		<b>प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, मुन्द्रा</b> <b>OFFICE OF THE PRINCIPAL COMMISSIONER OF CUSTOMS,</b> <b>CUSTOM HOUSE: MUNDRA, KUTCH</b> <b>MUNDRA PORT &amp; SPL ECONOMIC ZONE, MUNDRA-370421</b> ई-मेल/ E-Mail: <a href="mailto:adj-mundra@gov.in">adj-mundra@gov.in</a>
A	फा. सं./ FILE NO.	GEN/ADJ/ADC/538/2025-Adjn-O/o Pr Commr-Cus-Mundra
B	मूल आदेश सं. ORDER-IN- ORIGINAL NO.	MCH/ADC/ZDC/73/2026-27
C	द्वारा पारित किया गया PASSED BY	<b>Dipak Zala,</b> Additional Commissioner of Customs, Custom House, Mundra
D	आदेश की तिथि DATE OF ORDER	11-05-2026
E	जारी करने की तिथि DATE OF ISSUE	11-05-2026
F	कारण बताओ नोटिस सं. एवं तिथि SCN NO. & DATE	F.No. VIII/48-05/ADJ/ADC/MCH/2024-25 dated 13.02.2025
G	नोटिसी/पार्टी / आयातक NOTICEE/PARTY/ IMPORTER	1. M/s Shree Hari Krupa Petrochem (IEC-GORPS2205Q) 2. M/s Gaurav M.Jhaveri 3. M/s Shivshakti Shipping. 4. Shri Ruparel Ketan, Partner of M/s Shivshakti Shipping 5. M/s Ashirwad Shipping & Logistics
H	डिन DIN	20260571MO000000F16F

1. यह अपील आदेश संबंधित को निःशुल्क प्रदान किया जाता है।

This Order - in - Original is granted to the concerned free of charge.

2. 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 सीए 3-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, 4<sup>TH</sup> Floor, Hudco Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009.”**

3. 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.

4. उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए-

Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must 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-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 paise 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**

1. Intelligence was garnered that **M/s Shree Hari Krupa Petrochem** (IEC-GORPS2205Q) Ground Floor, Office No.10, Madhav Palace, Plot No.55, Sector 8, Gandhidham, Kachchh, Gujarat, 370201 (hereinafter referred to as the "importer" or "Hari Krupa Petrochem") were importing restricted products falling under Customs Tariff Heading (CTH) 2710 which, as per the import policy can be imported by State Trading Enterprises (STEs) only. All goods, import of which is permitted only with an Authorisation /Permission/ License or in accordance with the procedure prescribed in a notification / public notice are 'Restricted' goods. Restricted items are importable under certain conditions with the necessary approvals from the relevant CA. According to intelligence, the said entities were resorting to the said illicit import by mis-declaring the consignments as "Mix/Mixed Hydrocarbon Oil (MHO) Or Mixed Hydrocarbon Oil (For Industrial Use Only)" and mis-classifying them under Customs Tariff Item(CTI) 27101990 wherein the import policy is "Free",. Therefore 40 containers covered under 4 Bills of Entry pertaining to the importer were put on hold by DRI Noida Regional Unit (hereinafter referred to as "DRI") on 15.02.2024 for examination by officers of DRI. Further 10 more containers covered under one bill of Entry having the same product description, were again put on hold for examination on 27.02.2024 for examination by officers of DRI. The details of the containers are given below:

Sl. N	BE Numbe	BE date	Name of the Importer	Container Number	CHA
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o.	r				
1	2083192	10/02/ 24	SHREE HARI KRUPA PETROCHEM	MEDU173454 7	GAURAV M. JHAVERI
2	2083192	10/02/ 24	SHREE HARI KRUPA PETROCHEM	CXDU120049 4	GAURAV M. JHAVERI
3	2083192	10/02/ 24	SHREE HARI KRUPA PETROCHEM	FBIU0308455	GAURAV M. JHAVERI
4	2083192	10/02/ 24	SHREE HARI KRUPA PETROCHEM	FTAU154453 9	GAURAV M. JHAVERI
5	2083192	10/02/ 24	SHREE HARI KRUPA PETROCHEM	MEDU510993 3	GAURAV M. JHAVERI
6	2083192	10/02/ 24	SHREE HARI KRUPA PETROCHEM	MEDU521142 0	GAURAV M. JHAVERI
7	2083192	10/02/ 24	SHREE HARI KRUPA PETROCHEM	MSDU127708 9	GAURAV M. JHAVERI
8	2083192	10/02/ 24	SHREE HARI KRUPA PETROCHEM	MSDU261552 9	GAURAV M. JHAVERI
9	2083192	10/02/ 24	SHREE HARI KRUPA PETROCHEM	SEGU278906 8	GAURAV M. JHAVERI
10	2083192	10/02/ 24	SHREE HARI KRUPA PETROCHEM	TCKU385439 1	GAURAV M. JHAVERI
11	2100062	12/02/ 24	SHREE HARI KRUPA PETROCHEM	CAIU6220555	GAURAV M. JHAVERI
12	2100062	12/02/ 24	SHREE HARI KRUPA PETROCHEM	FCIU4578105	GAURAV M. JHAVERI
13	2100062	12/02/ 24	SHREE HARI KRUPA PETROCHEM	MEDU347670 8	GAURAV M. JHAVERI
14	2100062	12/02/	SHREE HARI	MEDU529452	GAURAV M.

		24	KRUPA PETROCHEM	8	JHAVERI
15	2100062	12/02/ 24	SHREE HARI KRUPA PETROCHEM	MEDU636201 5	GAURAV M. JHAVERI
16	2100062	12/02/ 24	SHREE HARI KRUPA PETROCHEM	MSDU272760 0	GAURAV M. JHAVERI
17	2100062	12/02/ 24	SHREE HARI KRUPA PETROCHEM	MSMU26627 22	GAURAV M. JHAVERI
18	2100062	12/02/ 24	SHREE HARI KRUPA PETROCHEM	TCKU178628 2	GAURAV M. JHAVERI
19	2100062	12/02/ 24	SHREE HARI KRUPA PETROCHEM	TCLU255201 2	GAURAV M. JHAVERI
20	2100062	12/02/ 24	SHREE HARI KRUPA PETROCHEM	TCLU271555 2	GAURAV M. JHAVERI
21	9999773	06/02/ 24	SHREE HARI KRUPA PETROCHEM	MEDU288591 2	GAURAV M. JHAVERI
22	9999773	06/02/ 24	SHREE HARI KRUPA PETROCHEM	DFSU152026 9	GAURAV M. JHAVERI
23	9999773	06/02/ 24	SHREE HARI KRUPA PETROCHEM	IPXU3978642	GAURAV M. JHAVERI
24	9999773	06/02/ 24	SHREE HARI KRUPA PETROCHEM	MEDU260790 6	GAURAV M. JHAVERI
25	9999773	06/02/ 24	SHREE HARI KRUPA PETROCHEM	MSDU224719 7	GAURAV M. JHAVERI
26	9999773	06/02/ 24	SHREE HARI KRUPA PETROCHEM	MSDU273116 0	GAURAV M. JHAVERI
27	9999773	06/02/ 24	SHREE HARI KRUPA PETROCHEM	MSMU14479 41	GAURAV M. JHAVERI

28	9999773	06/02/ 24	SHREE HARI KRUPA PETROCHEM	MSMU20868 90	GAURAV M. JHAVERI
29	9999773	06/02/ 24	SHREE HARI KRUPA PETROCHEM	TCLU297502 0	GAURAV M. JHAVERI
30	9999773	06/02/ 24	SHREE HARI KRUPA PETROCHEM	MSDU132065 2	GAURAV M. JHAVERI
31	2043286	08/02/ 24	SHREE HARI KRUPA PETROCHEM	CAXU328190 2	GAURAV M. JHAVERI
32	2043286	08/02/ 24	SHREE HARI KRUPA PETROCHEM	FTAU143507 6	GAURAV M. JHAVERI
33	2043286	08/02/ 24	SHREE HARI KRUPA PETROCHEM	MAGU22698 63	GAURAV M. JHAVERI
34	2043286	08/02/ 24	SHREE HARI KRUPA PETROCHEM	MEDU136828 4	GAURAV M. JHAVERI
35	2043286	08/02/ 24	SHREE HARI KRUPA PETROCHEM	MEDU522824 9	GAURAV M. JHAVERI
36	2043286	08/02/ 24	SHREE HARI KRUPA PETROCHEM	MEDU673975 2	GAURAV M. JHAVERI
37	2043286	08/02/ 24	SHREE HARI KRUPA PETROCHEM	MSDU278292 7	GAURAV M. JHAVERI
38	2043286	08/02/ 24	SHREE HARI KRUPA PETROCHEM	TCLU692638 4	GAURAV M. JHAVERI
39	2043286	08/02/ 24	SHREE HARI KRUPA PETROCHEM	TGBU267202 0	GAURAV M. JHAVERI
40	2043286	08/02/ 24	SHREE HARI KRUPA PETROCHEM	TLLU234580 0	GAURAV M. JHAVERI
41	2148664	15/02/ 24	SHREE HARI KRUPA	CAAU220494 9	GAURAV M. JHAVERI

			PETROCHEM		
42	2148664	15/02/24	SHREE HARI KRUPA PETROCHEM	MRKU74919 49	GAURAV M. JHAVERI
43	2148664	15/02/24	SHREE HARI KRUPA PETROCHEM	MRKU76672 36	GAURAV M. JHAVERI
44	2148664	15/02/24	SHREE HARI KRUPA PETROCHEM	MRKU88352 47	GAURAV M. JHAVERI
45	2148664	15/02/24	SHREE HARI KRUPA PETROCHEM	MRKU89141 98	GAURAV M. JHAVERI
46	2148664	15/02/24	SHREE HARI KRUPA PETROCHEM	MRKU99322 78	GAURAV M. JHAVERI
47	2148664	15/02/24	SHREE HARI KRUPA PETROCHEM	MSKU560680 3	GAURAV M. JHAVERI
48	2148664	15/02/24	SHREE HARI KRUPA PETROCHEM	SUDU743695 2	GAURAV M. JHAVERI
49	2148664	15/02/24	SHREE HARI KRUPA PETROCHEM	SUDU794436 2	GAURAV M. JHAVERI
50	2148664	15/02/24	SHREE HARI KRUPA PETROCHEM	TEMU020713 8	GAURAV M. JHAVERI

2. Thereafter, the said containers covered under the above-mentioned 5 Bills of Entry were subjected to examination on 11.03.2024 and 14.03.2024 in the presence of the following persons/representatives detailed below:

S.N	Bill Of Entry No	No Of container	Examination date	CHA/ Authorised Representative	Container Freight Station	Representative of CFS
1	2083192 Dt. 10.02.2024	10	11.03.2024	Shri Ravindra Kumar 'H' Card Holder of M/s	ALL CARGO, CFS Mundra	Shri Ashok Kumar Giri, Deputy Manager(Op
2	2100062 Dt.	10	11.03.2024			

	12.02.2024			Gaurav M Jhaveri	Landmark CFS	s), All Cargo CFS.  Shri Tarkeshwar Kumar, Manager (Operations) of Landmark, CFS
3	9999773 Dt. 06.02.2024	10	11.03.2024			
4	2043286 Dt. 08.02.2024	10	11.03.2024			
5	2148664 Dt. 15/02/20 24	10	14.03.2024			

**2.(i)** And whereas, during the examination, Shri Ravindra Kumar H Card Holder of M/s Gaurav M Jhaveri provided the relevant documents viz Bills of Entry along with the corresponding Invoice and packing list, Chemical analysis reports. **(RUD-01 to 05)** The details of the consignments as per the documents provided are detailed as under:

S.No	Bill Of Entry No.	Goods Description (as per Bill of Entry)	Name of the Supplier (as per Bill of Entry)	Chapter Heading (as per Bill of Entry)	Ass. Value (In Rupees)	Gross Weight (KGs)
1	2083192 Dt. 10.02.2024	Mixed Hydrocarbon Oil	M/s Sai Petrochemical FZE	27101990	1,46,80,803/-	193180
2	2100062 Dt. 12.02.2024				1,48,34,189/-	195190
3	9999773 Dt. 06.02.2024		M/s Halar Petrochem FZC		1,44,08,753/-	189615
4	2043286 Dt. 08.02.2024		1,48,44,110/-		195320	
5	2148664 Dt. 15/02/2024		M/s Sai Petrochemical FZE		1,51,53,171/-	199570
<b>TOTAL</b>					<b>7,39,21,026/-</b>	<b>972875</b>

2.(ii). And whereas during the course of examination, it was observed that Flexi bags containing yellow colored liquid substance were kept inside the containers. The images of the container along with the flexi bag are given below:



(Pictures of the flexi bag containers in the consignment)



(Graphical representation of a Flexi bag container- picture taken from open source)

2.(iii). Representative samples were drawn from one randomly selected container per Bill of Entry. The samples were drawn from the container using two litre



<div style="text-align: center; border: 1px solid black; padding: 5px; margin-bottom: 10px;"> <p>भारत सरकार वित्त मन्त्रालय, राजस्व विभाग सीमा शुल्क प्रयोगशाला 5<sup>th</sup> फ्लोर, सीमा शुल्क कार्यालय पोर्ट ट्रिपल, विशाखापत्तनम- 530 001</p> <p>Government of India Ministry of Finance Department of Revenue <b>CUSTOM HOUSE LABORATORY</b> 5<sup>th</sup> FLOOR <b>CUSTOM HOUSE, PORT AREA</b> VISAKHAPATNAM - 530 001. Tel/ Fax: 0891-2562900 e-mail -chemical_examiner@yahoo.com</p> </div> <p style="text-align: center;"><b>TEST REPORT</b>      Date: 03.06.2024</p> <p>Lab NO: 19-DRI      Date: 10.04.2024 F. No: DRJ/NRU/CI-26/Int-0/Enq-13/2024/495 Sample No. &amp; Seal No: HE1-A215389      Date of Drawn: 14.03.2024</p> <p>Sample Received from: DRI Noida Regional Unit Description of Sample: Mixed Hydrocarbon Oil Date of Receipt: 10.04.2024</p> <p>Sample Plan: Sample not Drawn by this laboratory.</p> <p>Report: The sample is in the form of pale yellow colored oily liquid. It is mainly composed of mineral hydrocarbon oil having mineral oil content more than 70 % by weight. It has the following characteristics Appearance = pale yellow, Clear &amp; bright Acidity (Inorganic) = Nil Ash content = Nil Carbon residue content = 0.18% by wt. Distillation: Temp. at 95% (v/v) recovered : 353.0 °C Flash Point = 88.5 °C Kinematic Viscosity at 40°C = 2.75cSt Density at 15°C = 0.8294 gr/ml Total Sulphur = 25.2 ppm Water content = Nil Cetane Index = 56.20</p> <p>Concordance with GCMS chromatogram pattern of Automotive Diesel fuel = The sample chromatogram concurs with the standard chromatogram with respect of carbon chain.</p> <p>The sample has been tested for all the characteristics parameter tested above. The sample meets the requirement of Automotive Diesel fuel (Bharat stage IV) as mentioned in IS 1460:2017, and also meet the requirements of HFHSD, as per IS:16861:2018. There is no specification available "mixed hydrocarbon oil" in any National/ International Standards.</p> <p style="text-align: right;">Sealed remnant sample returned herewith.</p> <div style="text-align: right; margin-top: 20px;">                   प्रदीप मारु / PRADEEP MAROO राजस्व परीक्षा से-1 Chemical Examiner Grade-1 सीमा शुल्क प्रयोगशाला Custom House Laboratory सीमा शुल्क क्षेत्र, विशाखापत्तनम-530 005 Custom House-Visakhapatnam-530 005             </div> <p style="text-align: center;">End of the Report</p> <p>Note 1: The results relate only to the items tested. Note 2: Sample not Drawn by this laboratory. Note3: The report shall not be reproduced except in full without approval of this laboratory. Note4: Remnant sample should be collected within 30 days otherwise it will disposed off.</p>	<div style="text-align: center; border: 1px solid black; padding: 5px; margin-bottom: 10px;"> <p>भारत सरकार वित्त मन्त्रालय, राजस्व विभाग सीमा शुल्क प्रयोगशाला 5<sup>th</sup> फ्लोर, सीमा शुल्क कार्यालय पोर्ट ट्रिपल, विशाखापत्तनम- 530 001</p> <p>Government of India Ministry of Finance Department of Revenue <b>CUSTOM HOUSE LABORATORY</b> 5<sup>th</sup> FLOOR <b>CUSTOM HOUSE, PORT AREA</b> VISAKHAPATNAM - 530 001. Tel/ Fax: 0891-2562900 e-mail -chemical_examiner@yahoo.com</p> </div> <p style="text-align: center;"><b>TEST REPORT</b>      Date: 03.06.2024</p> <p>Lab NO: 20-DRI      Date: 10.04.2024 F. No: DRJ/NRU/CI-26/Int-0/Enq-13/2024/505 Sample No. &amp; Seal No: HA1-A217686      Date of Drawn: 11.03.2024</p> <p>Sample Received from: DRI Noida Regional Unit Description of Sample: Mixed Hydrocarbon Oil Date of Receipt: 10.04.2024</p> <p>Sample Plan: Sample not Drawn by this laboratory.</p> <p>Report: The sample is in the form of pale yellow colored oily liquid. It is mainly composed of mineral hydrocarbon oil having mineral oil content more than 70 % by weight. It has the following characteristics Appearance = pale yellow, Clear &amp; bright Acidity (Inorganic) = Nil Ash content = Nil Carbon residue content = 0.21 % by wt. Distillation: Temp. at 95% (v/v) recovered : 359.1 °C Flash Point = 45.4 °C Kinematic Viscosity at 40°C = 3.15 cSt Density at 15°C = 0.8384 gr/ml Total Sulphur = 44.8 ppm Water content = Nil Cetane Index = 52.51</p> <p>Concordance with GCMS chromatogram pattern of Automotive Diesel fuel = The sample chromatogram concurs with the standard chromatogram with respect of carbon chain.</p> <p>The sample has been tested for all the characteristics parameter tested above. The sample meets the requirement of Automotive Diesel fuel (Bharat stage IV) as mentioned in IS 1460:2017. There is no specification available "mixed hydrocarbon oil" in any National/ International Standards.</p> <p style="text-align: right;">Sealed remnant sample returned herewith.</p> <div style="text-align: right; margin-top: 20px;">                   प्रदीप मारु / PRADEEP MAROO राजस्व परीक्षा से-1 Chemical Examiner Grade-1 सीमा शुल्क प्रयोगशाला Custom House Laboratory सीमा शुल्क क्षेत्र, विशाखापत्तनम-530 005 Custom House-Visakhapatnam-530 005             </div> <p style="text-align: center;">End of the Report</p> <p>Note 1: The results relate only to the items tested. Note 2: Sample not Drawn by this laboratory. Note3: The report shall not be reproduced except in full without approval of this laboratory. Note4: Remnant sample should be collected within 30 days otherwise it will disposed off.</p>
<div style="text-align: center; border: 1px solid black; padding: 5px; margin-bottom: 10px;"> <p>भारत सरकार वित्त मन्त्रालय, राजस्व विभाग सीमा शुल्क प्रयोगशाला 5<sup>th</sup> फ्लोर, सीमा शुल्क कार्यालय पोर्ट ट्रिपल, विशाखापत्तनम- 530 001</p> <p>Government of India Ministry of Finance Department of Revenue <b>CUSTOM HOUSE LABORATORY</b> 5<sup>th</sup> FLOOR <b>CUSTOM HOUSE, PORT AREA</b> VISAKHAPATNAM - 530 001. Tel/ Fax: 0891-2562900 e-mail -chemical_examiner@yahoo.com</p> </div> <p style="text-align: center;"><b>TEST REPORT</b>      Date: 03.06.2024</p> <p>Lab NO: 21-DRI      Date: 10.04.2024 F. No: DRJ/NRU/CI-26/Int-0/Enq-13/2024/493 Sample No. &amp; Seal No: HD3-A217692      Date of Drawn: 11.03.2024</p> <p>Sample Received from: DRI Noida Regional Unit Description of Sample: Mixed Hydrocarbon Oil Date of Receipt: 10.04.2024</p> <p>Sample Plan: Sample not Drawn by this laboratory.</p> <p>Report: The sample is in the form of pale yellow colored oily liquid. It is mainly composed of mineral hydrocarbon oil having mineral oil content more than 70 % by weight. It has the following characteristics Appearance = pale yellow, Clear &amp; bright Acidity (Inorganic) = Nil Ash content = Nil Carbon residue content = 0.22 % by wt. Distillation: Temp. at 95% (v/v) recovered : 355.7 °C Flash Point = 42.1 °C Kinematic Viscosity at 40°C = 3.00 cSt Density at 15°C = 0.8384 gr/ml Total Sulphur = 14.98 ppm Water content = Nil Cetane Index = 55.92</p> <p>Concordance with GCMS chromatogram pattern of Automotive Diesel fuel = The sample chromatogram concurs with the standard chromatogram with respect of carbon chain.</p> <p>The sample has been tested for all the characteristics parameter tested above. The sample meets the requirement of Automotive Diesel fuel (Bharat stage IV) as mentioned in IS 1460:2017. There is no specification available "mixed hydrocarbon oil" in any National/ International Standards.</p> <p style="text-align: right;">Sealed remnant sample returned herewith.</p> <div style="text-align: right; margin-top: 20px;">                   प्रदीप मारु / PRADEEP MAROO राजस्व परीक्षा से-1 Chemical Examiner Grade-1 सीमा शुल्क प्रयोगशाला Custom House Laboratory सीमा शुल्क क्षेत्र, विशाखापत्तनम-530 005 Custom House-Visakhapatnam-530 005             </div> <p style="text-align: center;">End of the Report</p> <p>Note 1: The results relate only to the items tested. Note 2: Sample not Drawn by this laboratory. Note3: The report shall not be reproduced except in full without approval of this laboratory. Note4: Remnant sample should be collected within 30 days otherwise it will disposed off.</p>	

