

	<p style="text-align: center;"> <b>सीमा शुल्क के प्रधान आयुक्त का कार्यालय</b>  <b>सीमा शुल्क सदन, मुंद्रा, कच्छ, गुजरात</b>  <b>OFFICE OF THE PRINCIPAL COMMISSIONER</b>  <b>OF CUSTOMS</b>  <b>CUSTOMS HOUSE, MUNDRA, KUTCH,</b>  <b>GUJARAT</b>  <b>Phone No.02838-271165/66/67/68</b>  <b>FAX.No.02838-271169/62,</b>  <b>Email-adj-mundra@gov.in</b> </p>	
<b>A. File No.</b>	:	<b>GEN/ADJ/ADC/430/2025-Adjn-O/o Pr. Commr- Cus-Mundra</b>
<b>B. Passed by</b>	:	Amit Kumar Mishra, Additional Commissioner of Customs, Customs House, AP & SEZ, Mundra.
<b>C. Noticee(s) / Party / Importer</b>	:	M/s. Hemraj Petrochem Private Limited
<b>D. DIN</b>	:	20250271MO0000000B72
<b>E. SCN Date</b>	:	10.02.2025

**SHOW CUASE NOTICE UNDER**  
**(UNDER SECTION 124 OF THE CUSTOMS ACT, 1962)**

**Whereas it appeared that:**

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. Hemraj Petrochem Private Limited (*hereinafter also referred to as "the Importer"*), (**IEC: AAFCH7048R**) and having address at 'No. 2/53 B, G.F, Shop No. 3, North Avenue Road, Punjabi Bagh, West Delhi-110026' has imported 'Restricted Goods' under Bill of Entry No. 5020654 dated 12.08.2024 (**RUD-1**) at Mundra Port and declared the same as 'Distillate Oil'. Details of the said consignment is as under:

**Table-I**

<b>Bill of Entry No.</b>	5020654 dated 12.08.2024 (INMUN1)
<b>Bill of Lading No.</b>	EBSINMUN08240025
<b>Declared Goods in BE</b>	Distillate Oil, CTH: 27101961
<b>Declared Quantity</b>	158.05 MTS
<b>Customs Broker</b>	M/s. Gaurav M. Jhaveri (AGRPJ9989QCH001)
<b>Country of Origin</b>	United Arab Emirates
<b>Supplier</b>	Sunlight Trading 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 8 containers covered under the aforesaid consignment was carried out by the DRI under panchnama dated 20.08.2024 (**RUD-2**) 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 8 containers, for laboratory testing to ascertain the exact nature of the import goods in the said consignment.

**3. Testing and Seizure:**

**3.1** The 8 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 27.09.2024 (**RUD-3**) in respect of the said 8 samples. The said test reports in respect of all of the 8 samples, on the basis of the tested parameters by the CECL Vadodara, indicated that "**On the basis of above tested parameters, the sample u/r meets the requirements of Distillate Marine Fuels as per IS:16731:2019 and also meets the requirements of High Flash High Speed Diesel Fuel (HFHSD) as per IS 16861:2018.**"

**3.2** The test reports were analyzed in detail and on going through various literatures available on Indian Government websites/Indian Oil Corporation, it was observed that the parameters reported by the Central Excise and Customs Laboratory (CECL), Vadodara, align more closely with those of "**High Flash High Speed Diesel Fuel (HFHSD) as per IS 16861:2018**" rather than with "**Distillate Marine Fuels as per IS 16731:2019 (equivalent to ISO 8217:2017)**". The report as available on <https://www.ennoreport.gov.in/upload/uploadfiles/files/Marine%20Fuel%20Brochure-Attachment-1.pdf> is reproduced below:

- Detailed comparison of IndianOil HFHSD specifications with MIL-DTL-16884M, ISO 8217 and IS 16861: 2018 is given below:

SL. No	Characteristics	Unit	Test Methods*	MIL-DTL-16884M	ISO 8217	HFHSD as per IS16861	IOC MIL HFHSD - Typical Values
1	Appearance		ASTM D 4176	Clear, bright, and free from visible Particulates			
2	Demulsification @ 250C	Minutes	ASTM D1401	Max 10	-	-	5
3	Density at 15°C	kg/m3	ASTM D1298 (R), D4052, D287	Max 876	Max 890	Max 860	833.1
4	Distillation			Report			
	10% V/V recovered at			Report			219
	50% V/V recovered at		ASTM D86 (R), D2887	Max 357		85% min @ 350 deg C	277
	90% V/V recovered at			Max 385		95% min @ 370 deg C	341
	Final Boiling Point			Max 3.00			366
	Residue + Loss	% Vol					2.00
5	Cloud Point	°C	ASTM D5773, D2500(R), D5772, D5771	Max. (-)1	-	-	(-)2
6	Colour	Number	ASTM D1500 (R), D6045	Max. 1.0	-	-	0.5
7	Flash Point (PMCC)	°C	ASTM D98 (R), D6450, D3828	Min. 66.0	Min 60.0	Min 66.0	69
8	Particulate contamination,	mg/lit	ASTM D6277 (R), D5452	Max 10	-	-	4.5
9	Pour Point	°C	ASTM D97 (R), D5949, D5950, D5985 B/	Max. (-)6	Max. (-) 6	Winter 3 Summer 15	(-)9
10	Kin. Viscosity at 40°C	cSt.	ASTM D445	1.70 to 4.30	-	2.0-5.0	3.03
11	Acid Number (Acidity)	Mg KOH/g	ASTM D974 (R)	Max. 0.30	Max 0.50	Max 0.50	0.1

- Detailed comparison of IndianOil HFHSD specifications with MIL-DTL-16884M, ISO 8217 and IS 16861: 2018 is given below:

SL No	Characteristics	Unit	Test Methods*	MIL-DTL-16884M	ISO 8217	HFHSD as per IS16861	IOC MIL HFHSD - Typical Values
12	Ash content	% wt	ASTM D482	Max. 0.005	Max 0.01	Max. 0.01	0.004
13	Carbon Residue on 10% bottoms	% wt	ASTM D524 (R) 10/ D899, D4530 10/	Max. 0.20 Max 0.30 Max 0.14	-	Max 0.30	0.13
14	Copper Corrosion, 3 hrs at 100°C	Classification	ASTM D130	Max. 1	-	Max. 1	1a
15	Hydrogen content	wt%	ASTM D7771 (R) D4808, D5291	Min.0.5	-	-	13.39
16	Cetane Number	Number	ASTM D513	Min. 46	-	-	51.1
	Cetane Index		ASTM D4737, D976	Min. 45	Min 40.0	Min 45	55.8
17	Storage Stability (total insoluble)	mg/100ml	ASTM D5504 (R)	Max. 3.0	-	-	-
			ASTM D2274	Max. 15	-	-	1.2
18	Sulfur content	wt%	ASTM D4294 (R), D2866, D1552, D2622, D3120, D5453 (R), D7339	Max.0.1	Max 1.0	Max 0.2	0.017
19	Trace metals	ppm	ASTM D773 (R), Q3605	Max 1.0 Max 0.5 Max 1.0 Max 0.5	-	-	-
	Calcium						0.5
	Lead						0.1
	Sodium+potassium						0.4
	Manganese						0.3
20	Lubricity corrected WSD @ 60°C	µm	ISO 1256, ASTM D6079, D7588	Max 450	Max 520	Max 520	424
21	Water and sediment	% wt	ASTM D2709	Max 0.05	Max 0.05	Max 0.05	0.02
22	Cold filter plugging point (CFPP)	oC	ASTM D6371	Max 0	-	Max 0	113

The initial most import parameters which are taken into account are Flash Point, Density at 15° C, K.V. at 40° C (cSt) and Distillation Range. However, all the parameters were compared as per the test reports provided by the Central Excise and Customs Laboratory (CECL), Vadodara and that mentioned in above detailed comparison table and important aspects noticed are as given below:

- In all 8 reports, the density reported by CECL is around 0.83 which shows that parameter is very near to **IS 16861** (max 0.860 as per IS 16861 and exact as per IOC MIL HFHSD) rather than **ISO 8217** (max 0.890).
- In all 8 reports, the flash point reported by CECL is around 70° C which is very near to **IS 16861** (min 66° C as per IS 16861 and almost equal to IOC MIL HFHSD) rather than **ISO 8217** (min 60° C).

- (iii) The K.V. at 40° C (cSt) reported by CECL is around 3.0 which is as per **IS 16861** however there is no specification mentioned in **ISO 8217** for K.V. at 40° C (cSt).
- (iv) The Distillation Range reported by CECL is as per **IS 16861** however there is no specification mentioned in **ISO 8217** for distillation range.

It clearly shows that parameters of imported goods very much align to **IS 16861 i.e. "High Speed Diesel Fuel conforming to standard IS 16861"** and imported goods are actually classifiable under HS Code 27101949 rather than 27101961.

