

	प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, मुन्द्रा OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS, CUSTOM HOUSE: MUNDRA, KUTCH MUNDRA PORT & SPL ECONOMIC ZONE, MUNDRA-370421 ई-मेल/ E-Mail: adj-mundra@gov.in	
	A	फा /सं .FILE NO.
B	मूल आदेश सं. ORDER-IN- ORIGINAL NO.	MCH/ADC/ZDC/46/2026-27
C	द्वारा पारित किया गया PASSED BY	Dipak Zala, Additional Commissioner of Customs, Custom House, Mundra
D	आदेश की तिथि DATE OF ORDER	23-04-2026
E	जारी करने की तिथि DATE OF ISSUE	23-04-2026
F	कारण बताओ नोटिस सं एवं तिथि . SCN NO. & DATE	GEN/ADJ/ADC/424/2025-Adjn dated 10.02.2025
G	नोटिसीपार्टी / आयातक/ NOTICEE/PARTY/ IMPORTER	M/s. Nexgen Petrochemicals (IEC No. AASFN5923B), Third Floor, 301/26, Pragati Tower, Rajendra Place, New Delhi - 110 008
H	डिन DIN	20260471MO0000717226

- यह अपील आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।
This Order - in - Original is granted to the concerned free of charge.
- यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-
Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:
"सीमा शुल्क आयुक्त) अपील(, चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद 380009"
"The Commissioner of Customs (Appeals), Mundra, 4TH Floor, Hudco Building, Ishwar Bhuwan Road, Navrangpura, Ahmedabad-380009."
- उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।
Appeal shall be filed within three months from the date of communication of this order.
- 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 accompanied by -

5. उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रूपये कोर्ट फीस स्टाम्प जबकि इसके साथ संलग्न आदेश की प्रति पर अनुसूची- 1, न्यायालय शुल्क अधिनियम, 1870 के मदसं^o-6 के तहत निर्धारित 0.50 पैसे की एक न्यायालय शुल्क स्टाम्प वहन करना चाहिए।

The appeal should bear Court Fee Stamp of Rs.5/- under Court Fee Act whereas the copy of this order attached with the appeal should bear a Court Fee stamp of Rs.0.50 (Fifty paisa only) as prescribed under Schedule-I, Item 6 of the Court Fees Act, 1870.

6. अपील ज्ञापन के साथ ड्यूटी/ दण्ड/ जुर्माना आदि के भुगतान का प्रमाण संलग्न किया जाना चाहिये।
Proof of payment of duty/fine/penalty etc. should be attached with the appeal memo.

7. अपील प्रस्तुत करते समय, सीमाशुल्क (अपील) नियम, 1982 और सीमा शुल्क अधिनियम, 1962 के सभी मामलों में पालन किया जाना चाहिए।

While submitting the appeal, the Customs (Appeals) Rules, 1982 and the Customs Act, 1962 should be adhered to in all respects.

8. 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 (Appeals) 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

Specific intelligence gathered by the Directorate of Revenue Intelligence (hereinafter referred to as 'DRI') indicated that some importers are indulged in import of 'Restricted Goods' through mis-declaration by declaring the same as 'Distillate Oil'. Intelligence further suggested that M/s. Nexgen Petrochemicals (hereinafter also referred to as "the Importer"), (IEC: AASFN5923B) and having address at 'Third Floor, 301/26, Pragati Tower, Rajendra Place, New Delhi - 110008' has imported 'Restricted Goods' under Bill of Entry No. 5020740 dated 12.08.2024 at Mundra Port and declared the same as 'Distillate Oil'. Details of the said consignment is as under:

Table-I

Bill of Entry No.	5020740 dated 12.08.2024 (INMUN1)
Bill of Lading No.	ARGJEAMUN2401212 dated 07.08.2024
Declared Goods in BE	Distillate Oil, CTH: 27101961
Declared Quantity	187.69 MTS
Customs Broker	M/s. Gaurav M. Jhaveri (AGRPJ9989QCH001)
Country of Origin	United Arab Emirates
Supplier	Taurus International (FZE), Sharjah, UAE

2. Accordingly, the above said consignment was put on hold by the DRI and further examination and sampling of goods contained in 10 containers covered under the aforesaid consignment was carried out by the DRI under panchnama

dated 20.08.2024 in presence of the representative of the Customs Broker at M/s CWC CFS (M/s Speedy Multimodes Ltd.). During the said examination proceedings, representative samples, in duplicate, were drawn from each of the 10 containers, for laboratory testing to ascertain the exact nature of the import goods in the said consignment.

3. Testing and Seizure:

3.1 The 10 representative samples were sent to Central Excise and Customs Laboratory (CECL), Vadodara for testing of the same. The Central Excise and Customs Laboratory (CECL), Vadodara submitted their test reports dated 20.09.2024 and 27.09.2024 in respect of the said 10 samples. The said test reports in respect of all of the 10 samples, on the basis of the tested parameters by the CECL Vadodara, indicated that *"the sample meets the requirement of Petroleum Hydrocarbon Solvent 125/240 as per IS 1745:2018."*

3.2 As per Schedule 1 Import Policy under ITC(HS), 2022 for Chapter-27 (Mineral Fuels, Mineral Oils, etc.), import of "Solvent 125/240 (Petroleum Hydrocarbon Solvent) as specified under standard IS 1745" covered under CTH 27101920, is restricted into India, and the same can only be imported subject to Policy Condition No. 5 of Chapter 27. Therefore, it appeared that said importer has imported restricted goods i.e. **"Petroleum Hydrocarbon Solvent 125/240"** by mis-declaring the same as "Distillate Oil" under the said consignment. Accordingly, there being a reasonable belief 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, vide Seizure Memo dated **16.10.2024**.

4. During the course of investigation, statements of concerned persons were recorded under Section 108 of the Customs Act, 1962 and some documents were collected as given below:

4.1 Letter dated 17.09.2024 was sent to Shipping Agent M/s Sky Bliss Shipping Agency Pvt. Ltd., Gandhidham requesting to provide copies of all the documents i.e. Customs declaration, etc. submitted by the shipper M/s. Taurus International (FZE), Sharjah, located in UAE in case of the subject Bill of Lading No. ARGJTEAMUN2401212, wherein vide email dated 18.09.2024 received from Shipping Agent M/s Sky Bliss Shipping Agency Pvt. Ltd, it was informed by their principal that 'Customs declaration has been done by shipper itself and in Dubai, it is not mandatory to collect ED copy to release the BL'.