5.(a) And whereas the parameters of the Test Reports suggested that the goods being imported in the said containers of Bills of Entry 2083192 Dt. 10.02.2024, 2100062 Dt. 12.02.2024 and 2043286 Dt. 08.02.2024 meets the requirement of

Automotive Diesel Fuel conforming to standard IS 1460. Further as per the test report, goods imported in the containers covered under of Bill of Entry 2148664 Dt. 15/02/2024 meets the requirements of both Automotive Diesel Fuel conforming to standard IS 1460 and High Flash High Speed Diesel Fuel conforming to standard IS:16861 and for Bill of Entry 9999773 Dt. 06.02.2024 is Adulterated Diesel for automotive Fuel.

**5(b).** As per Customs Tariff Act it appears that the goods imported Bills of Entry 2148664 Dt. 15/02/2024 are classifiable under two different CTIs- i.e. 27101944 [which pertains to "Automotive Diesel Fuel] and 27101949 [which pertains to High Flash High Speed Diesel]. As per General Rules for the Interpretation of the Harmonized System (hereinafter referred to as "GIR") there are certain rules which shall govern the classification of goods in the Nomenclature. The rules are to be followed sequentially to classify goods. In the instant case, the goods cannot be classified under any rule up to Rule 3(c) of GIR. As per Rule 3(c) of the GIR, in such cases where goods cannot be classified by reference to 3 (a) or 3 (b), they shall be classified under the heading which occurs last in numerical order among those which equally merit consideration. Thus, in view of above it appears that in the instant case the goods covered under Bill of Entry No 2148664 Dt. 15/02/2024 are appropriately classifiable under CTI 27101949 which pertains to High Flash High Speed Diesel conforming to IS 16861

**5(c).** Further, from a study of articles available on open sources it was found that Gas Oil (GO) is essentially a fuel for diesel engines and being used as fuel for marine, off highway, and stationary diesel engines. Gas oil is a fuel oil produced from crude oil by oil refineries. It consists of a group of petroleum distillation products which are intermediate between kerosene and lubricating oil. It is also known as diesel distillate, and is used for making diesel fuel, home heating oil, and as the starting material for other products. There is no essential difference between gas oil and diesel fuel, other than that it may not meet environmental standards for automotive diesel engines

Further, based on the analysis of the test report, the sample pertaining to BE no 9999773 Dt. 06.02.2024 can be classified as gas oil. The fuel exhibits characteristics typical of gas oil, including a moderate viscosity (3.46 cSt), a relatively low flashpoint (34°C), and a distillation range that aligns with middle distillates. The sulphur content (102.58 mg/kg) further supports its classification as gas oil specifications. Additionally, the low carbon residue of 0.23% w/w suggests that the fuel is likely to burn cleanly, a key property for gas oils used in engines and industrial applications. Therefore, given these factors, it is appropriate to classify this sample as gas oil.

5.(d) Further, Gas Oil which is appropriately classifiable under Customs Tariff Heading 27101941 does not stipulate any import condition of conforming to any BIS standard. However, the parameters of Gas oil as per BIS IS:17789:2022 have been taken here for reference purposes. The specifications of Gas Oil as per IS:17789 are reproduced below:

**Table 1 Requirements for Gas Oil**  
( Clauses Foreword, 4.3 and 7.1 )

Sl No.	Characteristic	Requirement	Methods of Test, Ref to Part of IS 1448/ISO
(1)	(2)	(3)	(4)
i)	Density at 15 °C, kg/m <sup>3</sup>	780 to 900	Part 167/ Part 16 <sup>1)</sup>
ii)	Kinematic viscosity at 40 °C, mm <sup>2</sup> /s, <i>Max</i>	10	Part 25/Sec 1
iii)	Total sulphur, mass percent	0.004-3.5	Part 153 (For sulphur range – 30 to 500 ppm) ISO 8754 (For sulphur range – 0.03 percent to 3.5 percent)
iv)	Flash point, °C, <i>Min.</i>	40.0	Part 20 <sup>1)</sup> /Part 21
v)	Pour point, °C, <i>Max</i>	+ 24	Part 10/Sec 2
vi)	Distillation:		
	a) 10 percent recovery at °C (T-10)	To report	Part 18
	b) 50 percent recovery at °C (T-50)	To report	
	c) 90 percent recovery at °C (T-90), <i>Max.</i>	390	
vii)	Cetane index, <i>Min</i>	30	Part 174
viii)	Water and sediments, volume percent	To report	Part 41

<sup>1)</sup> In case of dispute, this shall be the referee method.

### Specifications of Gas Oil as per IS 17789

Furthermore, as per the amendment to the Gas Oil Standard BIS IS:17789 dated January 2023, the sulphur content range has been revised to 1.5-3.5. However, it is mentioned in the amendment that Indian refineries may opt for a lower sulphur content based on mutual agreement between the seller and the purchaser. Accordingly, it can be inferred that the sulphur content in Gas Oil is not a characteristic parameter and may vary according to usage and agreements between the user and the seller. The amendment of Gas Oil dated January 2023 is reproduced below for ready reference.

#### AMENDMENT NO. 1 JANUARY 2023

#### TO

#### IS 17789 : 2022 GAS OIL — SPECIFICATION

(Page 2, Clause 3.1, Para 2, line 2) — Add following line at the end:

‘This gas oil used as refinery intermediate and not intended to be used as a fuel.’

[Page 2, Table 1, Sl No. (iii), col 2] — Substitute ‘total sulphur, mass percent<sup>2)</sup>’ for ‘Total sulphur, mass percent’

[Page 2, Table 1, Sl No. (iii), col 3] — Substitute ‘1.5-3.5’ for ‘0.004-3.5’

(Page 2, Table 1) — Add the following below Table 1,<sup>1)</sup>:

<sup>2)</sup> Indian refineries may opt for lower sulphur content on the basis of agreement between seller and purchaser.’

**Amendment to Gas Oil dated January 2023**

Further, the specifications of Automotive diesel fuel as per IS: 1460 of the Bureau of Indian Standards (BIS) are reproduced below:

IS 1460 : 2017

**Table 1 Requirement for Automotive Diesel Fuel**  
(Clauses 3.1.4 and 3.2)

Sl No.	Characteristic	Requirement		Method of Test, Ref to [P : ] of IS 1448/ASTM/IP/ISO Annex
		Bharat Stage IV	Bharat Stage VI	
(1)	(2)	(3)	(4)	(5)
i)	Appearance	Clear, bright and free from sediments, suspended matter and undissolved water at normal ambient fuel temperature	clear, bright and free from sediments, suspended matter and undissolved water at normal ambient fuel temperature	Visual
ii)	Acidity, inorganic, mg of KOH/g	Nil	Nil	ISO 6618/ASTM D974 <sup>9)</sup> / IP 139
iii)	Acidity, total, mg of KOH/g, <i>Max</i>	0.20	0.20	[P : 2] <sup>9)</sup> /ASTM D664/ ASTM D974 / IP 139
iv)	Ash, percent by mass, <i>Max</i>	0.01	0.01	[P : 4] <sup>9)</sup> /ASTM D 482/IP 4
v)	Carbon residue (Ramsbottom or micro) on 10 percent residue <sup>1)</sup> , percent by mass, <i>Max</i>	0.30	0.30	[P : 8] <sup>9)</sup> /ISO 10370/ASTM D 524/IP 14/ASTM D 4530
vi)	Cetane number, <i>Min</i>	51 <sup>2)</sup>	51 <sup>2)</sup>	[P : 9] <sup>9)</sup> /ASTM D 613
vii)	Cetane index, <i>Min</i>	46 <sup>2)</sup>	46 <sup>2)</sup>	ISO 4264 <sup>9)</sup> /ASTM D4737/ IP 380
viii)	Pour point <sup>3)</sup> , <i>Max</i> :			[P : 10] <sup>9)</sup> /ASTM D 5949/ASTM D 5950/ASTM D 5985/ASTM D97/ASTM D7346/IP 15
	a) Winter	3°C	3°C	
	b) Summer	15°C	15°C	
ix)	Copper strip corrosion for 3 h at 50°C	Not worse than No. 1	Not worse than No. 1	[P : 15] <sup>9)</sup> /ASTM D 130/IP 154
x)	Distillation, 95 percent v/v, recovery, °C, <i>Max</i>	360	360	[P : 18] <sup>9)</sup> /ISO 3405/ASTM D 86/ASTM D 7345/IP 123
xi)	Flash point, Abel <sup>4)</sup> , °C, <i>Min</i>	35	35	[P : 20] <sup>9)</sup> /ISO 3679/ IP170/ IP523/ EN13736
xii)	Kinematic viscosity, cSt, at 40°C	2.0 to 4.5	2.0 to 4.5	[P : 25] <sup>9)</sup> /ISO 3104/ASTM D 445/ASTM D 7042/IP 71
xiii)	Total contamination, mg/kg, <i>Max</i>	24	24	EN 12662 <sup>9)</sup> /IP 440
xiv)	Density at 15°C, kg/m <sup>3</sup>	815–845 <sup>5)</sup>	810–845 <sup>5)</sup>	[P : 16] <sup>9)</sup> /[P : 32]/ISO 12185/ ASTM D 4052/ASTM D 1298/IP 160
xv)	Total sulphur, mg/kg, <i>Max</i>	50	10	ISO 13032 <sup>9)</sup> /ISO 20884/ISO 20846 <sup>9)</sup> /ASTM D 5453/ASTM D 2622/ASTM D 7220/[P : 34] For Bharat Stage IV grade only
xvi)	Water content, mg/kg, <i>Max</i>	200	200	[P : 153] <sup>9)</sup> /ASTM D 4294
xvii)	Cold Filter Plugging Point (CFPP) <sup>3)</sup> , <i>Max</i> :			ISO 12937/ASTM D 6304
	a) Winter	6°C	6°C	[P : 110] <sup>9)</sup> /ASTM D 6371/ IP 309
	b) Summer	18°C	18°C	
xviii)	a) Oxidation stability <sup>6)</sup> , g/m <sup>3</sup> , <i>Max</i>	25	25	[P : 154] <sup>9)</sup> /ASTM D 2274/IP 388
	b) Oxidation stability by Rancidity meter <sup>7)</sup> , hours, <i>Min</i>	20	20	EN 15751
xix)	Polycyclic Aromatic Hydrocarbon (PAH), percent by mass, <i>Max</i>	8	8	EN 12916 <sup>9)</sup> /IP 391/ASTM D 6591
xx)	Lubricity corrected wear scar diameter (wsd 1.4) at 60°C, microns, <i>Max</i>	460	460	P 149/ISO 12156-1/Cor 1
xxi)	FAME content <sup>8)</sup> , % v/v, <i>Max</i>	7.0	7.0	Annex A) <sup>9)</sup> /ASTM D7371/ EN14078

