELT 299 (Tri.)] to the effect that benefit of doubt must be given to the assessee when test reports conflict.

F. On Burden of Proof:

F.1 The Noticee submitted that it is settled law that the burden of proof to establish mis-classification of imported goods lies entirely upon the Department. In the present case, the Department is seeking to dispute the classification of the subject goods on the basis of inconclusive test reports which do not cover all 21 parameters of IS 1460:2025 and which themselves record non-conformity on 3 critical parameters. The Noticee submitted that the Department has failed to discharge this burden of proof and that proceedings initiated on the basis of such inconclusive test reports are not sustainable.

G. On Rejection of Declared Transaction Value:

G.1 The Noticee submitted that the proposal to reject the declared assessable value of Rs. 97,35,254/- and re-determine the same at Rs. 1,49,85,258/- is illegal and unsustainable. Under Section 14 of the Customs Act, 1962 read with

Rule 3(1) of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR 2007), the declared value shall be accepted as the transaction value where the buyer and seller are not related and price is the sole consideration. In the present case, the Noticee and the supplier M/s Emit International FZ-LLC, UAE are not related parties, and the price paid was the sole consideration for the purchase. Hence, the declared transaction value cannot be rejected. Reliance was placed on Eicher Tractors Limited v. Commissioner of Customs [2000 (122) ELT 321 (SC)] and allied judgments.

G.2 The Noticee submitted that the invocation of Rule 9 (Residual Method) of the CVR 2007 is impermissible, as the SCN does not demonstrate proper sequential exhaustion of Rules 4 to 8 with recorded reasons for rejecting each. The SCN makes only a bald assertion that Rules 4 to 8 are inapplicable, without undertaking the analysis contemplated under each Rule. Furthermore, the SCN expressly admits that "exact comparative data in respect of the imported goods are not available" but then proceeds to determine value "in terms of Rule 4" — which relates to transaction value of identical goods and is entirely inconsistent with the admission of absence of comparable import data. The SCN is accordingly self-contradictory on the point of valuation methodology.

G.3 The Noticee submitted that the invoices of Nayara Energy Limited relied upon in the SCN are domestic commercial invoices for sale of petroleum products within India, and are wholly impermissible as the basis for determining assessable value of imported goods. If the Department intended to rely on domestic resale prices, it was required to examine Rule 7 and make the mandatory statutory deductions for customs duties and taxes, domestic freight and insurance, commissions, profits and general expenses, depot/terminal charges, financing costs, and other post-import elements embedded in domestic prices. No such deductions have been made. Rule 9 cannot be used to lift a domestic price and treat it as assessable value without the adjustments legally mandated under the CVR. The Noticee further submitted that the complete calculation by which the revised value of Rs. 1,49,85,258/- has been arrived at has not been disclosed in the SCN, denying the Noticee an opportunity to effectively reply on the point of valuation.

H. On Confiscation under Sections 111(d) and 111(m):

H.1 The Noticee submitted that the proposal to confiscate the subject goods under Section 111(d) and Section 111(m) of the Customs Act, 1962 is not sustainable. Section 111(d) applies where goods are imported contrary to any prohibition imposed under the Customs Act or any other law. As demonstrated above, the subject goods have not been conclusively established to be ADF or HFHSD on the basis of the inconclusive test reports. Accordingly, no applicable prohibition is attracted and Section 111(d) is not invokable.

H.2 The Noticee submitted that Section 111(m) applies where goods "do not correspond in respect of value or in any other particular with the entry made." In the present case, the Bill of Entry was filed on the basis of documents provided by the overseas supplier. There is no undervaluation — the declared value is the true transaction value, as submitted above. Furthermore, Policy Condition 5 of Chapter 27 is a regulatory condition governing import through State Trading Enterprises and does not constitute an absolute prohibition on importation. The restriction is regulatory in nature, and goods subject to such regulatory conditions cannot be treated as "prohibited goods" in the absolute sense.

I. On Penalty under Section 112:

I.1 The Noticee submitted that no penalty is imposable under Section 112(a) or Section 112(b) of the Customs Act, 1962. Since the subject goods are not liable for confiscation under Section 111 (as demonstrated above), the question of penalty under Section 112(a) — which is contingent upon the goods being liable for confiscation — does not arise.

I.2 The Noticee submitted that Section 112(b) is attracted only where a person knowingly acquires possession of or deals with goods which he knows or has reason to believe are liable to confiscation. In the present case, the goods were openly imported through a valid Bill of Entry with complete commercial documentation including invoices, packing lists, and Certificate of Origin. There was no clandestine importation or concealment of any kind. The Noticee had placed the order for Industrial Oil on the basis of the supplier's Certificate of

Analysis, and had no knowledge that the goods were restricted goods. Accordingly, Section 112(b) is not invokable.

I.3 The Noticee submitted that in any event, mens rea is a necessary ingredient for imposition of penalty under Section 112, and the same has not been established in this case. The mis-declaration, if any, is entirely attributable to the overseas supplier. Reliance was placed on Akbar Badruddib Jiwani v. Collector of Customs [1990 (47) ELT 161 (SC)] and allied decisions.