4.2 Statement of Shri Nitin Hans, Partner of M/s. Nexgen Petrochemicals was recorded under Section 108 of the Customs Act, 1962 on 08.10.2024, during which he interalia, stated that his firm was incorporated in March 2021 and apart from him, Shri Tushar Popli was another Partner in the firm. He further stated that his firm is mainly involved in trading of Distillate Oil; that their firm sells the product to buyers based on their requirements. He further stated that his firm has been importing Distillate Oil from Dubai and in past they have imported around 12 consignments in year 2024. On being asked about placing of order of goods, he stated that mostly he places orders for goods and in all cases, their supplier was Taurus International (FZE), Sharjah, UAE. On being asked about correspondence

with the supplier, Shri Nitin Hans stated that no email communication was conducted with the supplier, as all interactions were telephonic and documents related to the import were also shared over the phone. Shri Nitin Hans submitted copies of the analysis report, invoice, packing list, and an overseas declaration made in Sharjah Customs as supporting documents for the import transaction. Upon being presented with reports received from the Central Excise and Customs Laboratory, Vadodara, Shri Nitin Hans accepted the reports and denied for re-testing of cargo. On being asked about the overseas declaration presented by Shri Nitin Hans himself, which was primarily appearing to be falsified and no such HS code 2710 1961 appearing in Sharjah Customs, Shri Nitin Hans submitted that he will provide after getting details from supplier.

4.3 Statement of Shri Gaurav Madhusudan Jhaveri, an 'F Card' holder of Customs Broker M/s. Gaurav M. Jhaveri, was recorded under Section 108 of the Customs Act, 1962 on 28.11.2024, during which he interalia, stated that he has filed the Bill of Entry based on documents and declarations provided by the importer; that these documents included a chemical analysis/test report and other import-related paperwork, which declared the goods as 'Distillate Oil' under CTH 27101961. On being shown the Shipping declaration submitted by Shri Nitin Hans, Partner of M/s. Nexgen Petrochemicals wherein HS Code mentioned 27101961 and same HS Code in BL which was non-existing in Sharjah Customs, he stated that he was not aware of the HS code List of Sharjah Customs and also further stated that he was not aware of the said shipping declaration submitted by Shri Nitin Hans, Partner of M/s. Nexgen Petrochemicals. Shri Gaurav also acknowledged the test reports from the Central Excise and Customs Laboratory, Vadodara, which classified the imported goods as Petroleum Hydrocarbon Solvent 125/240 under CTH 27101920. He accepted that the said item was 'Restricted' for import as per Policy Condition No. 5 of Chapter 27 of the ITC (HS) Import Policy and noted that the importer had opted not to retest the said goods.

4.4 Statement of Shri Nitin Hans, Partner of M/s. Nexgen Petrochemicals was again recorded under Section 108 of the Customs Act, 1962 on 24.01.2025 and on being asked about non-submission of the details asked in his previous statement dated 08.10.2024, he stated that he contacted the supplier telephonically and the supplier told him that they provided the same HS Code to all their customer and after that they stopped responding to him (Shri Nitin). On being asked about his involvement with their supplier to falsify HS Codes and mis-declared goods, he stated that they had imported Distillate Oil however it appeared that the mis-declared goods wrongly supplied by the supplier and they had no knowledge of it. Further, on being asked about goods declaration and HS code which primarily appeared to be 'rewritten' in document related to Sharjah Customs, he stated that the supplier was not responding. When asked to provide any evidence - such as email/chat/messages, confirming that M/s Nexgen Petrochemicals had contacted the supplier after knowing the goods were mis-declared or having invalid HS Code, Shri Nitin Hans failed to present any such proof. When asked about any action taken against supplier for sending 'Restricted goods', he stated that he had not taken any action. When asked to provide proof of ordering 'Distillate Oil', Shri Nitin Hans failed to present any supporting documents.

5. Findings of the Investigation & Evidences collected:

5.1 Specific intelligence gathered by the Directorate of Revenue Intelligence indicated that M/s. Nexgen Petrochemicals is indulged in import of 'Restricted Goods' through mis-declaration by declaring the same as 'Distillate Oil'. Accordingly, the consignment covered under Bill of Entry No. 5020740 dated 12.08.2024 was put on hold by the DRI and further examination and sampling of goods contained in 10 containers covered under the aforesaid consignment was carried out by the DRI under panchnama dated 20.08.2024 in presence of the representative of the Customs Broker at M/s CWC CFS (M/s Speedy Multimodes Ltd.). The representative samples were sent to Central Excise and Customs Laboratory (CECL), Vadodara for testing of the same. The Central Excise and Customs Laboratory (CECL), Vadodara submitted their test reports dated 20.09.2024 and 27.09.2024 and in respect of all the samples, on the basis of the tested parameters by the CECL Vadodara, indicated that *"the sample meets the requirement of Petroleum Hydrocarbon Solvent 125/240 as per IS 1745:2018."* As per Schedule 1 Import Policy under ITC(HS), 2022 for Chapter-27 (Mineral Fuels, Mineral Oils, etc.), import of "Solvent 125/240 (Petroleum Hydrocarbon Solvent) as specified under standard IS 1745" covered under CTH 27101920, is restricted into India, and the same can only be imported subject to Policy Condition No. 5 of Chapter 27. Therefore, it appeared that said importer has imported restricted goods i.e. **"Petroleum Hydrocarbon Solvent 125/240"** by mis-declaring the same as "Distillate Oil" under the said consignment. Accordingly, there being a reasonable belief 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, vide Seizure Memo dated **16.10.2024**.

5.2 The Central Excise and Customs Laboratory (CECL), Vadodara test results revealed significant discrepancies between the declared and actual specifications of the imported goods. The declared product, "Distillate Oil," was described under CTH 27101961, while the laboratory's findings confirmed the goods to be **"Petroleum Hydrocarbon Solvent 125/240"** falling under CTH 27101920. The reported properties, such as flash point and boiling point ranges, also deviated from the specifications declared by the importer. The deviation noticed in respect of CECL Test Reports and Chemical Analysis Report (submitted by the importer) was also very huge and none of the specifications mentioned in 'Chemical Analysis Report' were matching/in-line with the test reports received from the CECL, Vadodara. Further, the importer accepted the Test Reports received from the CECL Vadodara and did not opt for any re-testing of the samples for their goods imported vide Bill of Entry No. 5020740 dated 12.08.2024.