Further, the specifications of HFHSD as mentioned in IS 16861:2018 of the Bureau of Indian Standards (BIS) are reproduced below:

**Table 1 Requirements for High Flash High Speed Diesel (HFHSD)**  
(Clauses 3.3)

Sl No. (1)	Characteristics (2)	Requirement (3)	Method of test, Ref to [P:] of IS1448/ISO/ASTM/IP (4)
i)	Appearance	Clear and Bright	Visual
ii)	Acid Number, mg KOH/g, <i>Max</i>	0.5	[P : 2] <sup>7)</sup> /D 664/D 974
iii)	Ash, percent by mass, <i>Max</i>	0.01	[P : 4] <sup>7)</sup> /ISO 6245/D 482
iv)	Carbon residue on the 10 percent Volume Distillation Residue, mass %, <i>Max</i>	0.3	[P : 8] <sup>7)</sup> /ISO-10370/D 4530/D 524
v)	Cetane index <sup>1)</sup> , <i>Min</i>	45	ISO 4264 <sup>7)</sup> /D 4737
vi)	Pour Point <sup>2)</sup> , <i>Max</i>		[P : 10] <sup>7)</sup> /ISO 3016/D 97
	a) Winter	3°C	
	b) Summer	15°C	
vii)	Copper strip Corrosion for 3 h at 100°C	Not worse than No.1	[P : 15] <sup>7)</sup> /ISO 2160/D 130
viii)	Distillation, percent (v/v), recovered		[P : 18] <sup>7)</sup> /ISO 3405/D 86
	a) at 350°C, <i>Min</i>	85	
	b) at 370°C <i>Min</i>	95	
ix)	Flash Point Pensky Martens closed cup °C, <i>Min</i>	66	[P : 21] <sup>7)</sup> /ISO 2719/D 93
x)	Kinematic viscosity, cSt, at 40°C	2.0 to 5.0	[P : 25] <sup>7)</sup> /ISO 3104/D 445/D 7042
xi)	Density <sup>3)</sup> at 15°C, kg/m <sup>3</sup> , <i>Max</i>	860	[P : 16] <sup>7)</sup> /ISO 3675/ISO 12185/D 4052
xii)	Total sulphur <sup>4)</sup> , % by mass, <i>Max</i>	0.20	D 4294 <sup>7)</sup> /ISO 14596/D 2622/ISO 8754
xiii)	Water content, ppm, max.	500	ISO 12937 <sup>7)</sup> /ISO 6296/D 6304
xiv)	Cold filter plugging point (CFPP), °C	To report	[P : 110] <sup>7)</sup> /D 6371/IP 309
xv)	Oxidation Stability <sup>5)</sup> , g/m <sup>3</sup> , <i>Max</i>	25	[P : 154] <sup>7)</sup> /D 2274/IP 388
xvi)	Lubricity <sup>6)</sup> , Corrected WSD at 60°C, microns max	520	ISO 12156-1/D 6079

6. And whereas on analysis of the parameters detailed in the Test Reports vis-à-vis the parameters stipulated in the BIS standards of Gas Oil (IS 17789), Automotive diesel fuel conforming to standard IS: 1460, High Flash High Speed Diesel fuel conforming to standard IS 16861, it appeared that in accordance with the intelligence, the goods being imported appeared to be mis-declared and the following conclusion appeared to flow from the analysis:

Sl. No.	Bill of Entry No.	Date of Bill of Entry	No. of containers	Product description as per the analysis of the Test report
1.	2083192	10.02.2024	10	Automotive diesel fuel conforming to standard IS: 1460
2.	2100062	12.02.2024	10	Automotive diesel fuel conforming to standard IS: 1460
3.	9999773	06.02.2024	10	Gas Oil
4.	2043286	08.02.2024	10	Automotive diesel fuel conforming to standard IS: 1460
5.	2148664	15/02/2024	10	Automotive diesel fuel conforming to standard IS: 1460/ High Flash High Speed Diesel fuel conforming to standard IS:16861

Thus, it appeared that the samples drawn from consignments pertaining to three BEs viz-2083192 dt 10.02.2024, 2100062 dt 12.02.2024 and 2043286 dt. 08.02.2024 conform to limits stipulated in IS:1460 specifications which pertain to the Indian Standard of Automotive diesel fuel, while consignment pertaining to the Bill of Entry 2148664 dt. 15.02.2024 appears to conform to specification of IS:16861 which pertains to High Flash High Speed Diesel fuel and consignment pertaining to the Bill of Entry 9999773 dt. 06.02.2024 appears to conform to specification of IS: 17789, which pertains to Gas Oil. Gas Oil, which is appropriately classifiable under Customs Tariff Heading 27101941 does not stipulate any import condition conforming to IS 17789:2022 and the aforementioned parameters of IS:17789:2022 have been taken for reference purposes only and that the items Automotive diesel fuel, High Flash High Speed Diesel fuel and Gas Oil are restricted and can be imported by the State Trading Enterprises (STEs) only.

7. In the light of the parameters of the Test Reports of the CRCL, the goods imported under BE 9999773 dt. 06.02.2024, appear to be liable to be classified under CTH: 27101941 under the description Gas Oil while the goods imported under BEs 2083192 dt 10.02.2024, 2100062 dt 12.02.2024 and 2043286 dt. 08.02.2024 appeared to be liable to be classified under CTH 27101944 under the description of Automotive diesel fuel conforming to standard IS 1460 and the goods imported under BE 2148664 dt. 15.02.2024 appear to be liable to be classified under CTH 27101949. The relevant description of CTH 27101941, 27101944 and 27101949 as per Customs Tariff Act'1985 are as below:

27101939	--- Aviation turbine fuels, kerosene type conforming to standard IS 1571	kg.	5.00	5.00	—	11.00	0.50	17.105	State Trading Enterprises	Exemption- See Ntfn 52/2017-Cus. dated 30.06.2017 Import as per Policy Condition (5) of Chapter 27 ACD Nil by Ntfn 32/2022-Cus. Excise Duty by Ntfn 11/2017-CE dated 30.06.2017
--- Gas oil and oils obtained from gas										
27101941	--- Gas oil	kg.	5.00	5.00	—	18.00	0.50	24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
27101942	--- Vacuum gas oil	kg.	5.00	5.00	—	18.00	0.50	24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
27101943	--- Light diesel oil conforming to standard IS 15770	kg.	5.00	5.00	—	18.00	0.50	24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27

**Chapter Heading 27101941**

2710 19 41	--- Gas oil	kg.	5.00	5.00	---	18.00	0.50	24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
2710 19 42	--- Vacuum gas oil	kg.	5.00	5.00	---	18.00	0.50	24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
2710 19 43	--- Light diesel oil conforming to standard IS 15770	kg.	5.00	5.00	---	18.00	0.50	24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
2710 19 44	--- Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460	kg.	2.50	2.50	---	14% + Rs. 15 per litre	0.08		State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27 SWS - 3% by Ntfn 12/2018-Cus.
2710 19 49	--- High flash high speed diesel fuel conforming to standard IS 16861	kg.	2.50	2.50	---	14% + Rs. 15 per litre	0.08		State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27 SWS - 3% by Ntfn 12/2018-Cus.

**Chapter Heading 27101944**

2710 19 43	--- Light diesel oil conforming to standard IS 15770	kg.	10.00	5.00	---	18.00	0.50	24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
2710 19 44	--- Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460	kg.	10.00	5.00	---	14% + Rs. 15 per litre	0.15		State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27 SWS - 3% by Ntfn 12/2018-Cus.
2710 19 49	--- High flash high speed diesel fuel conforming to standard IS 16861	kg.	10.00	5.00	---	14% + Rs. 15 per litre	0.15		State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27 SWS - 3% by Ntfn 12/2018-Cus.

**Chapter Heading 27101949**

8. Further, as per ITC(HS), 2022, Schedule 1: Import Policy, Section V: Mineral Products, Chapter 27: Mineral Fuels, Mineral Oils And Products Of Their Distillation; Bituminous Substances; Mineral Waxes: Goods falling under the description of "Gas oil and oils obtained from gas oil: --- Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460", "Gas oil and oils obtained from gas oil:--- High Flash High-Speed Diesel fuel conforming to standard 16861"and "Gas Oil" the import policy makes the goods restricted by way of importation by State Trading Enterprises only by virtue of Policy Condition No. 5 which prescribes "Import allowed through IOC subject to para 2.21 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NGs Resolution No. P23015/1/2001-MKT. Dated 8.3.2002 including HPCL, BPCL and IBP who have been marketing transportation fuels before this date". The screenshots of the relevant extracts are as below:

27101949	--- Gas oil and oils obtained from gas oil: --- High flash high speed diesel fuel conforming to standard IS 16861	State Trading Enterprise	Import as per Policy Condition (5) of Chapter 27.
27101944	--- Gas oil and oils obtained from gas oil: --- Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460	State Trading Enterprise	Import as per Policy Condition (5) of Chapter 27.
27101941	--- Gas oil and oils obtained from gas oil: --- Gas oil	State Trading Enterprise	Import as per Policy Condition (5) of Chapter 27.