J. On Penalty under Section 114AA:

J.1 The Noticee submitted that penalty under Section 114AA of the Customs Act, 1962 cannot be imposed in the present case. Section 114AA requires that the person "knowingly or intentionally" makes, signs or uses any declaration, statement or document which is false or incorrect in any material particular. The Noticee made no false or incorrect declarations — the Bill of Entry was filed on the basis of the overseas supplier's invoice, packing list, Certificate of Origin and Certificate of Analysis, all of which described the goods as Industrial Oil.

J.2 The Noticee submitted that the words "knowingly" and "intentionally" in Section 114AA go to the culpability of mindset, and unless it is proved that the person knowingly or intentionally implicated himself in the use of false and incorrect material, no penalty under Section 114AA can be imposed. Reliance was placed on Sree Ayyanar Spinning & Weaving Mills Ltd. v. Commissioner of Customs [2019 (370) ELT 1681 (Tri. – Chennai)] and Sameer Santhosh Kumar Jaiswal v. Commissioner of Customs (Import-II) [2018 (362) ELT 348 (Tri. – Mumbai)] to the same effect.

K. On Re-Export:

K.1 The Noticee submitted that, without admitting any of the allegations contained in the SCN, even assuming the Department's case on the restricted nature of the goods is accepted, the appropriate course of action would be to permit re-export of the goods rather than ordering outright confiscation and imposition of penal consequences. The Noticee submitted that it has throughout cooperated with the investigation, the goods remain under the control of the

Customs authorities, and there is no allegation of unauthorized clearance or domestic circulation. The goods are not "prohibited goods" in the absolute sense — the import restriction under Policy Condition 5 is regulatory in nature, governing import through State Trading Enterprises. It is settled law that where goods are not absolutely prohibited and the importer is willing to re-export, re-export ought ordinarily to be permitted.

K.2 The Noticee further submitted that owing to the prevailing geopolitical situation, re-export to UAE may not be practicable, and accordingly requested permission to re-export the goods to a Special Economic Zone. Reliance was placed on BJ Services Company Middle East Ltd. v. Commissioner of Customs (Imports) Mumbai [2013 (11) TMI 793 – CESTAT Mumbai], wherein re-export to an SEZ was permitted.

L. Prayer:

L.1 The Noticee prayed that the SCN proceedings be dropped in their entirety; that confiscation under Sections 111(d) and 111(m) be not ordered; that penalties under Sections 112(a), 112(b) and 114AA be not imposed; that the re-determination of assessable value be set aside; and that re-export of the subject goods be permitted. The Noticee also reserved their right to add, alter or amend their submissions and to file further evidence before any order is passed.

PERSONAL HEARING

15. The Noticee vide their written submissions dated 11.06.2026 and 21.10.2026 has specifically stated that they do not wish to avail the opportunity of personal hearing in the present matter and have requested that the adjudication of the captioned Show Cause Notice may be decided on merit on the basis of their written submissions already on record.

DISUSSION AND FINDINGS

16. I have carefully gone through the Show Cause Notice No. 76/2026-27/ADC/ZDC/MCH dated 04.06.2026, the relied upon documents, the written submissions made by the Noticee vide letter dated 11.06.2026, and all

documentary evidence available on record. The Noticee vide their letter dated 11.06.2026 has waived their right to Personal Hearing and has requested that the matter be decided on merit on the basis of written submissions already on record. This waiver was reiterated vide the Noticee's letter dated 21.10.2026, whereby the Noticee again specifically stated: *"Please kindly decide the case on merit basis and we do not need any Personal Hearing in this matter."* Thus, the principles of natural justice as provided in Section 122A of the Customs Act, 1962 have been duly complied with. I accordingly proceed to decide the case on the basis of facts, evidence on record and the written submissions made by the Noticee.

16.1 On a careful perusal of the Show Cause Notice and case records, I find that the following main issues are involved in this case, which are required to be decided at the stage of adjudication:

(i) Whether the classification of goods covered under Bill of Entry No. 4923077 dated 05.10.2025 filed at Mundra Port, declared as 'Industrial Oil' under CTH 27101990, should be rejected and re-classified as 'Automotive Diesel Fuel (ADF) as per IS 1460:2025' under CTH 27101944;

(ii) Whether the declared value of the said goods declared as 'Industrial Oil', as Rs. 97,35,254/- should be rejected in terms of Rule 12 of the CVR, 2007 and the same should be re-determined as Rs. 1,49,85,258/-;

(iii) Whether the impugned goods having re-determined value of Rs. 1,49,85,258/- are liable for confiscation under Section 111(d) and Section 111(m) of the Customs Act, 1962;

(iv) Whether penalties are imposable on the Noticee under Sections 112(a), 112(b) and 114AA of the Customs Act, 1962.

17. CLASSIFICATION

17.1 Regarding the **first issue**, I find that M/s. Skyline Global Traders filed Bill of Entry No. 4923077 dated 05.10.2025 at Mundra Port declaring the goods as 'Industrial Oil' and classifying the same under Customs Tariff Item 27101990

('Others' — import policy: Free). The said Bill of Entry covered a consignment of 235.980 MTs comprising 12 ISO tanks with declared assessable value of Rs. 97,35,254/- imported from overseas supplier.