5.3 During the course of the investigation, statements from key individuals involved in the imports were recorded. Upon being presented with the CECL test results, Shri Nitin Hans, Partner of the importing firm, accepted the test reports issued by CECL Vadodara and chose not to request a re-test of the samples for the goods imported under Bill of Entry No. 5020740 dated 12.08.2024. He acknowledged the laboratory's findings and declined the option of re-evaluation. Shri Nitin Hans attributed the discrepancy in product specifications to a possible error on the supplier's part. However, when asked to provide any supporting

evidence - such as emails, chat records, or messages - confirming that M/s Nexgen Petrochemicals had contacted the supplier upon discovering the misdeclaration or invalid HS Code, he failed to present any proof. This indicates that the importer was fully aware of the nature of the 'Restricted' goods and had deliberately imported them in collusion with the supplier. Had the DRI not intervened, these 'Restricted' goods could have been cleared for consumption within Indian territory.

5.4 Shri Nitin Hans, Partner of the importing firm, submitted documents that were found to be falsified. The discrepancies were brought to his attention, particularly the absence of HS Code 2710 1961 in the Sharjah Customs HS Code List but appearing in the declaration given to Federal Customs Authority (Sharjah Ports, Customs and Free Zone Authority), which clearly indicated that the overseas declaration had been forged to support his claim. However, when asked to provide any credible supporting evidence, he failed to do so and merely stated that the supplier was not responding to him.

5.5 During the cargo examination on 20.08.2024, the Customs Broker presented a draft Bill of Lading (No. ARGJEAMUN2401212) dated 29.07.2024 (Draft), whereas a different version of the same Bill of Lading, dated 07.08.2024, was used for filing Bill of Entry No. 5020740 on 12.08.2024 at Mundra Custom House. This final Bill of Lading was provided to DRI by the Shipping Agent, M/s Sky Bliss Shipping Agency Pvt. Ltd., Gandhidham, via email on 18.09.2024. Upon reviewing both versions, it was observed that the draft Bill of Lading initially contained an 'ED No.' field, which was left blank. However, in the final issued Bill of Lading, this detail was deliberately removed. This appears to be a deliberate act intended to conceal crucial information related to the overseas 'Export Declaration.' The importer, in collusion with the supplier, has manipulated the overseas declaration to obscure the actual facts, thereby engaging in a clear act of misrepresentation.

5.6 From the investigation carried out by the DRI, it was revealed that the imported goods covered under Bill of Entry No. 5020740 dated 12.08.2024 filed at Mundra, were misdeclared by M/s. Nexgen Petrochemicals to circumvent import restrictions. The importer's partner, Shri Nitin Hans, admitted to the findings but attributed the misdeclaration to the supplier's error. No any supporting evidence - such as emails, chat records, or messages - confirming that M/s Nexgen Petrochemicals had contacted the supplier upon discovering the misdeclaration or invalid HS Code.

6. Relevant Legal Provisions:

6.1 Policy Condition No. 5 of Chapter 27 of the Customs Tariff is reproduced as below:

"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."

6.2 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-2].*

(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.*

6.3 Relevant Sections of the Customs Act, 1962:

SECTION 111: *Confiscation of improperly imported goods, etc. - The following goods brought from a place outside India shall be liable for 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;*

(f) *any dutiable or prohibited goods required to be mentioned under the regulations in an [arrival manifest or import manifest] or import report which are not so mentioned;*

(l) *any dutiable or prohibited goods which are not included or are in excess of those included in the entry made under this Act, or in the case of baggage in the declaration made under section 77;*

(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 transshipment, with the declaration for transshipment referred to in the proviso to sub-section (1) of section 54;*

SECTION 112 of the Customs Act. 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 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 penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

Provided that where such duty as determined under sub-section (8) of section 28 and the interest payable thereon under section 28AA is paid within thirty days from the date of communication of the order of the proper officer determining such duty, the amount of penalty liable to be paid by such person under this section shall be twenty-five per cent. of the penalty so determined;

(iii) in the case of goods in respect of which the value stated in the entry made under this Act or in the case of baggage, in the declaration made under section 77 (in either case hereafter in this section referred to as the declared value) is higher than the value thereof, to a penalty not exceeding the difference between the declared value and the value thereof or five thousand rupees, whichever is the greater;

(iv) in the case of goods falling both under clauses (i) and (iii), to a penalty not exceeding the value of the goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest;

(v) in the case of goods falling both under clauses (ii) and (iii), to a penalty not exceeding the duty sought to be evaded on such goods or the difference between the declared value and the value thereof or five thousand rupees, whichever is the highest.

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.

SECTION 125: Option to pay fine in lieu of confiscation.

(i) 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 [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit:

6.4 Import of "Petroleum Hydrocarbon Solvent 125/240" into India is subject to Policy Condition No. 5 of Chapter 27 of Customs Tariff, which is produced above, therefore, the importer has violated the provisions of import of the said imported goods, since the importer is not an STE and neither possesses a license to import the same. Therefore, it appears that the importer has violated the provisions of the Customs Act, 1962, by importing restricted import goods, as discussed in

foregoing paras, and rendered the said goods liable for confiscation under the Customs Act, 1962.

7. Valuation:-

7.1 In view of the above facts, since the goods have been mis-declared by the importer, the value declared by the importer in the corresponding Bill of Entry and invoices do not appear to be the true transaction value under the provisions of Section 14 of the Customs Act, 1962 read with the provisions of the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 and thus the same appear liable to be rejected in terms of Rule 12 of CVR, 2007.

Rule 12 of the Customs Valuation (Determination of value of Imported goods) Rules, 2007, is reproduced below:

"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.

(2) At the request of an importer, the proper officer, shall intimate the importer in writing the grounds for doubting the truth or accuracy of the value declared in relation to goods imported by such importer and provide a reasonable opportunity of being heard, before taking a final decision under sub-rule (1).