**Product Description and Import Policy**

Sl.No.	Notes	Notification No.	Notification Date
1	Import of naphtha is free.		
2	Import of SKO shall be allowed through State Trading Enterprises (STEs) i.e. IOC, BPCL, HPCL and IBP for all purposes with STC being nominated as a State Trading Enterprise (STE) for supplies to Advance Licence holders. Advance Licence holders shall however, have the option to import SKO from the above mentioned STEs including STC		
3	Import is restricted in terms of Interim PIC Procedure of Rotterdam Convention on Prior Informed Consent procedure for hazardous chemicals and pesticides.		
4	Automobile industries, having RandD registration, are allowed to make free import of reference fuels (Petrol and Diesel) which are not manufactured in India, up to maximum of 5 KL per annum, subjects to the condition that the said imported reference fuels shall be used for RandD and emission testing purposes only		
	Import allowed through IOC subject to para 2.21 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NGs Resolution No. P23015/1/2001-MKT. Dated 8.3.2002 including HPCL, BPCL and IBP who have been marketing transportation fuels before this date.	08/2023	29/05/2023

### Policy Condition (5) of Chapter 27 of ITC (HS) Import Policy

9. Further, during the course of the investigation, it appeared that the CHA was actively involved in assisting and facilitating the improper and illicit import and clearance of the restricted goods namely "Gas Oil", "High Flash High Speed Diesel fuel conforming to standard IS 16861" and "Automotive diesel fuel as per IS: 1460" as mentioned above. Therefore searches were conducted at the premises of CHA M/s Gaurav M. Jhaveri on 30.04.2024. The proceedings of the searches were recorded under panchnama dated 30.04.2024 (**RUD-16**). During the search it was found that Sh Ruparel Ketan was handling all the customs clearance related work of M/s Gaurav M Jhaveri. Therefore voluntary statement of Shri Ruparel Ketan was recorded on 01.05.2024

10. Voluntary statement of Shri Ruparel Ketan Partner of M/s Shivshakti Shipping was also recorded on 01/05/2024 (**RUD-17**) under Section 108 of the Customs Act 1962 at his premises also wherein he inter-alia stated:

- *Question 1: Please state about yourself. Also state what are the other firms associated with you?*

*Ans: I am Ruparel Ketan S/o Late Shri Shiv Ji, permanent resident of House no 137, Rameshwar Nagar, Ward-12, Anjar, Kachchh, Anjar, Gujarat-370110. My age is 51 years and my educational qualification is B.Com from SIS college Bombay. My wife's name is Neeta Ruparel, I have one daughter and one son who live with us at the above-mentioned address. I have been authorized by the CHA firm M/s. Gaurav M. Jhaveri, CHA No AGRPJ9989QCH001 to look after the work of customs filing and clearance work related to Oil consignments for the CHA- Gaurav M Jhaveri and operate from the premises of M/S Ashirwad Shipping & Logistics. I have been doing this Customs filing and facilitation work for M/s. Gaurav M. Jhaveri Since 2017. I*

*am a partner in the firm M/s Shivshakti Shipping and a partner in the firm KRD Logistics. I will provide documents related to M/s Shivshakti Shipping and KRD logistics as and when required by your good office.*

- *Question 2: Please tell us about M/s Ashirwad Shipping & Logistics?*

*Ans: The business of M/s Ashirwad Shipping & Logistics is being looked after by Shri Deepak Majethiya, Contact no- 9879517194, husband of the proprietor Ms Alka Majethiya. M/s Ashirwad Shipping & Logistics conducts the work of container handling facilitation, fuel pumping facilitation and local transportation of the containers at the Customs port area.*

- *Question 3: Please tell us about M/s. Gaurav M. Jhaveri? Also please state about your responsibilities.*

*Ans: M/s. Gaurav M. Jhaveri, CHA No AGRPJ9989QCH001, is a CHA firm, based in Mumbai that deals in import and export of consignments. Shri Gaurav M. Jhaveri is the proprietor of this CHA firm. As stated above I have been authorized by the CHA firm M/s. Gaurav M. Jhaveri, to look after all operations related to oil imports at Mundra port. However, I don't have any authorisation letter with me currently, however, the authorization letter in original will be submitted to you.*

- *Question 4: Please state about the nature of business /operation/turnover and the commodities being dealt with by M/s. Gaurav M. Jhaveri? Please provide the details of staff and responsibilities*

*Ans: M/s. Gaurav M. Jhaveri deals in importing and exporting of various products such as ceramic Tiles, Engine spare parts, Stone slabs and minerals etc however in import they majorly deal in Mixed Hydrocarbon oil, Fuel oil, Base oil, Industrial Oil, Distillate oil and Naptha. Apart from me, Shri Bharat Parmar, G Card Contact number 9909947041, holder is working for M/s. Gaurav M. Jhaveri.*

- *Question 5: Please provide the details of the imports that are being handled by you for M/s. Gaurav M. Jhaveri?*

*Ans: I only look after import activities related to the import of various oils as mentioned in the question above at Mundra port, I am enclosing the list of import consignments currently live at Mundra port as Annexure I. Other port import activities apart for oils are not dealt by me.*

- *Question 6: Please tell us about the firms namely M/s A.A. Cable Layers, M/s Shree Hari Krupa Petrochem and M/s Shree Shyam Fuelco Private Limited.*

*Ans: I am providing you the KYC documents of the importers as mentioned in the question above as Annexure II. I talk to the representative of the importer only once or twice initially, just to finalise the charges for filing the customs paperwork after that*

Shri Barri Praveen (9909843346), who works in the Ashirwad Shipping & logistics looks after the documentation of the importer. I monitor the whole process and supervise as and when required. Further all of these importers are into the import of Mix Hydrocarbon Oil. M/s Shree Shyam Fuelco Private Limited has imported 5 consignments, M/s A.A. Cable Layers has imported 27 consignments and M/s Shree Hari Krupa Petrochem has imported 41 consignments through M/s Gaurav M Jhaveri. I am enclosing a list (annexure III) of all these imports along with the E-mail communication of my office with M/S Gaurav M Jhaveri regarding the filing of BOE.

- **Question 7: Who files the Bill of Entry on behalf of the importer? And also state the Basis of filing of Bill of entry.**  
*Ans: M/s Gaurav M Jhaveri, files the bills of entry (on behalf of importers) and the same is filed on the basis of documents provided by the importers only, we just collect and forward the documents received from importers. These documents are received on WhatsApp of Shri Barri Praveen which are further forwarded to M/s Gaurav M Jhaveri Through our office mail id [i.einfo.shivshakti1121@gmail.com](mailto:i.einfo.shivshakti1121@gmail.com).*
- **Question 8: Please state what is Mix Hydrocarbon Oil, what is its Chemical Composition? Please state end use of Mix Hydrocarbon Oil imported.**  
*Ans: It is a type of petroleum oil, which is a mixture of Hydrocarbon oils and is used mainly for industrial purposes. We file the bill of entry of the product as per the details given by the importer. Also, sometimes the importer provides the chemical analysis report related to the subject consignment and sometimes not. As far as end use of the product, we are not aware of that. We just file the bill of Entry on behalf of the Importer and the end use of the product may be known to the importer only.*
- **Question 9: Please provide the Chemical Analysis report/Test reports relating to past imports of the importers mentioned in the question no 6 above?**  
*Ans: It may be noted that as answered above, the chemical analysis reports are not always submitted by the importer and hence cannot be provided for all the consignments. Further, all the reports which are submitted by the importer are uploaded in E-Sanchit and can be retrieved as and when required.*
- **Question 10: What is the whole process of customs clearance of the consignments of Mix hydrocarbon Oil?**  
*Ans: First of all the importer sends a Bill Of Lading (Usually By WhatsApp), which we further E-mail to the shipping line to know the estimated time of arrival of the consignment and the CFS to which the consignment is scheduled to be placed. After knowing the ETA and CFS the documents received from the importer are further sent to M/s Gaurav M Jhaveri, who files the Bills of Entry on behalf of the importer.*

- *Question 11: Please provide the details of shipping companies related to the imports done by M/s A.A. Cable Layers, M/s Shree Hari Krupa Petrochem and M/s Shree Shyam Fuelco Private Limited.*

*Ans: I am enclosing the list of shipping companies related to the imports done by M/s A.A. Cable Layers, M/s Shree Hari Krupa Petrochem and M/s Shree Shyam Fuelco Private Limited as Annexure IV.*

- *Question 12: Please provide the details of suppliers/items imported.*

*Ans: The details of the supplier and items imported are available in the bill of entry filed by us, the same can be retrieved from E-Sanchit. And if the same is further required I will submit the same as and when the same is required by your office.*

- *Question 13: Please state how the orders are placed and who in your CHA firm give the order to supplier?*

*Ans: The orders are placed by the importer itself, we CHA only file these bills of entry on the basis of documents provided by respective importers, we as CHA have not role to play with the supplier.*

- *Question 14: Please peruse the E-mail communications copies of your office with Geo-chem lab (Annexure V) and see the test report of Geo Chem lab about various MHO samples wherein the sulphur levels have been declared between 7 PPM and 20 PPM*

*Ans: The importer sometimes asks for testing of some specific parameters of some consignments which we ask Geo-Chem lab to test the sample for the desired parameters. The test results are then shared with the importer through WhatsApp by Shri Deepak Majethiya. The sulphur levels indicated in the lab report are as per the testing and further the same are shared with the importer.*

- *Question 15: Please refer to the question 14 above and state whether sulphur can be in the range as specified in the question above in case of Mix Hydrocarbon Oil?*

*Ans: About this I have a very little idea. We just do as told by the importer.*

- *Question 16: Please state how do you receive the documents for filing the Bill of entry and who provided these documents related to M/s A.A. Cable Layers, M/s Shree Hari Krupa Petrochem and M/s Shree Shyam Fuelco Private Limited?*

*Ans: We receive the documents for filing the Bill of entry through WhatsApp only. The importer himself or a representative of the importer sends the relevant documents to Shri Barri Praveen. The details of persons who sends the documents are mentioned below in table :*

S.No	Importer	Contact person name	Mobile No.
1	M/s A.A. Cable Layers	Praveen	9811234553

		Vipin	8860160031
2	M/s Shree Hari Krupa Petrochem	Amit	9601768136
3	M/s Shree Shyam Fuelco Private Limited	Chirag Gupta	8826689311

- *Question 17: Is there any Standard or Literature that defines your product i.e. " Mix Hydrocarbon Oil"?*  
*Ans: Mix Hydrocarbon Oil is generally a blend of 2 or 3 different oils and as per my knowledge there is no specific standard to define the same.*
- *Question 18: Is there any import regulation that has to be followed for importing the said commodity i.e. "Mix Hydrocarbon Oil"*  
*Ans: I am not aware of any such regulation for importing the commodity in question.*
- *Question 19: Please state can this Mix Hydrocarbon Oil be imported in Flexi bags, Is there any violation of the Petroleum Act?*  
*Ans: As it is a routine product and all the importers are importing the commodity in Flexi Bags and according to me there is no violation in respect of Import in flexi bags. Further I am not aware of any violation of the petroleum Act.*
- *Question 20: Have the importers viz. M/s A.A. Cable Layers, M/s Shree Hari Krupa Petrochem and M/s Shree Shyam Fuelco Private Limited have ever imported diesel or kerosene?*  
*Ans: No, as per my knowledge, the consignments which were custom cleared by M/s Gaurav M Jhaveri in respect of these three parties have never imported diesel or kerosene.*
- *Question 21: Please state whether goods i.e. Mix Hydrocarbon Oil so imported in consignments/containers on hold by DRI and imported in earlier consignments are same?*  
*Ans: Yes sir, as per my understanding they are the same.*
- *Question 22: Please state what are the BIS parameters applicable on the item i.e. Mix Hydrocarbon Oil?*  
*Ans: No BIS standards are applicable on this imported item i.e. Mix Hydrocarbon Oil.*
- *Question 23: Please state whether Mix Hydrocarbon Oil is fuel or not?*  
*Ans: As per my understanding MHO is fuel only.*
- *Question 24: What is the process once the Container are OOC at the port?*