17.2 I find it pertinent to note that the classification of goods is governed by the General Rules for the Interpretation of the Harmonized System (GIR). The relevant rules are reproduced below:

GENERAL RULES FOR THE INTERPRETATION OF THE HARMONIZED SYSTEM

Classification of goods in the Nomenclature shall be governed by the following principles :

1. The titles of Sections, Chapters and sub-Chapters are provided for ease of reference only; for legal purposes, classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes and, provided such headings or Notes do not otherwise require, according to the following provisions :

2. (a) Any reference in a heading to an article shall be taken to include a reference to that article incomplete or unfinished, provided that, as presented, the incomplete or unfinished article has the essential character of the complete or finished article. It shall also be taken to include a reference to that article complete or finished (or falling to be classified as complete or finished by virtue of this Rule), presented unassembled or disassembled.

   (b) Any reference in a heading to a material or substance shall be taken to include a reference to mixtures or combinations of that material or substance with other materials or substances. Any reference to goods of a given material or substance shall be taken to include a reference to goods consisting wholly or partly of such material or substance. The classification of goods consisting of more than one material or substance shall be according to the principles of Rule 3.

3. When by application of Rule 2 (b) or for any other reason, goods are, *prima facie*, classifiable under two or more headings, classification shall be effected as follows :

   (a) The heading which provides the most specific description shall be preferred to headings providing a more general description. However, when two or more headings each refer to part only of the materials or substances contained in mixed or composite goods or to part only of the items in a set put up for retail sale, those headings are to be regarded as equally specific in relation to those goods, even if one of them gives a more complete or precise description of the goods.

   (b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3 (a), shall be classified as if they consisted of the material or component which gives them their essential character, insofar as this criterion is applicable.

   (c) When goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration.

4. Goods which cannot be classified in accordance with the above Rules shall be classified under the heading appropriate to the goods to which they are most akin.

In terms of GIR Rule 1, Supplementary Note (e) to Chapter 27 of the Customs Tariff Act, 1975 defines "Automotive Diesel Fuel (ADF)" as any hydrocarbon oil conforming to the Indian Standards Specification IS 1460. CTH 27101944 specifically covers "Gas oil and oils obtained from bituminous minerals — Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460." Since the imported goods have been found, upon

comprehensive testing by CRCL, Visakhapatnam and MRPL, to conform to the parameters of IS 1460:2025 in 19 out of 21 parameters — with the non-conforming parameters being directly attributable to deliberate adulteration with lighter hydrocarbons as confirmed by GCMS analysis — the goods are correctly classifiable under CTH 27101944/27101949 in terms of GIR Rule 1 read with the Supplementary Note to Chapter 27. Further, even applying GIR Rule 4, the goods are most akin to Automotive Diesel Fuel as has been specifically held by the Hon'ble Gujarat High Court in R/SCA No. 16799 of 2025 (order dated 09.03.2026) applying the "most akin test" laid down by the Hon'ble Supreme Court in Gastrade International v. Commissioner of Customs, Kandla.

17.3 I find that DRI, Ahmedabad Zonal Unit put the consignment on hold and drew a panchnama at Mundra Port. Representative samples were drawn in triplicate under proper panchnama procedure from each of the 12 ISO tanks and sent to CRCL, Visakhapatnam for testing. CRCL, Visakhapatnam issued test reports vide Lab Nos. 116-DRI to 127-DRI dated 06.11.2025 to 11.11.2025. Additional samples were subsequently sent to MRPL, Mangalore for testing of parameters not covered by CRCL, Visakhapatnam, to ensure comprehensive testing of all 21 parameters as mandated by the Hon'ble Supreme Court in Gastrade International v. Commissioner of Customs, Kandla [(2025) 392 ELT 529 (SC)]. MRPL submitted its test report vide Report No. MRPL/DRI/2026/09 dated 26.12.2025.

17.4 I find that the CRCL, Visakhapatnam and MRPL, Mangalore test reports, read conjunctively, establish that the impugned goods conform to the specifications of Automotive Diesel Fuel (ADF) as per IS 1460:2025 in 19 out of 21 parameters tested. The Flash Point was found to be 11°C (CRCL, Visakhapatnam) / less than 20°C (MRPL, Mangalore) against the mandatory minimum of 35°C under IS 1460:2025. The Sulphur content was found to be greater than 10 ppm (CRCL, Visakhapatnam) / 37 ppm (MRPL, Mangalore) against the maximum permissible 10 ppm. Additionally, Distillation Recovery at 360°C was found to be 94% (CRCL, Visakhapatnam) against the minimum requirement of 95% under IS 1460:2025. Both CRCL, Visakhapatnam and MRPL have specifically noted that there is no specification available for 'Industrial Oil'

in any National or International Standard. CRCL, Visakhapatnam has categorically recorded that the sample is adulterated diesel fuel exhibiting the presence of lighter hydrocarbons on GCMS analysis, conforming to the petroleum marketing discipline 5.1 definition of adulterated diesel. The goods are therefore correctly classifiable under CTH 27101944.