Explanation. -

(1) For the removal of doubts, it is hereby declared that: -

(i) This rule by itself does not provide a method for determination of value, it provides a mechanism and procedure for rejection of declared value in cases where there is reasonable doubt that the declared value does not represent the transaction value; where the declared value is rejected, the value shall be determined by proceeding sequentially in accordance with rules 4 to 9.

(ii) The declared value shall be accepted where the proper officer is satisfied about the truth and accuracy of the declared value after the said enquiry in consultation with the importers.

(iii) The proper officer shall have the powers to raise doubts on the truth or accuracy of the declared value based on certain reasons which may include -

(a) the significantly higher value at which identical or similar goods imported at or about the same time in comparable quantities in a comparable commercial transaction were assessed;

(b) the sale involves an abnormal discount or abnormal reduction from the ordinary competitive price;

(c) the sale involves special discounts limited to exclusive agents;

(d) the misdeclaration of goods in parameters such as description, quality,

quantity, country of origin, year of manufacture or production;

(e) the non-declaration of parameters such as brand, grade, specifications that have relevance to value;

(f) the fraudulent or manipulated documents."

7.2 The value is required to be re-determined by sequentially proceeding in terms of Rules 3 to 9 of CVR, 2007. The relevant Rules of CVR, 2007 are reproduced hereunder:

3. Determination of the method of valuation. -

(1) Subject to rule 12, the value of imported goods shall be the transaction value adjusted in accordance with provisions of rule 10;

(2) Value of imported goods under sub-rule (1) shall be accepted:

Provided that -

(a) there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which -

(i) are imposed or required by law or by the public authorities in India; or

(ii) limit the geographical area in which the goods may be resold; or

(iii) do not substantially affect the value of the goods;

(b) the sale or price is not subject to some condition or consideration for which a value cannot be determined in respect of the goods being valued;

(c) no part of the proceeds of any subsequent resale, disposal or use of the goods by the buyer will accrue directly or indirectly to the seller, unless an appropriate adjustment can be made in accordance with the provisions of rule 10 of these rules; and

(d) the buyer and seller are not related, or where the buyer and seller are related, that transaction value is acceptable for customs purposes under the provisions of sub-rule (3) below.

(3)(a) Where the buyer and seller are related, the transaction value shall be accepted provided that the examination of the circumstances of the sale of the imported goods indicate that the relationship did not influence the price.

(4) if the value cannot be determined under the provisions of sub-rule (1), the value shall be determined by proceeding sequentially through rule 4 to 9.

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;

Provided that such transaction value shall not be the value of the goods provisionally assessed under section 18 of the Customs Act, 1962.

(b) In applying this rule, the transaction value of identical goods in a sale at the same commercial level and in substantially the same quantity as the goods being valued shall be used to determine the value of imported goods.

(c) Where no sale referred to in clause (b) of sub-rule (1), is found, the transaction value of identical goods sold at a different commercial level or in different quantities or both,

adjusted to take account of the difference attributable to commercial level or to the quantity or both, shall be used, provided that such adjustments shall be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustments, whether such adjustment leads to an increase or decrease in the value.

(2) Where the costs and charges referred to in sub-rule (2) of rule 10 of these rules are included in the transaction value of identical goods, an adjustment shall be made, if there are significant differences in such costs and charges between the goods being valued and the identical goods in question arising from differences in distances and means of transport.

(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.

7.3 On going through the import data for the said period, it was found that value of the import goods which have been declared as Petroleum Hydrocarbon Solvent 125/240" as per IS 1745:2018, was available. It was noticed that the import value of such import goods, was declared to be **USD 810 USD/MTS** during relevant time period (Rs. 68,526/MTS as per exchange rate of Rs. 84.6 Per USD). Thus, as per Rule 4 of CVR, 2007, the same value can be taken for the offending goods in this case.

7.4 As per the facts discussed in foregoing paras, the consignment imported in this case vide aforesaid Bill of Entry 5020740 dated 12.08.2024 was reported to be "Petroleum Hydrocarbon Solvent 125/240" as per IS 1745:2018" as per Test Reports of CECL, Vadodara. The outcome of Test Reports of CECL, Vadodara and end use of the subject goods gathered during investigation give reason to believe that the value of the goods reflected in the invoice provided by the importer with Customs authorities at Mundra port is not reflecting the actual value of the subject goods i.e. "Petroleum Hydrocarbon Solvent 125/240" as per IS 1745:2018" since the goods is mis-declared in the BE. In view of these facts, the declared value of Rs. 71,49,165/-, cannot be considered true and accurate "transaction value" for the purposes of section 14 of Customs Act, 1962 and is liable to be rejected in terms of Rule 12 of the CVR, 2007, as above.

7.5 Accordingly, for valuation purpose, in order to arrive at a fair and reasonable value of the subject goods in question within the framework of law and procedures as given in the Valuation Rules, import data of the goods "Petroleum Hydrocarbon Solvent 125/240" as per IS 1745:2018" was referred, and it was noticed that the import price of such goods, covered under CTH 27101920 was found to be **USD 810 USD/MTS** on relevant date (*i.e.* Rs. 68,526/MTS as per exchange rate of Rs. 84.6 Per USD), during the said period, while the declared value of the import consignment was around 450 USD (approx. Rs. 38,090/- per MTS). Accordingly, the re-determined value of the consignment as per the said import data, of "Petroleum Hydrocarbon Solvent 125/240" as per IS 1745:2018, having total quantity of 187.69 MT, is **Rs. 1,28,61,645/-**, in terms of provisions of Rule 4 (Transaction value of identical goods), of the CVR, 2007.

8. Confiscation of the goods:

8.1 M/s Nexgen Petrochemicals, New Delhi imported a consignment, covered under Bill of Entry No. 5020740 dated 12.08.2024 filed at Mundra, which was declared as "Distillate Oil," classified under CTH 27101961. On testing of the

samples drawn from the said consignment, the import goods were found to be "Petroleum Hydrocarbon Solvent 125/240", falling under CTH 27101920. Therefore, the said misdeclared goods having declared value of **Rs. 71,49,165/-** and re-determined value of **Rs. 1,28,61,645/-**, appear to be liable for confiscation under Section 111(f), 111(l) and 111(m) of the Customs Act, 1962.