*Ans: Once the containers are OOC we receive a delivery order from the shipping line, which we forward to CFS to get NOC from the surveyor. Surveyor then checks the validity of delivery order and issues NOC for the containers. The NOC is then handed over to CFS. After that, the importer sends a tanker truck to load the cargo. Our office then provides a pump to load the oil from flexi-tanks to the tanker truck. The tanker truck is then sent for weighment at the weighment bridge and the weighment slip is sent to the importer through WhatsApp for information and further instruction if any.*

- *Question 25: Please see the documents in Annexure VI related to Shakti Amba tank storage, what is the role of a storage facility after the OOC of the containers from the port?*

*Ans: Sometimes the importers do not get orders from the prospective buyers immediately and hence then require the facility to store the already OOC tankers.*

- *Question 26: Please mention the partners of the firm Shakti Amba Tank Storage.*

*Ans: Ms. Neeta Ketan Ruparel W/o Sh. Ruparel Ketan and Ms Alka Deepak Majethiya W/O Sh Deepak Majethiya, are the two partners in Shakti Amba Tank Storage facility. Further it has a total capacity to store 3200 KL Liquid.*

- *Question 27: Please state have you made any payments to the supplier of Mix Hydrocarbon Oil or have received any payment from the buyers? If so please provide the Bank Details for the same?*

*Ans: No, we have never made any payments to the supplier of Mix Hydrocarbon Oil nor have received any payment from the buyers.*

- *Question 28: Please provide the certified copy of Buyer-seller agreement for the consignments.*

*Ans: No such buyer seller agreement is available with us.*

- *Question 29: Please state whether the overseas suppliers of MHO Oil, are traders or manufacturers. Also provide the communication (emails/letters etc.) with the overseas supplier's w.r.t. the consignments.*

*Ans: I am not aware of the fact that the overseas suppliers are trader or manufacturer. We are not in touch with any of the suppliers or trader overseas.*

- *Question 30: Please provide the copy of Invoice for each consignment, including itemized description, quantities, values, and any applicable discounts or rebates.*

*Ans: The required documents are uploaded in e-sanchit.*

- *Question 31: Do you want to say anything.*

*Ans:No, nothing to add on further.*

**11.** In view of the Test Reports and voluntary statements, it appeared that the imported goods were deliberately and knowingly mis-declared as “Mixed Hydrocarbon Oil” and mis-classified under CTH: 27101990 instead of CTH: 27101941, CTH: 27101944 and CTH: 27101949 by the importer with the intent of importing “Gas Oil”, “High Flash High Speed Diesel fuel conforming to standard IS 16861” and “Automotive diesel fuel as per IS: 1460” which are restricted commodities and *can be imported by STEs only as per the import policy as brought out above.* As a result, it seems that they attempted to import the restricted commodities by mis-declaring the same. Consequently, the imports made by the importer under 2083192 Dt. 10.02.2024, 2100062 Dt. 12.02.2024, 9999773 Dt. 06.02.2024, 2043286 Dt. 08.02.2024 and 2148664 Dt. 15.02.2024 appeared to be illicit and in gross violation of the relevant provisions of the Foreign Trade Policy 2023, the Import Policy conditions, and the Customs Act of 1962. Therefore, the goods imported under the aforementioned Bills of Entry at Mundra Port seemed liable for confiscation under the provisions of Section 111(d), (f), (l), and (m) of the Customs Act, 1962. As a result, the consignments were seized vide Seizure memos as detailed below:

S.No	Bill Of Entry No and Date	Seizure memo DIN no.	Seizure date
1	2083192 Dt. 10.02.2024	202409DDZ80000402854(RUD-18)	13.09.2024
2	2100062 Dt. 12.02.2024		
3	2043286 Dt. 08.02.2024		
4	9999773 Dt. 06.02.2024	202410DDZ8000011161C (RUD-19)	08.10.2024
5	2148664 Dt. 15/02/2024	202409DDZ8000000F51A(RUD-20)	13.09.2024

**12.** And whereas, summons were also issued to CHA M/s Gaurav M. Jhaveri on 05.07.2024 (**RUD-18**) for appearance on 10.07.2024 respectively. Shri Gaurav M. Jhaveri appeared in the office in compliance of the summons served upon him and tendered his voluntary statement on 10.07.2024 (**RUD-19**) and his statement was recorded under Section 108 of the Customs Act’1962 wherein he inter-alia stated as under:

- *I completed my B.COM Graduation from the University of Bombay in the year 2000, after that I completed my diploma in import and export*

*management from Indian merchant Chambers in the year 2001. Then I started my career with Niranjani Shipping Agency India Pvt Ltd in Bombay, where I worked from 2001 to 2004. After that, I switched my job to ASR Logistics, India Private Limited and I worked there till 2012. I cleared my CHA exam in the year 2011 and was issued F-card in the year 2012. Since then I have been providing customs clearance services to various customers. I am living with my wife MsRitka G. Jhaveri along with my mother and 2 kids, one son and one daughter on the above-mentioned subject.*

- *Question 1: Please explain the business of M/s Gaurav M. Jhaveri?*

*Answer: M/s Gaurav M Jhaveri is a proprietorship firm, in which I am a proprietor. As stated by me above the firm is engaged in the custom clearance of import and export consignments at various ports.*

- *Question 2: Please give details of your F Card and also state the customs formation which has issued you the F card.*

*Answer: My F-card bearing no. 4106/2022, has been issued by the office of the Principal Commissioner of Customs (General), New Custom House, Ballard Estate, Mumbai. I am submitting a copy of the said F-card for information under my signature.*

- *Question 3: Please state the present location of your firm.*

*Answer: Presently my office is located at 305/306 Sai Sadan 3<sup>rd</sup> floor 76/78 Modi Street fort Mumbai. However, earlier my office was located at 105/7, 4<sup>th</sup> Floor, Damodar Building, Princess Street, Kalbadevi, Mumbai, Maharashtra-400002 which I shifted to this address in May 2013, which I intimated to the Customs Association Bombay. And the same is updated in the record of customs Mumbai.*

- *Question 4: It is seen that the address mentioned in your F card remains unchanged. please clarify in the light of question no 3 above.*

*Answer: The address in the F card remains unchanged at which the F card is issued at the first time. If there is any change in the official address the same is communicated through a letter to the customs dept. as well as Bombay Customs Broker Association (BCBA). I will submit a copy of the same for information.*

- *Question 5: How many people are working in your firm. Please provide their details, designation, responsibilities and Mobile no*

*Answer: A total of 5 people work in my firm whose details are as under:*

<i>Name</i>	<i>Designation/ Work Assigned</i>	<i>Mobile No.</i>
<i>Sh Ramesh Patva</i>	<i>Accountant</i>	<i>9820862895</i>
<i>Sh Sahil Chavan</i>	<i>Documentation handling</i>	<i>9594493674</i>
<i>Sh Ajay Kumar Gaur</i>	<i>G card holder- handles field work at the CFS and Customs examination</i>	<i>9322526924</i>
<i>Sh. Rahul thakur</i>	<i>Field work at the CFS/Customs</i>	<i>7304633611</i>
<i>Sh Ravi Kumar</i>	<i>H-Card Holder</i>	<i>6377584097</i>

- *Question 6: Please name the companies/firms for whom you are providing customs clearance services?*