17.5 I have carefully considered the submissions of the Noticee and find the same not tenable, for the following reasons:

(a) On the conclusiveness of the CRCL, Visakhapatnam test reports: The Noticee has submitted that the CRCL, Visakhapatnam test reports are inconclusive as four parameters (Cetane Number, CFPP, Oxidation Stability, and Lubricity) were noted as "at refinery end" and not tested, and that Flash Point, Sulphur, and Distillation at 360°C are non-conforming. This submission is not tenable. The said test reports, being issued by a Government of India accredited laboratory, carry significant evidentiary value. The object of the Gastrade International direction is to ensure that all 21 parameters are covered by the testing process taken as a whole — not that all parameters must be tested by a single laboratory. CRCL, Visakhapatnam tested 17 out of 21 parameters; the remaining 4 parameters noted as "at refinery end" were thereafter tested by MRPL, Mangalore and found conforming. Together, CRCL, Visakhapatnam and MRPL cover all 21 parameters prescribed under IS 1460:2025, fulfilling the requirement of Gastrade International in its letter and spirit. Moreover, CRCL, Visakhapatnam has not merely recorded that certain parameters "conform to" ADF — it has given a categorical positive opinion that the goods are adulterated diesel fuel with lighter hydrocarbons and that there is no specification available for Industrial Oil in any National or International Standard. This is precisely the qualitative opinion that was missing in the Gastrade International reports. The non-conformity of Flash Point, Sulphur and Distillation at 360°C is itself explained by CRCL, Visakhapatnam as a result of deliberate adulteration with lighter hydrocarbons, and not as any indicator that the goods are something other than diesel fuel. The contention of inconclusive test reports is accordingly rejected.

(b) On the admissibility of the MRPL test report: The Noticee has contended that MRPL is not a notified laboratory under Customs Law and that combined reliance on two laboratories for different parameters is contrary to CBIC Circulars No. 43/2017-Cus dated 16.11.2017 and No. 15/2019-Cus dated 07.06.2019, and that MRPL's status as a laboratory under the Motor Spirit and High Speed Diesel (Regulation of Supply, Distribution and Prevention of Malpractices) Order, 2005 renders it inapplicable to customs classification proceedings. I find these submissions not tenable. The Hon'ble Gujarat High Court in R/SCA No. 16799 of 2025 (order dated 09.03.2026), which also disposed of R/SCA No. 3491 of 2026 filed by the present Noticee challenging the very seizure under adjudication, has expressly held that laboratory test results cannot be discarded merely because samples are tested in two different laboratories, particularly when one laboratory may not be fully equipped to test all 21 parameters mandated by the Supreme Court in Gastrade International, and that such combined test results cannot be discarded so long as they conform to the directions in Gastrade International and cover the parameters prescribed under the relevant Indian Standards. This question of law is accordingly settled conclusively against the Noticee by a Division Bench of the Hon'ble Gujarat High Court. The Noticee's argument regarding CBIC Circulars 43/2017 and 15/2019 is similarly not tenable — those circulars govern administrative routing of samples to laboratory facilities and cannot be read as imposing a bar on the admissibility of test results obtained from a technically competent and government-recognized laboratory. The MRPL report is accordingly admissible and duly relied upon.

(c) On the distinction from Gastrade International: The Noticee has relied upon the decision of the Hon'ble Supreme Court in Gastrade International v. Commissioner of Customs, Kandla [(2025) 392 ELT 529 (SC)] to submit that the test reports are inconclusive and classification as ADF/HFHSD is not sustainable. I find that the said decision is clearly distinguishable on facts from the present case. In Gastrade International, the laboratories tested only 8, 10 and 14 parameters respectively out of 21, none of the reports gave a categorical opinion that the goods were "most akin" to HSD, and the reports merely stated that the samples had "characteristics of" HSD without a qualitative positive

determination. The Supreme Court found this insufficient. In the present case, these two critical distinguishing features are entirely absent: (i) CRCL, Visakhapatnam and MRPL together cover all 21 parameters as directed by the Supreme Court itself, and (ii) CRCL, Visakhapatnam has rendered a categorical qualitative opinion that the goods are adulterated diesel fuel with lighter hydrocarbons, most akin to HFHSD/adulterated HFHSD, and that there is no specification available for Industrial Oil in any National or International Standard. The Hon'ble Gujarat High Court in its common order dated 09.03.2026 in R/SCA No. 16799 of 2025 has expressly distinguished Gastrade International on precisely these grounds and dismissed the Noticee's own SCA No. 3491 of 2026. The ratio of Gastrade International is accordingly not applicable to the present case.

(d) On the Gujarat High Court judgment dated 09.12.2025 in Rajattam Sarbottam Ganguly: The Noticee has also placed reliance on the Hon'ble Gujarat High Court's judgment dated 09.12.2025 in Rajattam Sarbottam Ganguly & Ors. v. Union of India & Ors. [being the judgment in Noya Infrastructure LLP vs. Union of India, R/SCA Nos. 12943, 14559, 14552 and 14562 of 2025, reported as (2025) 37 Centax 338 (Guj.)]. I find that this reliance is misplaced. The said judgment was rendered on 09.12.2025, i.e., prior to the common judgment dated 09.03.2026 in R/SCA No. 16799 of 2025, in which a Division Bench of the same court reached the opposite conclusion on the very same category of imports and upheld the seizure. The judgment dated 09.03.2026 is the later and binding pronouncement of the Court directly applicable to the present matter, and it is the judgment that specifically governs the Noticee's own SCA No. 3491 of 2026. Accordingly, the Noticee's reliance on the said judgment is not tenable.