8.2 Further, import of "Petroleum Hydrocarbon Solvent 125/240", 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. Therefore, it appeared that said importer has imported restricted goods i.e. "Petroleum Hydrocarbon Solvent 125/240" by mis-declaring the same as "Distillate Oil" under the said consignment. Therefore the said goods having declared value of **Rs. 71,49,165/-** and re-determined value of **Rs. 1,28,61,645/-**, appear to be liable for confiscation under Section 111(d) of the Customs Act, 1962.

9. Role played by M/s Nexgen Petrochemicals (IEC: AASFN5923B), Third Floor, 301/26, Pragati Tower, Rajendra Place, New Delhi - 110008 (Importer):

M/s Nexgen Petrochemicals imported a consignment, covered under Bill of Entry No. 5020740 dated 12.08.2024 filed at Mundra, by mis-declaring the import goods as "Distillate Oil" classified under HS Code 27101961. During investigation by the DRI, it was found that the actual goods covered under the said consignments was "Petroleum Hydrocarbon Solvent 125/240", which was 'Restricted' for import into India and only allowed to be imported as per Policy Condition No. 5 of the Customs Tariff. During the investigation, the proprietor of the importer Shri Nitin Hans, accepted the mis-classification and agreed to the test reports. Shri Nitin Hans submitted documents that were found to be falsified. The discrepancies were brought to his attention, particularly the absence of HS Code 27101961 in the Sharjah Customs HS Code List but appearing in the declaration given to Federal Customs Authority (Sharjah Ports, Customs and Free Zone Authority), which clearly indicated that the overseas declaration had been forged to support his claim. However, when asked to provide any credible supporting evidence, he failed to do so and merely stated that the supplier was not responding to him. From the investigation carried out by the DRI, it was revealed that the imported goods covered under Bill of Entry No. 5020740 dated 12.08.2024 filed at Mundra, were mis-declared by M/s. Nexgen Petrochemicals to circumvent import restrictions. The importer's partner, Shri Nitin Hans, admitted to the findings but attributed the misdeclaration to the supplier's error. No any supporting evidence - such as emails, chat records, or messages - confirming that M/s Nexgen Petrochemicals had contacted the supplier upon discovering the misdeclaration or invalid HS Code. Therefore, it appears that M/s. Nexgen Petrochemicals, by filing incorrect declarations and failing to ensure proper classification of the goods, violated several provisions concerning the importation of such restricted goods, and classification of the same, thus rendering the said goods liable for confiscation under the provisions of the Section 111(d), 111(f), 111(l) and 111(m) of the Customs

Act, 1962. Therefore, M/s Nexgen Petrochemicals have made themselves liable for penalty under Section 112(a) and 112(b) of the Customs Act, 1962. Furthermore, M/s Nexgen Petrochemicals 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 Nexgen Petrochemicals are also liable for penalty under Section 114AA of the Customs Act, 1962.

10. Accordingly, Show Cause Notice issued vide F. No. GEN/ADJ/ADC/424/2025-Adjn dated 10.02.2025 was issued to the importer M/s. Nexgen Petrochemicals (IEC: AASFN5923B) calling upon it to show cause as to why:

(i) The classification of goods covered under Bill of Entry No. 5020740 dated 12.08.2024 filed at Mundra Port, declared as 'Distillate Oil', under CTH 27101961, should not be rejected and the same should not be reclassified as 'Petroleum Hydrocarbon Solvent 125/240' under CTH 27101920.

(ii) The declared value of the said goods declared as Distillate Oil, as Rs. 71,49,165/- should not be rejected in terms of Rule 12 of the CVR, 2007 and the same should not be re-determined as Rs. 1,28,61,645/-, in terms of provisions of Rule 4 (Transaction value of identical goods), of the CVR, 2007.

(iii) The goods declared as Distillate Oil, under the Bill of Entry No. 5020740 dated 12.08.2024 filed at Mundra Port, should not be held liable for confiscation under Section 111(d), 111(f), 111(l) and 111(m) of the Customs Act, 1962.

(iv) Penalty should not be imposed upon them under Sections 112(a), 112(b), and 114AA of the Customs Act, 1962, separately.

PERSONAL HEARING

11. Shri Nitin Hans, importer, appeared for personal hearing on 02.07.2025. During the hearing, he requested for permission to re-export the impugned goods stating that the cargo was found other than what was declared.

WRITTEN SUBMISSION

12. The importer vide their letter dated 06.03.2026 has submitted the following:

"We, NEXGEN PETROCHEMICALS, IEC No. AASFN5923B, for the import of DISTILLATE OIL. The said goods are presently under detention/hold by the Directorate of Revenue Intelligence (DRI) in connection with their investigation.

In this regard, we hereby submit that we are willing to re-export the above-mentioned goods back to the supplier. We request your good office to kindly grant permission for re-export of the goods under Section 74 / relevant provisions of the Customs Act, 1962, as applicable.

We respectfully request you to kindly consider our application and grant

approval for re-export at the earliest."

DISCUSSION AND FINDINGS

13. I have carefully gone through the Show Cause Notice dated 10.02.2025, the written submissions made by the Noticee, the record of personal hearing dated 02.07.2025, written submission dated 06.03.2026 and all documentary evidence available on record. The principles of natural justice stand duly complied with as the Noticee has been afforded opportunity to present their case through written submission and personal hearing. I accordingly proceed to decide the case on the basis of the facts, evidence on record and the submissions made by the Noticee. On a careful perusal of the subject show Cause Notice and case records, I find that following main issues are involved in this case, which are required to be decided: -

(i) Whether the classification of goods covered under Bill of Entry No. 5020740 dated 12.08.2024 filed at Mundra Port, declared as 'Distillate Oil' under CTH 27101961, is liable to be rejected and the goods reclassified as 'Petroleum Hydrocarbon Solvent 125/240' under CTH 27101920.

(ii) Whether the declared value of the said goods of Rs. 71,49,165/- is liable to be rejected in terms of Rule 12 of the CVR, 2007 and re-determined as Rs. 1,28,61,645/- in terms of Rule 4 (Transaction value of identical goods) of the CVR, 2007.

(iii) Whether the goods declared as 'Distillate Oil' under Bill of Entry No. 5020740 dated 12.08.2024 are liable for confiscation under Section 111(d), 111(f), 111(l) and 111(m) of the Customs Act, 1962.