As per Schedule 1 Import Policy under ITC(HS), 2022 for Chapter-27 (Mineral Fuels, Mineral Oils, etc.), import of "**Gas oil and oils obtained from gas oil: --- High flash high speed diesel fuel conforming to standard IS 16861**" covered under HS Code 27101949, 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. "**High Flash High Speed Diesel Fuel (HFHSD) as per IS 16861:2018**" by mis-declaring the same as "Distillate Oil" under the said consignment. 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, vide Seizure Memo dated **16.10.2024 (RUD-4)**.

**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 Everbridge Logistics Pvt Ltd., Gandhidham requesting to provide copies of all the documents i.e. Customs declaration, etc. submitted to the shipping line M/s Everbridge Logistics Pvt Ltd. by the shipper M/s. Sunlight Trading FZE, Sharjah, UAE, located in UAE in case of the subject Bill of Lading No. EBSINMUN08240025 dated 03.08.2024, in response M/s Everbridge Logistics Pvt Ltd., Gandhidham provided a shipping declaration from Sharjah Customs via email dated 18.09.2024 (**RUD-5**). Further, M/s Everbridge Logistics Pvt Ltd. provided another overseas shipping declaration document from Dubai Customs via email dated 27.09.2024. (**RUD-6**)

**4.2.** Statement of Shri Atul Arora, Director of M/s. Hemraj Petrochem Pvt. Ltd. was recorded on 08.10.2024 (**RUD-7**), during which he interalia, stated that his company was incorporated in March 2021 and apart from himself, his brother Anish Arora is also Director of the company and his company was primarily engaged in the trading of Distillate Oil, Shuttering Oil, Grease, Mobile Oil etc. Shri Atul Arora stated that he was looking after trading of Shuttering Oil, Grease etc. while his brother Shri Anish Arora was looking after imports. On being asked about email correspondence with the supplier, Shri Atul stated that he would provide the copies within 2-3 days after getting details from his brother Shri Anish Arora. Upon being presented with reports from the Central Excise and Customs Laboratory, Vadodara, Shri Atul reviewed the findings of the laboratory tested samples from the imported consignment under Test Memo Nos. 343/2024 to 350/2024. On being shown two different shipping declaration i.e. one from Dubai Custom and another from Sharjah Custom received from M/s Everbridge Logistics Pvt Ltd. having HS code mentioned as 2710 1961 which was non existing in Sharjah Customs and Dubai Customs, he stated that he had no idea about it and could reply after getting details from the supplier within 2-3 days. On perusal of shipping declaration from Sharjah Custom received on 18.09.2024 wherein the good description and HS Code

prima facie appeared to be 'rewritten', he stated that he had no idea about it and could only reply after getting details from the supplier within 2-3 days.

**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 (**RUD-8**), during which he interalia, stated that he has filed the Bill of Entry based on documents and declarations provided by the importer. On being shown the statement of Shri Atul Arora, Director of Hemraj Petrochem Private Limited dated 08.10.2024, Shri Gaurav Jhaveri affirmed its content and put his signature. When asked about HS Code 27101961 mentioned in both documents i.e. Shipping Declarations and Bill of Lading, which is non-existing in Sharjah Customs, he stated that he was not aware of the HS Code List of Sharjah Customs and further stated that he was not aware about the said shipping declaration. He also acknowledged the test reports from the Central Excise and Customs Laboratory, Vadodara, which stated that "***On the basis of above tested parameters, the sample u/r meets the requirements of Distillate Marine Fuels as per IS:16731:2019 and also meets the requirements of High Flash High Speed Diesel Fuel (HFHSD) as per IS 16861:2018.***". After showing the Policy Condition No. 5 of Chapter 27 of the ITC (HS) Import Policy, where it was mentioned that the import of High Flash High Speed Diesel Fuel (HFHSD) is 'Restricted', he stated that importer could properly reply in the said matter.