(e) On the Gujarat High Court judgment being limited to seizure proceedings: The Noticee has submitted that the judgment dated 09.03.2026 was rendered in the context of a challenge to seizure action and cannot be treated as a conclusive determination for purposes of adjudication proceedings. I find this submission not tenable. While it is correct that the Hon'ble Court was not conducting a final adjudication on classification or penalty under the Customs Act, 1962, the factual findings recorded by the Hon'ble Court regarding

the nature of the goods, the categorical opinion of the laboratories, the admissibility and reliability of CRCL, Visakhapatnam and MRPL test reports, the applicability of the "most akin test", and the distinction from Gastrade International are all findings on the very same evidence that is before me in these proceedings. These findings carry significant evidential weight and I see no reason to depart from them. More importantly, the Hon'ble Court dismissed the Noticee's own SCA No. 3491 of 2026, which had challenged the seizure of this very consignment. The Noticee cannot simultaneously argue that the judgment is irrelevant for adjudication purposes while having itself invoked the jurisdiction of the High Court to seek release of the very goods under adjudication. The submission is accordingly rejected.

(f) On the alleged internal contradiction in the SCN: The Noticee has submitted, without prejudice, that the SCN is self-contradictory in simultaneously alleging that the goods are adulterated and fail IS 1460 parameters, while also classifying them as ADF conforming to IS 1460. I find this submission not tenable. The correct legal position — as authoritatively settled by the Hon'ble Gujarat High Court in its order dated 09.03.2026 applying the statutory definition of "adulteration" under Section 2(a) of the Malpractices Order, 2005 — is as follows: adulteration means the introduction of a foreign substance into diesel illegally or without authorisation which results in non-conformance to IS 1460. The product so adulterated remains, in its essential character, diesel fuel. Adulteration of a product does not change its essential character but only confirms that the base product was diesel fuel into which foreign substances were introduced. Classification of petroleum products under the Customs Tariff is governed by the "most akin test" based on the essential character of the goods, not by whether the goods satisfy all parameters of a particular IS standard. A product that meets 19 out of 21 parameters of IS 1460:2025, with the non-conforming parameters being directly attributable to deliberate adulteration with lighter hydrocarbons, is — in terms of its essential character — most akin to Automotive Diesel Fuel / HFHSD. The Hon'ble Gujarat High Court has expressly so held in the present category of cases. The submission is accordingly rejected.

(g) On the delay in forwarding samples: The Noticee has submitted that there was inordinate delay in forwarding samples to the laboratory for testing, contrary to timelines prescribed under the Malpractices Order, 2005, and that the test reports obtained after such delay cannot be relied upon. I find this submission not tenable. The timelines prescribed under the Malpractices Order, 2005 govern petroleum marketing entities and their regulatory obligations; they do not govern the evidentiary admissibility of test results obtained during investigation under the Customs Act, 1962. No provision of the Customs Act, 1962 or rules made thereunder imposes a timeline for sample testing during investigation, the breach of which would render test results inadmissible. The test reports of CRCL, Visakhapatnam and MRPL, Mangalore were obtained under proper panchnama procedure from competent, government-recognized laboratories and are duly relied upon.

17.6 In view of the above discussion and the findings of CRCL, Visakhapatnam and MRPL, Mangalore read conjunctively, I find that the goods imported by M/s. Skyline Global Traders under Bill of Entry No. 4923077 dated 05.10.2025 are Automotive Diesel Fuel (ADF), correctly classifiable under CTH 27101944. The declared classification under CTH 27101990 as 'Industrial Oil' is rejected. The submissions of the Noticee challenging the test reports and classification are rejected for the reasons detailed above.

17.7 I find that the provisions of Section 17(1) of the Customs Act, 1962 read with Section 2(2) of the Customs Act, 1962 lay down the onus on the importer to determine duty, classification etc. by way of self-assessment. By furnishing incorrect and false information in the import documents, I find that M/s. Skyline Global Traders has violated the provisions of Section 17(1) read with Section 2(2) of the Customs Act, 1962. Further, in terms of Section 46(4) and 46(4A) of the Customs Act, 1962, the importer is required to certify the truth of the contents of the Bill of Entry and to ensure accuracy, authenticity and compliance with restrictions. In the instant case, Sh. Brijesh Kumar Singh, Proprietor of M/s. Skyline Global Traders, in his statement dated 13.03.2026 recorded under Section 108 of the Customs Act, 1962, specifically admitted that he had placed an order for the imported goods with a flash point of approximately 25°C, and

that he was specifically aware that petroleum products with a flash point above 25°C fall within the diesel category and constitute canalized items importable only by State Trading Enterprises. In his further statement dated 14.05.2026, the Proprietor acknowledged that the MRPL report establishes that the goods meet all parameters of IS 1460:2025 except Sulphur and Flash Point, and admitted that the deviation in those parameters pertains to the supplier's end. I find that the importer has accordingly contravened the provisions of Sections 46(4) and 46(4A) of the Customs Act, 1962.

18. VALUATION

18.1 Regarding the **second issue**, I find that as the goods have been found to be mis-declared in respect of their description and classification, the value declared by the Noticee in Bill of Entry No. 4923077 dated 05.10.2025 and the accompanying invoice of the overseas supplier cannot be accepted as the true transaction value under Section 14 of the Customs Act, 1962 read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007. Since the declared description of the goods is itself false, the invoice price premised on such false description cannot represent the authentic transaction value of the goods. Accordingly, I find that the declared value of Rs. 97,35,254/- is liable to be rejected under Rule 12 of the CVR, 2007.