(iv) Whether penalties are imposable upon M/s. Nexgen Petrochemicals under Sections 112(a), 112(b) and 114AA of the Customs Act, 1962.

14. CLASSIFICATION

14.1 Regarding the first issue, I find that M/s. Nexgen Petrochemicals filed Bill of Entry No. 5020740 dated 12.08.2024 at Mundra Port declaring the description of the goods as 'Distillate Oil' and classifying the same under CTH 27101961. During examination, samples were drawn from all 10 containers covered under the said Bill of Entry and sent to Central Excise and Customs Laboratory (CECL), Vadodara for testing.

14.2 The CECL, Vadodara submitted test reports dated 20.09.2024 and 27.09.2024 in respect of all 10 samples. The said test reports conclusively indicated that "*the sample meets the requirement of Petroleum Hydrocarbon Solvent 125/240 as per IS 1745:2018*" and further that the goods are other than light oil and preparation, kerosene, light diesel oil, automotive diesel fuel, HFHSD, transformer oil, biodiesel, diesel fuel blend, Gas Oil, Vacuum Gas Oil, kerosene intermediate and Distillate Marine Fuel. The CECL findings thus unequivocally confirm that the imported goods are not 'Distillate Oil' as declared, but are 'Petroleum Hydrocarbon Solvent 125/240' as per IS 1745:2018. A significant deviation was also noticed between the CECL test reports and the Chemical Analysis Report submitted by the importer, with none of the specifications in the importer's Analysis Report matching the CECL test results. The Importer, in his statement dated 08.10.2024, has accepted the test reports and also refused to opt for re-testing of the samples.

14.3 I find that classification of goods under the Customs Tariff is governed by the General Rules of Interpretation (GIR) of the Harmonized System. Rule 1 of the GIR provides that classification shall be determined according to the terms of the headings and any relative Section or Chapter Notes. The relevant extract of GIR Rule 1 is 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 :

14.4 In light of the above GIR Rule 1, as far as the entries at the heading level are concerned, Heading 2710 of the Customs Tariff covers "*Petroleum Oils and Oils obtained from bituminous minerals (other than crude) and preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals.*" The relevant extract of Heading 2710 is reproduced below:

2710 **PETROLEUM OILS AND OILS OBTAINED FROM BITUMINOUS MINERALS, OTHER THAN CRUDE; PREPARATIONS NOT ELSEWHERE SPECIFIED OR INCLUDED, CONTAINING BY WEIGHT 70% OR MORE OF PETROLEUM OILS OR OF OILS OBTAINED FROM BITUMINOUS MINERALS, THESE OILS BEING THE BASIC CONSTITUENTS OF THE PREPARATIONS; WASTE OILS**

- *Petroleum oils and oils obtained from bituminous minerals (other than crude) and preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparations, other than those containing biodiesel and other than waste oils:*

14.5 The relevant tariff entries under CTH 2710 19 20 and surrounding entries, showing 'Solvent 125/240 (Petroleum Hydrocarbon Solvent) as specified under standard IS 1745' under CTH 27101920, are reproduced below:

2710 12	--	Light oils and preparations:			
	---	Naphtha:			
2710 12 21	----	Light naphtha	kg.	**2.5%	-
2710 12 22	----	Heavy naphtha	kg.	**2.5%	-
2710 12 29	----	Full range naphtha	kg.	**2.5%	-
	---	Solvent 60/80, solvent 50/120 and solvent 145/205 (petroleum hydrocarbon solvents) as specified under standard IS 1745:			
2710 12 31	----	Solvent 60/80	kg.	**5%	-
2710 12 32	----	Solvent 50/120	kg.	**5%	-
2710 12 39	----	Solvent 145/205	kg.	**5%	-
	---	Motor gasoline conforming to standard IS 2796, IS 17021 , **IS 17586 orIS 17076:			
2710 12 41	----	Motor gasoline conforming to standard IS 2796	kg.	**2.5%	-
2710 12 42	----	E 20 fuel conforming to standard IS 17021	kg.	**2.5%	-
2710 12 43	----	E 12 fuel conforming to standard IS 17586	kg.	**2.5%	-
2710 12 44	----	E 15 fuel conforming to standard IS 17586	kg.	**2.5%	-

2710 12 49	----	M15 fuel conforming to standard IS 17076	kg.	**2.5%	-
2710 12 50	---	Aviation gasoline conforming to standard IS 1604	kg.	**Free%	-
2710 12 90	---	Other	kg.	**5%	-
2710 19	--	Other:			
2710 19 20	---	Solvent 125/240 (petroleum hydrocarbon solvent) as specified under standard IS 1745	kg.	**5%	-
	---	Kerosene intermediate and oils obtained from kerosene intermediate:			
2710 19 31	----	Kerosene intermediate	kg.	**5%	-
2710 19 32	----	Kerosene conforming to standard IS 1459	kg.	**5%	-
2710 19 39	----	Aviation turbine fuels, kerosene type conforming to standard IS 1571	kg.	**5%	-
	---	Gas oil and oils obtained from gas oil:			

14.6 Since the impugned goods have been conclusively found to be 'Petroleum Hydrocarbon Solvent 125/240' as per IS 1745:2018 by the CECL, Vadodara, the same is rightly classifiable under CTH **27101920** as above, instead of the declared CTH 27101961 for the declared description 'Distillate Oil'. The Importer has not disputed the classification as proposed in the SCN. I accordingly hold that the impugned goods are correctly classifiable under CTH **27101920** as 'Petroleum Hydrocarbon Solvent 125/240'.

15. VALUATION

15.1 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 Importer in the Bill of Entry and invoices 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 (CVR, 2007). The grounds for doubting the declared value, as contemplated under Explanation (1)(iii) to Rule 12 of the CVR, 2007, are clearly made out in the present case, namely misdeclaration of goods in parameters such as description and classification [clause (d)], non-declaration of parameters having relevance to value [clause (e)], and fraudulent or manipulated documents [clause (f)]. Accordingly, I find that the declared value of **Rs. 71,49,165/-** is liable to be rejected under Rule 12 of the CVR, 2007.