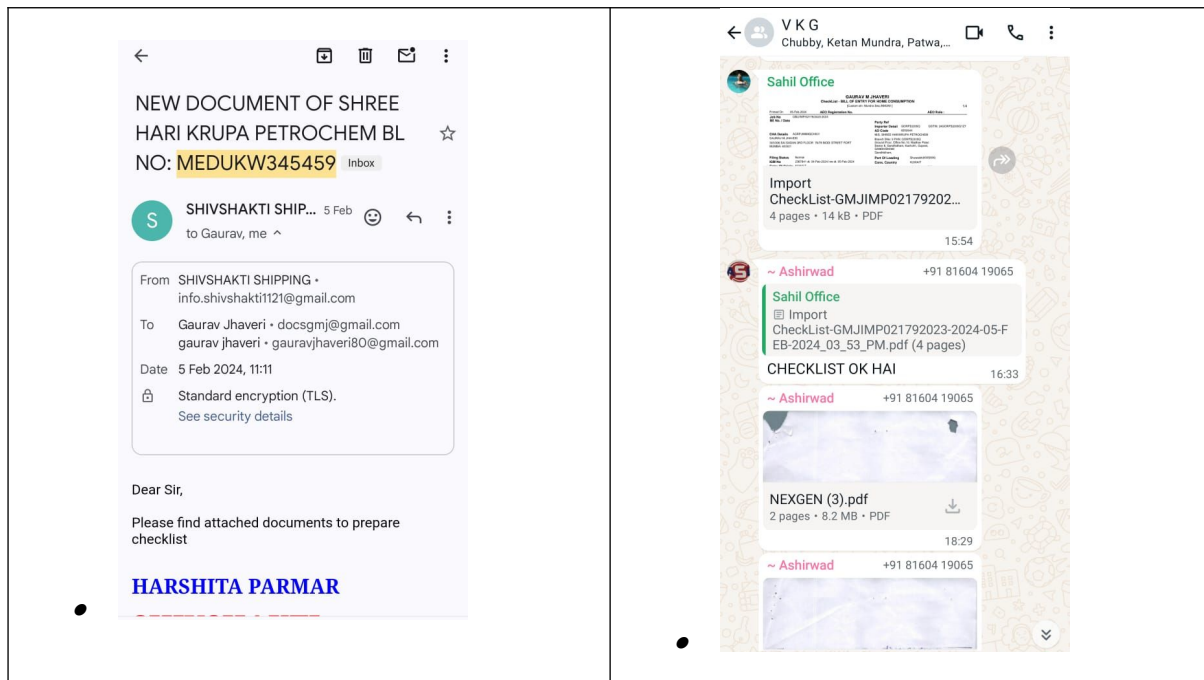
*Answer: Our major clients include:*

- *M/s Sunalco Alloys India Pvt Ltd, Mumbai.*
  - *M/s Padmini Innovative marketing solutions Pvt Ltd, Mumbai.*
  - *M/s AA Cable Layers, Milak- Rampur*
  - *M/s Hindustan Copper Ltd.*
  - *M/s Impulse Pharma Pvt Ltd.*
- *Question 7: What are the ports where you are providing customs clearance services?*  
*Answer: Our major business is at Nhava Sheva and Mundra however we also do conduct small business at Bombay Sea Port, Sahar Air Cargo complex, Ahmedabad ICD etc.*
  - *Question 8: How do you provide customs clearance facilities? Please explain the same with regard to the functioning of your firm.*  
*Answer: Our client forwards the import documents on our email-gauravjhaveri80@gmail.com/ docsgmj@gmail.com which are examined by the staff who later on prepare check list which is sent to the client for approval. Once the checklist is approved, the bill of entry is filed online on the ICEGATE website. After it is approved, the examination of the cargo by the customs officers is conducted in the presence of the G-card holder of the firm. After the examination and out-of-charge given by the customs the documents are handed over to the transporter who is engaged by the importer only for delivery at the designated address.*
  - *Question 9: Have you authorised companies/firms to provide customs clearance work? If so name the firms/companies who have been authorized to provide customs clearance services by using your F Card.*  
*Answer: In order to bring more business at the local level of the port, we have an understanding with some business firms who are associated with us but do not have the requisite F-Card for customs clearance. These firms contact clients and send documents through their email to us for filing online at the*

ICEGATE portal after verification and analysis of the documents by our staff. After approval and generation of the documents, the same is provided to the associate firms who then inform the importer/exporter. After customs clearance, the associate firms receive the payment and after deducting their share, the balance amount is electronically transferred to us. The names of such associated firms are given below:

- M/s Shiv Shakti Shipping at Mundra, which is being handled by Sh Ketan Ruparel.
  - M/s Kinjal Logitrans India Pvt Ltd at Mundra is being handled by Sh Bharat Parmar.
- Question 10: How did you come across these associate firms that are being handled by Sh Ketan Ruparel and Sh Bharat Parmar?  
Answer: Sh Bharat Parmar was my office colleague in M/s ASR Logistics India Pvt Ltd in 2009, from there we became good friends, hence this associate firm. I met with Ketan Ruparel in 2015 as he was a mutual friend of Bharat Parmar. Then me and Ketan Ruparel also became friends and I got connected with his firm M/s Shiv Shakti Shipping.
  - Question 11: How the firms named in the question No 9 above have been authorized to conduct the business of customs clearance?  
Answer: These firms only bring business and forward the documents for further customs-related work to us only. There is no written agreement and we conduct business together on the basis of oral and verbal understanding.
  - Question 12: Please name the companies related to Sh. Ketan Ruparel who are provided custom clearance services by your firm.  
Answer: Some of the major companies include:
    - M/s AA Cable Layers
    - M/s Shree Harikrupa Petrochem
    - M/s Divya Petrochem
    - M/s Rainbow Corporation
    - M/s Shree Shyam Fuelco
    - M/s Mainline Global Energy Pvt Ltd, Etc
  - Question 13: Please state which goods are dealt by Sh Ketan Ruparel at Mundra for which he provides the documentation.  
Answer: Sh Ketan Ruparel looks after the clients who import Oil and other petroleum products at Mundra Port.

- *Question 14: Please elaborate as to how customs clearance services are provide to the companies mentioned in the reply to the question 12 above.*  
*Answer: First of all Sh. Ketan Ruparel, contacts the clients who wish to get the consignments cleared at Mundra Port. He negotiates the terms and conditions on our behalf with the client. After the terms are finalized and is approved by me, the importer sends the documents related to the import consignment on the E-mail id of M/s Shiv Shakti Shipping, which are then forwarded to us for analysis and examination as per the customs provisions. After analysis and examination, a checklist is prepared which is sent back to M/s Shiv Shakti Shipping via mail/WhatsApp, who then further forwards it to the importer. After the importer gives approval to the checklist, the Bill of entry is filed on the ICEGATE Portal. After the BOE is approved the Duty is paid by the Importer. After the payment of Duty, the consignment is examined by customs. Since the firms being dealt with by M/s Shiv Shakti Shipping, imports MHO, samples are drawn which are sent for testing. After the test reports are received the consignment are given out of charge by the customs and handed over to the customer.*
  
- *Question 15: Your kind attention is invited to your reply to Question 14 above wherein you mentioned that once the importers approve the checklist then your office files Bill of Entry on behalf of the importer. Please state by what medium you get the approval and kindly provide a copy of the same.*  
*Answer: As stated above M/s Shiv Shakti Shipping sends the checklist to the importer for approval. After receiving approval from the importer M/s Shiv Shakti Shipping confirms the approval to us for filing of Bill of Entry. These approvals are done usually on WhatsApp or through mail. I am providing screenshots of one such approval for your information*



- As can be seen from the screenshots attached above, the documents pertaining to BL no MEDUKW345459 pertaining to M/S Shree Hari Krupa Petrochem were sent to our Email i.e. [Docsgmj@gmail.com](mailto:Docsgmj@gmail.com) by M/s Shiv Shakti Shipping. After receiving the documents a checklist is prepared with the help of a software namely Live Impex. The Checklist is then forwarded to M/s Shiv Shakti Shipping for approval from the client. After receiving approval from the client through M/s Shiv Shakti Shipping, Bill of entry is filed by our firm. In this case, BOE no 9999773 dated 06.02.2024 was filed on behalf of the importer. I am submitting the screenshots and documents attached in the mail along with the checklist for your perusal.
- Question 16: Please define your payment terms/agreements with the associate firms namely M/s Shiv Shakti Shipping and M/s Kinjal Logitrans India Pvt Ltd.**

**Answer:** There is no written agreement or terms for payment with the associate firms, as both the persons namely Sh ketal Ruparel of M/s Shiv Shakti Shipping and Sh Bharat Parmar of M/s Kinjal Logitrans India Pvt Ltd are old friends. However, we have decided the rates per container, verbally. M/s Kinjal Logitrans India Pvt Ltd usually handles documentation with the clients related to Export and M/s Shiv Shakti Shipping generally handles the documentation for Import. For import, we charge a fee of Rs 750 per container from the importer through M/s Shiv Shakti Shipping and for export, we charge a fee of Rs 100 per container from the exporter through M/s Kinjal Logitrans India Pvt Ltd.

- *Question 17: Please state how much commission you give to the associate firm M/s Shiv Shakti Shipping for the documentation handling for import consignments.*

*Answer: As stated above, we have a fixed charge policy for filing BOE with our associate firms. We charge Rs 750/- per container from M/s Shiv Shakti Shipping for which the invoice is raised by M/s Shiv Shakti Shipping. We are not concerned about the commission that M/s Shiv Shakti Shipping might be getting from the importer.*

- *Question 18: Who files the BOE in respect of the companies for whom M/s Shiv Shakti Shipping, provides necessary documents?*

*Answer: As stated by me in the answer to above question, M/s Shiv Shakti Shipping provides documents related to the import of the consignments, after that the BOE is filed at the office of M/s Gaurav M. Jhaveri by Sh. Sahil, an employee of the firm through the ICEGATE ID of M/s Gaurav M. Jhaveri.*

- *Question 19: Please state, who gets the examination conducted at the port for the import consignment of your clients?*

*Answer: The examination at the port is conducted by Sh. Ravi Kumar, an employee, of M/s Gaurav M. Jhaveri, holding H-Card, who has been appointed by the firm for facilitating customs clearance at Mundra Port.*

- *Question 21: Are you aware that some containers which have been declared to contain MHO have been put on hold by the DRI Noida Regional unit at Mundra port?*

*Answer: Yes I am aware of the fact that DRI Noida Regional Unit has put on hold some consignments of MHO of our various clients as detailed below:*

S.NO	IEC Name	BOE No	No of containers
1	M/S A. A. Cable Layers	9765080 Dt. 21.01.2024	14
		9765081 Dt. 21.01.2024	12
2	M/S Shree Hari Krupa Petrochem	2083192 Dt. 10.02.2024	10
		2100062 Dt. 12.02.2024	10
		9999773 Dt. 06.02.2024	10
		2043286 Dt. 08.02.2024	10
		2148664 Dt. 15/02/2024	10
3	M/S Shree Shyam Fuelco Private Limited.	2131398Dt. 14.02.2024	10

- *Question 22: Since the Bills of Entry have been filed by you on behalf of the above mentioned importers, please state how did these importers come in contact with you*  
*Answer: The importers mentioned in the answer to question number 15 above are clients of our associate, Ms Shiv Shakti Shipping. The customs related work in respect of these firms, has come through Ms Shiv Shakti Shipping.*
- *Question 23: What were the documents that were provided by the importers mentioned by you in reply to question no 15 above and from whom they were received when you filed the BOE on their behalf.?*  
*Answer: These Importers forwarded invoices, packing list and Bill of Lading to M/s Shiv Shakti through mail which were subsequently forwarded to us through mail on the basis of which we file the respective bill of entry. I am submitting copies of 2 such emails for your perusal.*
- *Question 24: What is the Item "MHO/ Mix Hydrocarbon Oil/Mixed Hydrocarbon Oil/Mineral Hydrocarbon Oil", mentioned in the Bills of entries filed by you on behalf of these importers.*  
*Answer: As per my understanding and information provided by the importers it is a type of petroleum product.*
- *Question 25: Please state, what is the use of MHO?*  
*Answer: As per the information provided by the importer it is for industrial Use.*
- *Question 26: Please specifically state and clarify the industrial use as mentioned in your reply to question no 26 above.*  
*Answer: I am not aware of the specific industrial use of the product. This can be clarified by the importer only.*
- *Question 27: Please state whether you have been provided with any chemical analysis report/ test report of the product by the importer issued by the supplier.*  
*Answer: No, we have not been provided with any chemical analysis report or test report by the importer issued by the importer.*
- *Question 28: If no chemical analysis report/ test report of the product is submitted by the importer then what was the basis of classification of the product under Chapter Heading 27101990 in the category of item "Others"*

*Answer: As per our understanding and experience in customs clearance since there was no specific entry for the item, it was classified under CTH 27101990 which pertains to others.*

- *Question 29: Please refer to Question no 28 above and state who classifies the goods to be filed in the Bill of Entry. Further without any chemical analysis report or test report how do you come to the conclusion to classify the product as MHO in the Bill of Entry?*