**4.4** Statement of Shri Anish Arora, Director of M/s. Hemraj Petrochem Pvt. Ltd. was recorded under Section 108 of the Customs Act, 1962 on 24.01.2025 (**RUD-9**), during which he interalia, stated that he was looking all import works of Distillate oil. When asked about email correspondence with the supplier, Shri Atul stated they were not doing communication through e-mail and all the correspondences were done telephonically and all documents from overseas were received telephonically. When being asked about two different shipping declarations— one of Dubai Customs and another of Sharjah Customs—both received from their shipping line agent, M/s Everbridge Logistics Pvt. Ltd., he stated that he had no knowledge of the discrepancy. Furthermore, on being asked about non-submission of the documents as asked earlier during statement dated 08.10.2024 of Shri Atul Arora, he stated that he contacted the supplier telephonically and the supplier told him that they provided the same HS Code to all their customer. When asked about why he did not pursue further email correspondence with supplier after realizing that provided HS Code invalid in Supplier's custom jurisdiction, he reiterated that he had only contacted the supplier telephonically. When questioned about the apparent rewriting of the goods description and HS Code in the shipping declaration received on 18.09.2024, he stated that he had no knowledge of it. When asked to provide any evidence – such as email/chat/messages, confirming that M/s Hemraj Petrochem Private Limited had contacted the supplier after knowing the goods were mis-declared or having invalid HS Code, Shri Anish Arora failed to present any such proof. When asked to provide proof of ordering 'Distillate Oil', Shri Anish Arora failed to present any supporting documents and they also not providing any proof of showing any contact to their supplier after knowing that their supplier sent mis-declared goods or wrongly HS code.

**4.5** Statement of Shri Jobin Nanakkan Rayappan, Manager of M/s. Everbridge Logistics Pvt. Ltd., Gandhidham was recorded under Section 108 of the Customs Act, 1962 on 27.01.2025 (**RUD-10**), during which he interalia, stated he had been working as a Manager of M/s. Everbridge Logistics Pvt. Ltd since 2022, he further explained that generally they receive e-mail communication regarding consignments sent by M/s Everbridge Shipping LLC and that, upon arrival of the

consignment, they handle all clearance on behalf of shipping Line to discharge the goods to their importers. When questioned about two different shipping declarations—one of Dubai Customs and another of Sharjah Customs- submitted via email dated 18.09.2024 and 27.09.2024 respectively by M/s Everbridge Logistics Pvt Ltd., he stated that the document submitted via email on 18.09.2024 was provided by their POL (Port of Loading) Team, whereas the documents submitted via email on 27.09.2024 was provided by the shipper M/s Sunlight Trading FZE, UAE. When asked about the authenticity of the both documents, he stated that he could not confirm authenticity of the both documents. Furthermore, when asked apparent rewriting of the goods description and HS Code in the customs declarations, he stated that he had no idea about the same.

##### **5. Findings of the investigation & Evidences collected :**

**5.1** Specific intelligence gathered by the Directorate of Revenue Intelligence indicated that M/s. Hemraj Petrochem Private Limited 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. 5020654 dated 12.08.2024 was put on hold by the DRI and further examination and sampling of goods contained in 8 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 27.09.2024 and in respect of all the samples, on the basis of the tested parameters by the CECL Vadodara, stated that "***On the basis of above tested parameters, the sample u/r meets the requirements of Distillate Marine Fuels as per IS:16731:2019 and also meets the requirements of High Flash High Speed Diesel Fuel (HFHSD) as per IS 16861:2018.***" As mentioned above in para 3.2, the parameters of imported goods very much align to ***IS 16861 i.e. "High Speed Diesel Fuel conforming to standard IS 16861"*** and imported goods are actually classifiable under HS Code 27101949 rather than 27101961. It appears that the importer was using loophole of some overlapping parameters/specifications of ***IS 16861:2018*** and ***IS 16731:2019 (equivalent to ISO 8217 : 2017)***. As per Schedule 1 Import Policy under ITC(HS), 2022 for Chapter-27 (Mineral Fuels, Mineral Oils, etc.), import of "***High Flash High Speed Diesel Fuel (HFHSD) as per IS 16861:2018***" covered under CTH 27101949, 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. "***High Flash High Speed Diesel Fuel (HFHSD) as per IS 16861:2018***" by mis-declaring the same as 'Distillate Oil' under the said consignment. 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, 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 declared specifications of the imported goods. In the said case, the sample reports were matched with the 'Analysis Report' provided by the supplier (**RUD No. 11**) and it was noticed that the reported properties as per 'Analysis Report' are not matching/in-line with the test reports received from the CECL, Vadodara.

**5.3** The importer claimed that '**Distillate Oil**' is used in the paint industry. However, a review of various open-source literatures indicates that such imported goods i.e. 'High Flash High Speed Diesel Fuel (HFHSD)' has no known application in the paint industry, where only **solvents** are typically used. Furthermore, the importer has not provided any supporting documents to substantiate the claimed end use of the product. From the above, it is evident that the said imported goods i.e. 'High Flash High Speed Diesel Fuel (HFHSD)' are neither used nor intended for use in the paint industry. The classification of the product as '**Distillate Oil**' raises suspicion that the importer may be exploiting overlapping parameters/specifications between **IS 16861:2018** and **IS 16731:2019 (equivalent to ISO 8217:2017)** to circumvent regulations.