15.2 I further find that Rule 3(1) of the CVR, 2007 provides that subject to Rule 12, the value of imported goods shall be the transaction value. Since the declared value is liable to be rejected, the value is required to be re-determined by proceeding sequentially through Rules 4 to 9 of the CVR, 2007. I find that contemporaneous import data was available for the relevant period for identical goods declared as 'Petroleum Hydrocarbon Solvent 125/240 as per IS 1745:2018' covered under CTH 27101920, wherein the import value was found to be **USD 810 per MTS** (Rs. 68,526/- per MTS at the exchange rate of Rs. 84.6 per USD). The Importer had declared the goods at approximately USD 450 per MTS (approx. Rs. 38,090/- per MTS), which is significantly lower than the comparable contemporaneous import value.

15.3 I accordingly hold that as per Rule 4 of the CVR, 2007 (Transaction value of identical goods), the unit value of USD 810 per MTS is to be adopted for the purpose of valuation of the impugned goods. The re-determined value of the consignment comprising 187.69 MT is accordingly **Rs. 1,28,61,645/-** (Rupees One Crore Twenty Eight Lakh Sixty One Thousand Six Hundred Forty Five Only). The declared value of Rs. 71,49,165/- is hereby rejected under Rule 12 of the CVR, 2007 and the value is re-determined as Rs. 1,28,61,645/- under Rule 4 of the CVR, 2007.

The Bill of Entry No. 5020740 dated 12.08.2024 is accordingly to be re-assessed under Section 17(4) of the Customs Act, 1962.

16. CONFISCATION

16.1 Regarding the third issue, I find that the SCN proposes confiscation of the goods under Sections 111(d), 111(f), 111(l) and 111(m) of the Customs Act, 1962. I shall deal with each limb of confiscation separately.

16.2 As regards Section 111(d) of the Customs Act, 1962, I find that the said provision provides for confiscation of any goods which are imported contrary to any prohibition imposed by or under the Customs Act, 1962 or any other law for the time being in force. In the present case, I find that as per Schedule 1 Import Policy under ITC(HS), 2022 for Chapter 27, import of 'Petroleum Hydrocarbon Solvent 125/240 as specified under standard IS 1745' covered under CTH 27101920 is restricted into India and the same can only be imported subject to Policy Condition No. 5 of Chapter 27. The said Policy Condition No. 5, as amended vide DGFT Notification No. 27/2015-2020 dated 19.09.2021, is reproduced below:

Government of India
Ministry of Commerce & Industry
Department of Commerce
Directorate General of Foreign Trade

Notification No. 27/2015-2020
New Delhi, Dated: 16th September, 2021

Subject: Amendment of policy condition no. 5 of Chapter 27 of ITC (HS), 2017, Schedule – I (Import Policy).

S.O.(E): In exercise of powers conferred by Section 3 read with Section 5 of FT (D&R) Act, 1992, read with paragraph 1.02 and 2.01 of the Foreign Trade Policy, 2015-2020, as amended from time to time, the Central Government hereby amends policy condition no.5 of Chapter 27 of ITC (HS), 2017, Schedule – I (Import Policy) as under:

Existing Policy Condition	Revised Policy Condition
Import allowed through IOC subject to para 2.20 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P and 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.	Import allowed through IOC subject to para 2.20 of Foreign Trade Policy, except for the 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 for products excluding gasoline conforming to standard IS 2796 (ITC HS Code: 27101241) and Automotive diesel fuel, not containing biodiesel, 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”.

2. **Effect of the Notification:** Policy condition no.5 of Chapter 27 of ITC (HS), 2017, Schedule – I (Import Policy) amended in terms of Government Resolution No. P-12029(11)/2/2018-OMC-PNG dated 08.11.2019.

16.3 From above, it is seen that import of restricted goods is allowed subject to para 2.20 of Foreign Trade Policy (now para 2.21 of FTP) and the same is produced below:

“2.20 State Trading Enterprises (STEs)

(a) State Trading Enterprises (STEs) are governmental and nongovernmental

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 to compete for participation in such purchases or sales.

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

In the present case, the importer M/s. Nexgen Petrochemicals is neither a State Trading Enterprise (STE) nor any authorisation has been granted by DGFT to the Importer for import of said restricted goods. The Importer's own partner, Shri Nitin Hans, has in his statement accepted in principle that they are not entitled to import the subject goods. I therefore hold that the goods are liable for confiscation under **Section 111(d)** of the Customs Act, 1962, as goods imported contrary to the restriction imposed under the Foreign Trade Policy.

16.4 As regards Section 111(m) of the Customs Act, 1962, I find that the said provision provides for confiscation of any goods which do not correspond in respect of value or in any other particular with the entry made under the Act. In the present case, I find that the goods were declared as 'Distillate Oil' under CTH 27101961 at a declared value of Rs. 71,49,165/-, whereas the actual goods are 'Petroleum Hydrocarbon Solvent 125/240' under CTH 27101920 with a re-determined value of Rs. 1,28,61,645/-. The goods thus do not correspond in description, classification and value with the entry made under Bill of Entry No. 5020740 dated 12.08.2024. I accordingly hold that the goods are liable for confiscation under **Section 111(m)** of the Customs Act, 1962.

16.5 As regards Section 111(f) of the Customs Act, 1962, I find that the said provision provides for confiscation of dutiable or prohibited goods which are required to be mentioned in the import manifest but are not so mentioned. Further, as regards Section 111(l) of the Customs Act, 1962, I find that the said provision provides for confiscation of goods which are not included or are in excess of those included in the entry made under the Act. In the present case, I find that the actual goods, being 'Petroleum Hydrocarbon Solvent 125/240', were neither correctly described in the import manifest nor included as such in the Bill of Entry. The goods were deliberately mis-described so as to avoid the manifest and entry capturing their restricted nature. I accordingly hold that the goods are liable for confiscation under **Section 111(f)** and **Section 111(l)** of the Customs Act, 1962.

16.6 As I have already held the goods liable for confiscation in the preceding paras 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 is liable to be imposed in lieu of confiscation in respect of the impugned goods. The 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 or, where such owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit."

16.7 A plain reading of the above provision shows that imposition of redemption fine is an option in lieu of confiscation. It provides for an opportunity to the owner of confiscated goods to redeem the goods by paying redemption fine. In the present case, the Importer, Shri Nitin Hans, Partner of M/s. Nexgen Petrochemicals, during the personal hearing held on 02.07.2025, explicitly requested permission for re-export of the goods, stating that the cargo was found to be other than what was declared. The goods have remained under customs control at M/s CWC CFS, Mundra and have not been cleared for home consumption.