18.2 I have carefully considered the Noticee's submissions on valuation — that the declared value is a genuine transaction value satisfying all conditions of Rule 3(1) of CVR 2007 read with Section 14, that Rule 9 has been prematurely invoked without sequential exhaustion of Rules 4 through 8, and that the Nayara Energy domestic price is not a permissible benchmark under Rule 9. I find these submissions not tenable. Since the invoice itself is based on a false description of the goods as 'Industrial Oil', the invoice price cannot represent the authentic transaction value of ADF/HFHSD (CTH 27101944/27101949). A transaction value premised on a fictitious description is not a valid transaction value for the purposes of Rule 3 of CVR 2007. Further, as regards sequential exhaustion of Rules 4 to 8: Automotive Diesel Fuel is a restricted commodity importable only through State Trading Enterprises under Policy Condition No. 5 of Chapter 27. Since exact comparative data in respect of the imported goods are not available

in the absence of clear descriptions and mis-declaration on the part of the importer, the value cannot be determined as per the provisions of Rules 4 to 8 of the CVR, 2007. Since the goods cannot be fully compared with similar/identical imports as the same are restricted goods, their value is determinable under Rule 9 (Residual method) of the CVR, 2007 read with sub-section (1) of Section 14 of the Customs Act, 1962 and on the basis of objective and quantifiable data available in India. As regards the Noticee's submission that the Nayara Energy price is a domestic price that cannot be used without Rule 7 deductions, I find that Rule 9 permits determination of value by reasonable means consistent with the principles of CVR 2007 and on the basis of data available in India. ADF being a canalized commodity not freely traded in the import market, no comparable import price data is available. The Nayara Energy ADF price with appropriate density conversion represents the most reasonable and proximate available benchmark for re-determination of assessable value under Rule 9 of CVR 2007. The Noticee's valuation submissions are accordingly rejected.

For re-determination of assessable value under Rule 9 of CVR 2007, the methodology adopted is as follows:

Particulars	Details
ADF Market Price (Nayara Energy, Oct 2025)	Rs. 52,541.75 per KL
Imported Quantity	235,980 KGs
Average Density (as per CRCL Visakhapatnam)	0.8274 g/ml
Volume equivalent	285.206 KL
Re-determined Assessable Value (285.206 × 52,541.75)	Rs. 1,49,85,258/-

18.3 I accordingly hold that the declared value of Rs. 97,35,254/- (Rupees Ninety Seven Lakhs Thirty Five Thousand Two Hundred and Fifty Four Only) is rejected under Rule 12 of CVR 2007, and the assessable value is re-determined at Rs. 1,49,85,258/- (Rupees One Crore Forty Nine Lakhs Eighty Five Thousand Two Hundred and Fifty Eight Only) under Rule 9 of CVR 2007, as discussed in the foregoing paras.

19. CONFISCATION

19.1 Regarding the **third issue**, I find that the Show Cause Notice has proposed confiscation of the impugned goods under Sections 111(d) and 111(m) of the Customs Act, 1962. The relevant provisions read as under:

"(d) any goods which are imported or attempted to be imported or are brought within the Indian customs waters for the purpose of being imported, contrary to any prohibition imposed by or under this Act or any other law for the time being in force;"

"(m) any goods which do not correspond in respect of value or in any other particular with the entry made under this Act or in the case of baggage with the declaration made under section 77."

19.2 I find that M/s. Skyline Global Traders declared the goods as 'Industrial Oil' under CTH 27101990 in Bill of Entry No. 4923077 dated 05.10.2025. Upon testing by CRCL, Visakhapatnam and MRPL, Mangalore, the goods were found to be Automotive Diesel Fuel (ADF), classifiable under CTH 27101944, restricted commodities importable only by State Trading Enterprises under Policy Condition No. 5 of Chapter 27 of ITC(HS) 2022. The said Policy Condition No. 5 reads as under:

> *"Import allowed through IOC subject to Para 2.21 of the Foreign Trade Policy, except for companies who have been granted rights for marketing of transportation fuels in terms of MoP&NG Resolution No. P-23015/1/2001-MKT dated 08.03.2002."*

From above, it is seen that import of restricted goods is allowed subject to Para 2.21 of Foreign Trade Policy and the same is reproduced below:

> *"2.21 State Trading Enterprises (STEs)*
>
> *(a) State Trading Enterprises (STEs) are governmental and non-governmental enterprises, including marketing boards, which deal with goods for export and/or import. Any good, import or export of which is governed through exclusive or special privilege granted to State Trading Enterprise (STE), may*

be imported or exported by the concerned STE as per conditions specified in ITC (HS). The list of STEs notified by DGFT is in Appendix-2J.

(b) Such STE(s) shall make any such purchases or sales involving imports or exports solely in accordance with commercial considerations, including price, quality, availability, marketability, transportation and other conditions of purchase or sale in a non-discriminatory manner and shall afford enterprises of other countries adequate opportunity, in accordance with customary business practices, to compete for participation in such purchases or sales.

(c) DGFT may, however, grant an authorisation to any other entity to import or export any of the goods notified for exclusive trading through STEs."