**5.4** Documents submitted by the overseas supplier through M/s Everbridge Logistics Pvt. Ltd. for the declarations made at overseas, were found to be falsified. The discrepancies were brought to the attention of importer, particularly the absence of HS Code 2710 1961 in the Sharjah Customs HS Code List but appearing 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, the importer failed to do so and merely stated that the supplier was not responding to them. From the above, it is evident that the imported goods were classified in overseas documents under some other HS code which were actually of 'Restricted' category as per ITC (HS), 2022 and to hide the facts, the actual and correct overseas declaration has not been presented before the authorities.

**5.5** During the course of the investigation, statements from key individuals involved in the imports were recorded. Upon being presented with the CECL test results, both the Directors of M/s Hemraj Petrochem Private Limited acknowledged the laboratory's findings. However, when asked to provide any supporting evidence—such as emails, chat records, or messages—confirming that M/s Hemraj Petrochem Private Limited had contacted the supplier upon discovering the misdeclaration or invalid HS Code, they 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.

**5.6** From the investigation carried out by the DRI, it has been revealed that the imported goods covered under Bill of Entry No. 5020654 dated 12.08.2024 filed at Mundra, were mis-declared by M/s. Hemraj Petrochem Private Limited to circumvent import restrictions. No any supporting evidence—such as emails, chat records, or messages—confirming that M/s Hemraj Petrochem Private Limited had contacted the supplier upon discovering the misdeclaration or invalid HS Code were provided.

## **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-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.

**6.3** Relevant Sections of the Customs Act, 1962 :

**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.

**6.4** Import of "**High Flash High Speed Diesel Fuel (HFHSD) as per IS 16861:2018**" 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

(i) 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.

(b) In a sale between related persons, the transaction value shall be accepted, whenever the importer demonstrates that the declared value of the goods being valued, closely approximates to one of the following values ascertained at or about the same time.

(i) the transaction value of identical goods, or of similar goods, in sales to unrelated buyers in India;

(ii) the deductive value for identical goods or similar goods;

(iii) the computed value for identical goods or similar goods:

Provided that in applying the values used for comparison, due account shall be taken of demonstrated difference in commercial levels, quantity levels, adjustments in accordance with the provisions of rule 10 and cost incurred by the seller in sales in which he and the buyer are not related;

(c) substitute values shall not be established under the provisions of clause (b) of this sub-rule.

(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 declared as 'Diesel Oil/Gas Oil' under CTH 27101249 was available. It was noticed that the import value of such import goods, was declared to be **USD 1.07 USD/LTR** during relevant period (Rs. 90.52/LTR 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 5020654 dated 12.08.2024 was reported to be "**High Flash High Speed Diesel Fuel (HFHSD) as per IS 16861:2018**" 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. "**High Flash High Speed Diesel Fuel (HFHSD) as per IS 16861:2018**" since the goods is mis-declared in the BE. In view of these facts, the declared value of **Rs. 88,72,236/-**, 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 identical goods imported under CTH 27101249 was referred, and it was noticed that the import price of such goods, covered under CTH 27101949 was found to be **USD 1.07 USD/LTR** during relevant period (Rs. 90.522/LTR as per exchange rate of Rs. 84.6 Per USD), during the said period, while the declared value of the import consignment was around 2.388 AED/KGS (approx. Rs. 56.14/KGS). Accordingly, the re-determined value of the consignment as per the said import data, of "**High Flash High Speed Diesel Fuel (HFHSD) as per IS 16861:2018**", having total quantity of 158.05 MT "**High Flash High Speed Diesel Fuel (HFHSD) as per IS 16861:2018**" i.e. 158050 KGS i.e. 190422 LTR (Using average density of 0.83 as reported by CECL), is **Rs. 1,72,37,380/-**, 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 Hemraj Petrochem Private Limited, New Delhi imported a consignment, covered under Bill of Entry No. 5020654 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 "**High Flash High Speed Diesel Fuel (HFHSD) as per IS 16861:2018**", falling under CTH 27101949. Therefore, the said mis-declared goods having declared value of **Rs. 88,72,236/-** and re-determined value of **Rs. 1,72,37,380/-**, 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 "**High Flash High Speed Diesel Fuel (HFHSD) as per IS 16861:2018**", 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. "**High Flash High Speed Diesel Fuel (HFHSD) as per IS 16861:2018**" by mis-declaring the same as "Distillate Oil" under the said consignment, Therefore the said goods having declared value of **Rs. 88,72,236/-** and re-determined value of **Rs. 1,72,37,380/-**, appear to be liable for confiscation under Section 111(d) of the Customs Act, 1962.