16.8 I find that import of 'Petroleum Hydrocarbon Solvent 125/240' is canalized through State Trading Enterprises and requires authorisation under Policy Condition No. 5 of Chapter 27 of the ITC(HS), which the Importer admittedly does not possess. Thus, the issue that arises is not one of absolute prohibition of the goods per se, but of non-fulfilment of the statutory and policy conditions governing their import. The infirmity in the present case lies in the Importer's failure to comply with the prescribed statutory conditions. In the absence of fulfilment of these essential conditions, the goods cannot be permitted to be cleared into the domestic market.

16.9 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 thus a legal consequence of non-fulfilment of statutory conditions and absence of requisite authorisation.

16.10 In view of the above discussion, 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. At the same time, this course ensures that the goods do not enter the domestic market in violation of statutory conditions. Therefore, exercising powers under Section 125 of the Customs Act, 1962, I deem it appropriate to allow the Importer an option to redeem the goods for the limited purpose of re-export on payment of redemption fine under the provisions of Section 125 of the Customs Act, 1962.

17. PENALTY

17.1 Regarding the fourth issue of proposed penalties, 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. I have held above that the goods are liable for confiscation under Section 111(d), 111(f), 111(l) and 111(m) of the Customs Act, 1962. M/s. Nexgen Petrochemicals, by filing a Bill of Entry

with incorrect description, incorrect classification and suppressed value for goods which are restricted under Policy Condition No. 5, 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.

17.2 I find that imposition of penalty under both Section 112(a) and Section 112(b) simultaneously, on the same facts, would tantamount to imposition of double penalty. I therefore refrain from imposing penalty under **Section 112(b)** of the Customs Act, 1962.

17.3 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. I find that in the present case, the following acts of the Importer squarely attract this provision:

(a) The Bill of Entry filed under Section 46 of the Customs Act, 1962 declared the goods as 'Distillate Oil' under CTH 27101961, which was false and incorrect in the material particular of description and classification, as the goods were actually 'Petroleum Hydrocarbon Solvent 125/240' under CTH 27101920.

(b) The overseas declaration submitted in the name of Sharjah Customs (Federal Customs Authority) bore HS Code 27101961 – a code which does not exist in the Sharjah Customs HS Code list (as established during investigation). This document was thus clearly falsified and was used by the Importer to support his claim.

(c) The final Bill of Lading (dated 07.08.2024) had the 'ED No.' field deliberately removed, compared to the draft Bill of Lading (dated 29.07.2024) where this field was present but left blank – a deliberate manipulation to conceal the overseas Export Declaration.

17.4 I find that the Importer's partner Shri Nitin Hans, when confronted with the falsified Sharjah Customs declaration and the discrepancy in the Bills of Lading, failed to provide any credible explanation or supporting evidence. When asked for proof of ordering 'Distillate Oil', he could produce no documentary evidence. When asked to provide any communication with the supplier confirming contact after discovery of the misdeclaration, he failed to produce any such proof. I therefore have no doubt that the Importer knowingly and intentionally used false and incorrect documents in the transaction of customs business with mala fide intention to import restricted goods. M/s. Nexgen Petrochemicals is accordingly liable for penalty under **Section 114AA** of the Customs Act, 1962.

ORDER

18 . In view of the foregoing Discussion and Findings, I pass the following order:

(i) I reject the classification of goods covered under Bill of Entry No. 5020740 dated 12.08.2024 filed at Mundra Port, declared as 'Distillate Oil' under CTH 27101961, and re-classify the same as 'Petroleum Hydrocarbon Solvent 125/240'

under CTH 27101920;

(i i) I reject the declared value of **Rs. 71,49,165/-** (Rupees Seventy One Lakh Forty Nine Thousand One Hundred Sixty Five Only) under Rule 12 of the CVR, 2007 and re-determine the value of the goods as **Rs. 1,28,61,645/-** (Rupees One Crore Twenty Eight Lakh Sixty One Thousand Six Hundred Forty Five Only) in terms of Rule 4 (Transaction value of identical goods) of the CVR, 2007. The subject Bill of Entry is accordingly to be re-assessed under Section 17(4) of the Customs Act, 1962;

(iii) I order to confiscate the goods declared as 'Distillate Oil' under Bill of Entry No. 5020740 dated 12.08.2024, having re-determined value of **Rs. 1,28,61,645/-** (Rupees One Crore Twenty Eight Lakh Sixty One Thousand Six Hundred Forty Five Only), under Section 111(d), 111(f), 111(l) and 111(m) of the Customs Act, 1962. However, I give an option to M/s. Nexgen Petrochemicals to redeem the said goods for re-export only under Section 125(1) of the Customs Act, 1962, on payment of Redemption Fine of **Rs. 13,00,000/-** (Rupees Thirteen Lakh Only);

(i v) I impose a penalty of **Rs. 7,50,000/-** (Rupees Seven Lakh Fifty Thousand Only) upon M/s. Nexgen Petrochemicals (IEC: AASFN5923B) under Section 112(a) (i) of the Customs Act, 1962;

(v) I impose a penalty of **Rs. 1,00,000/-** (Rupees One Lakh Only) upon M/s. Nexgen Petrochemicals (IEC: AASFN5923B) under Section 114AA of the Customs Act, 1962;

19. This order is issued without prejudice to any other action that may be taken against any person involved in the subject case under the provisions of the Customs Act, 1962 or any other law for the time being in force.

20. Show Cause Notice issued vide F. No. GEN/ADJ/ADC/424/2025-Adjn dated 10.02.2025 stands disposed of on the above terms.

(Dipak Zala)

Additional Commissioner of Customs,
Customs House, Mundra

To,

M/s. Nexgen Petrochemicals (IEC No. AASFN5923B),

Third Floor, 301/26, Pragati Tower,

Rajendra Place, New Delhi - 110 008

(e-mail: nexgenpetrochemicals@gmail.com)

Copy to:

1. The Deputy Director, Directorate of Revenue Intelligence, Gandhidham (Kutch)
2. The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra.
3. The Assistant Commissioner, EDI, Customs Mundra (For upload on Website)
4. Guard File.