19.3 M/s. Skyline Global Traders (IEC: AAIFS0982K), is neither a State Trading Enterprise nor does it possess any authorisation from DGFT for import of ADF. The import of ADF by a non-STE entity in violation of Policy Condition No. 5 of Chapter 27 of ITC(HS) 2022 renders the goods liable for confiscation under Section 111(d) of the Customs Act, 1962.

19.4 Further, the goods declared as 'Industrial Oil' under CTH 27101990 in the Bill of Entry do not correspond with the actual goods found on testing i.e. ADF (CTH 27101944). The description, classification, import policy status and value in the Bill of Entry are completely at variance with the actual nature of the goods. The goods are therefore also liable for confiscation under Section 111(m) of the Customs Act, 1962.

19.5 Accordingly, I find that the imported goods covered under Bill of Entry No. 4923077 dated 05.10.2025, namely 235.980 MTs (12 ISO tanks) of Automotive Diesel Fuel (ADF), imported by M/s. Skyline Global Traders, having re-determined assessable value of Rs. 1,49,85,258/- (Rupees One Crore Forty Nine Lakhs Eighty Five Thousand Two Hundred and Fifty Eight Only), seized vide Seizure Memorandum dated 15.11.2025 bearing F. No. DRI/AZU/GRU/INT-26/2025, are liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962.

19.6 As I have already held the goods liable for confiscation under Section 111 of the Customs Act, 1962, I find it necessary to consider as to whether redemption fine under Section 125 of the Customs Act, 1962 should be imposed in lieu of confiscation. Section 125 ibid reads as under:

> *"Section 125. Option to pay fine in lieu of confiscation. — (1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods an option to pay in lieu of confiscation such fine as the said officer thinks fit."*

19.7 A plain reading of the above provision shows that imposition of redemption fine is an option in lieu of confiscation. In the present case, M/s. Skyline Global Traders vide their written submissions dated 11.06.2026 and re-export application dated 01.04.2026, reiterated vide letter dated 21.10.2026, have specifically prayed for permission to re-export the goods to the overseas supplier. The goods have remained under Customs control at Mundra Port and have not been cleared for home consumption.

19.8 I find that import of ADF (CTH 27101944) is canalized through State Trading Enterprises and requires authorisation under Policy Condition No. 5 of Chapter 27 of the ITC(HS), which the Noticee admittedly does not possess. The infirmity in the present case lies in the Noticee's failure to comply with the prescribed statutory conditions. In the absence of fulfilment of these conditions, the goods cannot be permitted to be cleared into the domestic market.

19.9 I further observe that ordering confiscation without allowance for re-export would not serve any meaningful revenue purpose. Such a course would only result in unnecessary litigation and prolonged detention of containers at the port without yielding any revenue to the Government. The goods in question are not per se banned items; rather, their import is regulated and conditional. The confiscation ordered herein is a legal consequence of non-fulfilment of statutory conditions and absence of requisite authorisation. I also note that the Hon'ble Gujarat High Court in its order dated 09.03.2026 in R/SCA No. 16799 of 2025

and connected matters (para 56) clarified that *"in case the petitioners file an application for re-export of goods, the DRI shall consider the same, and pass appropriate orders on such application"*, thus recognising the option of re-export as a legitimate course of action. The present Noticee has accordingly filed a re-export application dated 01.04.2026, reiterated vide letter dated 21.10.2026, pursuant to this direction.

19.10 In view of the above, I am of the considered view that the ends of justice would be met by allowing redemption of the subject goods for the limited purpose of re-export. Imposition of redemption fine along with penalty is sufficient to address the violation and convey a clear deterrent message to similarly placed importers. Therefore, exercising powers under Section 125 of the Customs Act, 1962, I deem it appropriate to allow the Noticee an option to redeem the goods for the limited purpose of re-export on payment of redemption fine under Section 125 of the Customs Act, 1962.

20. PENALTY ON M/s. SKYLINE GLOBAL TRADERS:

20.1 Regarding the **fourth issue**, I find that **Section 112(a)** of the Customs Act, 1962 provides for imposition of penalty upon any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111, in the case of goods in respect of which any prohibition is in force, to a penalty not exceeding the value of the goods or five thousand rupees, whichever is greater. I have held above that the goods are liable for confiscation under Sections 111(d) and 111(m) of the Customs Act, 1962. M/s. Skyline Global Traders, by filing a Bill of Entry with incorrect description and classification of restricted goods as freely importable 'Industrial Oil', has clearly rendered the goods liable to confiscation under Section 111 and has thereby rendered itself liable to penalty under Section 112(a)(i) of the Customs Act, 1962.

I further find that imposition of penalty simultaneously under both Section 112(a) and Section 112(b) of the Act would amount to double penalty for the same act, which is not warranted. I therefore refrain from imposing penalty under Section 112(b) of the Act.

20.2 The Noticee has submitted that no mens rea has been established and that the goods were bonafidely imported on the basis of supplier documents. I find these submissions not tenable in the facts of the present case, for the following reasons:

(i) 'Industrial Oil' is not a recognised product under any Indian or International Standard, as categorically noted by CRCL, Visakhapatnam. There is no IS/ASTM/ISO/EN specification for 'Industrial Oil'. M/s. Skyline Global Traders is, by its own description, engaged in the business of import and trade of petroleum products. A firm engaged in the import of petroleum products cannot credibly claim ignorance of the basic classification requirements and import policy restrictions applicable to diesel fuel products.