**9. Role played by M/s Hemraj Petrochem Private Limited (IEC: AAFCH7048R), 'No. 2/53 B, G.F, Shop No. 3, North Avenue Road, Punjabi Bagh, West Delhi-110026' (Importer) :**

M/s Hemraj Petrochem Private Limited, Gandhidham imported a consignment, covered under Bill of Entry No. 5020654 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 "**High Flash High Speed Diesel Fuel (HFHSD) as per IS 16861:2018**", 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 discrepancies were brought to attention of importers, particularly the absence of HS Code 2710 1961 in the Sharjah Customs HS Code List but appearing 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. Further, another fake declaration of Dubai Customs was also submitted without any signature/stamps which was also containing same HS code 2710 1961. However, when asked to provide any credible supporting evidence, the importer 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. 5020654 dated 12.08.2024 filed at Mundra, were mis-declared by M/s. Hemraj Petrochem Private Limited to circumvent import restrictions. No any supporting evidence—such as emails, chat records, or messages—confirming that M/s Hemraj Petrochem Private Limited had contacted the supplier upon discovering the misdeclaration or invalid HS Code were provided by any of the directors. Therefore, it appears that M/s. Hemraj Petrochem Private Limited, 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 Hemraj Petrochem Private Limited have made themselves liable for penalty under Section 112(a) and 112(b) of the Customs Act, 1962. Furthermore, M/s Hemraj Petrochem Private Limited 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 Hemraj Petrochem Private Limited are also liable for penalty under Section 114AA of the Customs Act, 1962.

**10.** Now therefore, in the light of the aforesaid facts, **M/s. Hemraj Petrochem Private Limited (IEC: AAFCH7048R)** located at 'No. 2/53 B, G.F, Shop No. 3, North Avenue Road, Punjabi Bagh, West Delhi-110026' are hereby called upon to

show cause to **the Additional Commissioner of Customs, Customs House, Port User Building, Mundra Port, Mundra** as to why:

- (i) The classification of goods covered under Bill of Entry No. 5020654 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 re-classified as 'High Flash High Speed Diesel Fuel (HFHSD) as per IS 16861:2018' under CTH 27101949.
- (ii) The declared value of the said goods declared as 'Distillate Oil', as **Rs. 88,72,236/-** should not be rejected in terms of Rule 12 of the CVR, 2007 and the same should not be re-determined as **Rs. 1,72,37,380/-**, 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. 5020654 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.

**11.** The noticee are hereby required to produce at the time of showing cause all the evidences upon which they intend to rely in support of their defense. They are further required to indicate in their written explanation as to whether they desire to be heard in person before the case is adjudicated. If no mention is made about this in their written explanation, it will be presumed that they do not desire a personal hearing.

**12.** If no cause is shown by them against the action proposed to be taken within 30 days of receipt of this notice or if they do not appear before the adjudicating authority when the case is posted for hearing, the case would be liable to be adjudicated on the basis of evidences on records.

**13.** This Show Cause Notice is issued without prejudice to any other actions that may be taken against the persons involved in the subject case, under the provisions of the Customs Act, 1962 or any other Allied Acts for the time being in force.

**14.** The documents as listed at Annexure-R are relied upon and are enclosed with this show cause notice.

*(Amit Kumar Mishra)*  
**Additional Commissioner,  
Custom House, Mundra.**

F. No. GEN/ADJ/ADC/430/2025  
DIN: 20250271MO0000000B72

To,

(1) **M/s. Hemraj Petrochem Private Limited** (IEC No. AAFCH7048R),  
No. 2/53 B, G.F, Shop No. 3, North Avenue Road,  
Punjabi Bagh, West Delhi-110026'  
(e-mail- [info@hemrajpetrochem.com](mailto:info@hemrajpetrochem.com))

**Copy to:**

1. The Deputy Director, Directorate of Revenue Intelligence, Ghandidham.

2. The Assistant Commissioner, EDI, Customs Mundra (For uploading on Mundra Customs Website)
3. Guard File.