(ii) Sh. Brijesh Kumar Singh, Proprietor of M/s. Skyline Global Traders, in his statement dated 13.03.2026 recorded under Section 108 of the Customs Act, 1962, specifically admitted that he had placed an order for the imported goods with a flash point of approximately 25°C, and that he was specifically aware that petroleum products with a flash point above 25°C fall within the diesel category and constitute canalized items. A person who admits specific awareness of the nature of the goods being ordered — and of the regulatory consequence that such goods are canalized — cannot simultaneously claim to have bonafidely imported the same goods under the guise of freely importable 'Industrial Oil'. This admission establishes not merely knowledge but deliberate intent to import restricted goods under a false description.

(iii) In his further statement dated 14.05.2026, the Proprietor admitted that the MRPL report establishes that the goods meet all parameters of IS 1460:2025 except Sulphur and Flash Point, and admitted that the deviation in those parameters pertains to the supplier's end. This admission acknowledges the essential character of the goods as ADF while attributing the non-conformity to deliberate adulteration at source. The Noticee cannot derive any benefit from such post-facto acknowledgment.

20.3 As regards penalty under **Section 114AA** of the Customs Act, 1962, I find that the said provision provides for penalty upon any person who knowingly or

intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular in the transaction of any business for the purposes of this Act. In the present case, the Bill of Entry filed under Section 46 of the Customs Act, 1962 declared the goods as 'Industrial Oil' under CTH 27101990, whereas the actual goods are ADF/HFHSD under CTH 27101944/27101949, as conclusively established by CRCL, Visakhapatnam and MRPL, Mangalore. The documents submitted by the Noticee describing the goods as 'Industrial Oil' are false and incorrect in material particulars. In view of the Proprietor's specific admitted awareness that goods with flash point above 25°C are canalized diesel, and his specific instruction to the overseas supplier to supply goods with flash point of approximately 25°C, I find that the false declarations were made knowingly and intentionally with the deliberate design to import restricted ADF under the guise of freely importable Industrial Oil. I accordingly reject the Noticee's submissions on mens rea and find that M/s. Skyline Global Traders is liable for penalty under Section 114AA of the Customs Act, 1962.

21. In view of the aforesaid discussions and findings, I pass the following order:

ORDER

(i) I reject the classification of goods covered under Bill of Entry No. 4923077 dated 05.10.2025, declared as 'Industrial Oil' under Customs Tariff Item 27101990, and re-classify the same as 'Automotive Diesel Fuel (ADF)' under Customs Tariff Item **27101944**;

(ii) I reject the declared assessable value of **Rs. 97,35,254/-** (Rupees Ninety Seven Lakhs Thirty Five Thousand Two Hundred and Fifty Four Only) under Rule 12 of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and re-determine the same as **Rs. 1,49,85,258/-** (Rupees One Crore Forty

Nine Lakhs Eighty Five Thousand Two Hundred and Fifty Eight Only) under Rule 9 of CVR, 2007, read with Section 14 of the Customs Act, 1962;

(iii) I order to confiscate the impugned goods i.e. 235.980 MTs (12 ISO tanks) of Automotive Diesel Fuel (ADF) imported by M/s. Skyline Global Traders under Bill of Entry No. 4923077 dated 05.10.2025, having re-determined assessable value of **Rs. 1,49,85,258/-** (Rupees One Crore Forty Nine Lakhs Eighty Five Thousand Two Hundred and Fifty Eight Only), under Sections 111(d) and 111(m) of the Customs Act, 1962. However, I give an option to M/s. Skyline Global Traders to redeem the said goods **only for re-export** under Section 125(1) of the Customs Act, 1962, on payment of **Redemption Fine of Rs. 14,00,000/- (Rupees Fourteen Lakh Only);**

(iv) I impose a penalty of **Rs. 7,00,000/- (Rupees Seven Lakh Only)** on M/s. Skyline Global Traders under Section 112(a)(i) of the Customs Act, 1962;

(v) I impose a penalty of **Rs. 50,000/-** (Rupees Fifty Thousand Only) on M/s. Skyline Global Traders under Section 114AA of the Customs Act, 1962.

22. This order is issued without prejudice to any other action that may be taken against the Noticee or any other person under the provisions of the Customs Act, 1962 or rules made thereunder, or under the Foreign Trade (Development and Regulation) Act, 1992 or any other law for the time being in force.

23. Show Cause Notice No. 76/2026-27/ADC/ZDC/MCH dated 04.06.2026 stands disposed of on the above terms.

Digitally signed by Dipakbhai Zala
Date: 05-11-2026 11:49:46

(Dipak Zala)
Additional Commissioner of Customs,
Custom House, Mundra.

To,

M/s. Skyline Global Traders (IEC: AAIFS0982K)

F-03, BLOCK S-7/1, SITE 4,

Greater Noida-201310

(Email- skylineglobaltraders@gmail.com)

Copy to:

1. The Deputy Director, DRI, Ahmedabad Zonal Unit, Ahmedabad
2. The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra
3. The Dy./Asstt. Commissioner (EDI), Customs House, Mundra
4. The Deputy/Assistant Commissioner of Customs, Group-I, Custom House, Mundra

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