*Answer: The classification of the goods is done by our firm only and the goods are classified under CTH 27101990-“others”. However, the classification is based on the documents such as Bill of lading Invoice and packing list provided by the importer, our knowledge as well as the practice being followed at the ports for clearing similar goods. I am submitting all the documents provided by the importer for the consignments that have been put on hold by DRI Noida Regional Unit.*

- *Question 30: Did you ask the importer or insist upon them, for providing chemical analysis report /test reports?*

*Answer: No, we did not insist upon them for any chemical analysis report or test report.*

- *Question 31: Please peruse the respective test reports of consignments that have been put on hold by DRI Noida regional Unit and are mentioned in reply to question 15 above. The test results of each of the consignment have been summarized in the table below.*

S.NO	IEC Name	BOE No	No of containers	Sample no.	Test report result	Test Lab
1	M/S A. A. Cable Layers	9765080 Dt. 21.01.2024	14	AB3-344709	Gas Oil	IOCL
		9765081Dt . 21.01.2024	12	AA1-344704	Gas Oil	IOCL
2	M/S Shree Hari Krupa Petrochem	2083192Dt . 10.02.2024	10	HC1-A217700	Automotive Diesel Fuel BS(IV)	CRCL
		2100062Dt . 12.02.2024	10	HD3-A217692	Automotive Diesel Fuel BS(IV)	CRCL

		9999773Dt .06.02.2024	10	HB1-A217693	Adulterated Diesel	CRCL
		2043286Dt .08.02.2024	10	HA1-A217686	Automotive Diesel Fuel BS(IV)	CRCL
		2148664Dt .15/02/2024	10	HE1-A215389	Automotive Diesel Fuel BS(IV)/ HFHSD (High Flash High Speed Diesel)	CRCL
3	M/sShree Shyam Fuelco Private Limited.	2131398 Dt. 14.02.2024	10	SSA3-A2154900	HFHSD (High Flash High Speed Diesel)	CRCL

*Having perused the test reports please offer your comments.*

*Answer: I have perused each of the test reports detailed above. I have also gone through the parameters mentioned in each of the test reports. I have signed the test reports as a token of having seen the same. On perusal of the test reports, it is seen that the lab has come to a conclusion that the consignment does not consist of MHO but a different oil as mentioned in the Respective report.*

- *Question 32: Do you agree with the outcome of the test reports and the result mentioned therein?*

*Answer: Having perused each of the test reports as well as the parameters I am in agreement with the conclusion arrived at by the lab as mentioned in the respective test report*

- *Question 33: Please give your opinion on whether MHO as declared by you in the bills of entry and the item identified as per the test result of the respective item are same or different?*

*Answer: The goods identified by the laboratory as per the test report and the item description & CTH declared in the Bill of Entry are different.*

- *Question 34: Please refer to regulation 10 (e) of the Customs Brokers Licensing Regulations, 2018, wherein it is specifically mentioned that due diligence is to be exercised by customs Broker to ascertain the correctness of any information which is imparted by you to the client with reference to any*

*work related to the clearance of the cargo or baggage. In the light of discrepancies noticed as per test report vis-à-vis declaration made in the Bill of Entry in respect of the goods and its classification, it appears that due diligence has not been exercised to ensure that description of the goods is appropriately given and correctly classified. Please offer your comments.*

*Answer: As per my knowledge and documents provided by the importer, the classification of the goods as MHO and under CTH 27101990 is correct. Further as a general trade practice, MHO is being imported at Mundra Port under CTH 27101990 only. The discrepancy has come to notice only as a result of the test report of the sample submitted by the laboratory. The Importer can only explain the Discrepancy so noticed and is not on the end of my firm.*

- *Question 36. Your kind attention is invited to the conclusion of the test report for the sample of M/S Shree Hari Krupa Petrochem filed under Bill of Entry no 2083192 Dt. 10.02.2024 wherein the oil has been found to be "Automotive Diesel Fuel as per IS 1460:2017. On the basis of the conclusion of CRCL lab, the goods are actually ADF as per IS 1460:2017 and are hence classifiable under CTH 27101944. In the light of the test report and your reply to question No 33 above, do you agree that the ADF as per IS 1460:2017 imported in consignment covered under Bill of Entry no 2083192 Dt. 10.02.2024 filed by you and imported by M/S Shree Hari Krupa Petrochem is correctly classifiable under CTH 27101944 and not 27101990 as classified by you in the bill of entry filed by you.*

*Answer: In view of the conclusion of the CRCL report, I agree that the correct classification of the oil in the consignment covered under Bill of Entry no 2083192 Dt. 10.02.2024 should be under CTH 27101944. The declaration of the item made in the bills of entries is incorrect and wrong.*

- *Question 37. Your kind attention is invited to the conclusion of the test report for the sample of M/S Shree Hari Krupa Petrochem filed under Bill of Entry no 2100062 Dt. 12.02.2024 wherein the oil has been found to be "Automotive Diesel Fuel as per IS 1460:2017. On the basis of the conclusion of CRCL lab, the goods are actually ADF as per IS 1460:2017 and are hence classifiable under CTH 27101944. In the light of the test report and your reply to question No 33 above, do you agree that the ADF as per IS 1460:2017 imported by you in consignment covered under Bill of Entry no 2100062 Dt. 12.02.2024 filed by you and imported by M/S Shree Hari Krupa Petrochem is correctly classifiable under CTH 27101944 and not 27101990 as classified by you in the bill of entry filed by you.*

*Answer: In view of the conclusion of the CRCL report, I agree that the correct classification of the oil in the consignment covered under Bill of Entry no 2100062*

*Dt. 12.02.2024 should be under CTH 27101944. The declaration of the item made in the bills of entries is incorrect and wrong.*

- *Question 38. Your kind attention is invited to the conclusion of the test report for the sample of M/S Shree Hari Krupa Petrochem filed under Bill of Entry no 2043286 Dt. 08.02.2024 wherein the oil has been found to be "Automotive Diesel Fuel as per IS 1460:2017. On the basis of the conclusion of CRCL lab, the goods are actually ADF as per IS 1460:2017 and are hence classifiable under CTH 27101944. In the light of the test report and your reply to question No 33 above, do you agree that the ADF as per IS 1460:2017 imported in consignment covered under Bill of Entry no 2043286 Dt. 08.02.2024 filed by you and imported by M/S Shree Hari Krupa Petrochem is correctly classifiable under CTH 27101944 and not 27101990 as classified by you in the bill of entry filed by you.*

*Answer: In view of the conclusion of the CRCL report, I agree that the correct classification of the oil in the consignment covered under Bill of Entry no 2043286 Dt. 08.02.2024 should be under CTH 27101944. The declaration of the item made in the bills of entries is incorrect and wrong.*

- *Question 39. Your kind attention is invited to the conclusion of the test report for the sample of M/S Shree Hari Krupa Petrochem filed under Bill of Entry no 2148664 Dt. 15/02/2024 wherein the oil has been found to be "Automotive Diesel Fuel as per IS 1460:2017. On the basis of the conclusion of CRCL lab, the goods are actually ADF as per IS 1460:2017 and are hence classifiable under CTH 27101944. In the light of the test report and your reply to question No 33 above, do you agree that the ADF as per IS 1460:2017 imported in consignment covered under Bill of Entry no 2148664 Dt. 15/02/2024 filed by you and imported by M/S Shree Hari Krupa Petrochem is correctly classifiable under CTH 27101944 and not 27101990 as classified by you in the bill of entry filed by you.*

*Answer: In view of the conclusion of the CRCL report, I agree that the correct classification of the oil in the consignment covered under Bill of Entry no 2148664 Dt. 15/02/2024 should be under CTH 27101944. The declaration of the item made in the bills of entries is incorrect and wrong.*

- *Question 40. Your kind attention is invited to the conclusion of the test report for the sample of M/S Shree Hari Krupa Petrochem filed under Bill of Entry no 9999773 Dt. 06.02.2024 wherein the oil has been found to be adulterated diesel fuel. On the basis of the conclusion of CRCL lab, the goods are actually Adulterated diesel fuel which as per the parameters, can be classified as GAS oil under CTH 27101941. In the light of the test report and your reply to question No 33 above, do you agree that the GAS oil imported in*

*consignment covered under Bill of Entry no 9999773 Dt. 06.02.2024 filed by you and imported by M/S Shree Hari Krupa Petrochem is correctly classifiable under CTH 27101941 and not 27101990 as classified by you in the bill of entry filed by you.*

*Answer: In view of the conclusion of the CRCL report, I agree that the correct classification of the oil in the consignment covered under Bill of Entry no 9999773 Dt. 06.02.2024 should be under CTH 27101941. The declaration of the item made in the bills of entries is incorrect and wrong.*

- *Question 43: Please take cognizance of your reply to the question no 36-42 above and state whether the goods declared in the Bills of entries were mis-declared.*

*Answer: I have already admitted that the goods identified by the lab and the one declared in the Bills of entry are different. Though prima-facie it appears to be a case of misdeclaration however I wish to submit that the declaration and classification in the bill of entry was made on the basis of the documents and information provided by the respective importers.*

- *Question 44: Please take cognizance of the reply to question no 43 above. The items identified by the lab comprising the consignments and classifiable under the said headings are not freely importable as they are restricted in nature and can only be imported by STEs(State Trading Enterprises). Then why Bill of Entry has been filed by way of misdeclaration for restricted items.*

*Answer: I agree that the items identified by the lab comprising of the said consignments are restricted and can only be imported by STEs. I reiterate that the Bill of entry was filed on the basis of documents and information provided by the importer. Under what circumstance the mis-declared restricted goods were imported can only be explained by the respective importer.*

- *Question 45: Your kind attention is invited to CTH 27101990- "Others" and chapter 27, and that there are a lot of restricted goods in this chapter that can only be imported by STEs. Please state whether this particular CTH 27101990 was chosen by you as the import policy associated with this CTH is "free to import"? And further state as CHA should you not be extra careful that the importer should not bring any restricted item/goods in lieu of free goods?*

*Answer: As stated in different questions above, the basis of classification of the goods under CTH is because the product does not fall under any other CTH in this chapter. Further general trade practice at the port regarding this product is that it is classified under CTH 27101990. However just to be double sure and being careful about the nature of the goods, we always opt for*

*the first check of the consignment. This allows us to double-check the consignments imported by the importer.*

- *Question 46: Do you wish to state anything else?*

*Answer: I wish to submit that my firm has no role in the discrepancies noticed in the consignment. The importer is liable to face any action on account of misdeclaration of the consignment. It is requested that this aspect maybe considered accordingly while concluding the instant case.*

**13.** Subsequent to the receipt of the Test Reports from the CRCL, in order to ascertain the role of Sh. Ruparel Ketan, of M/s Shivshakti Shipping in facilitating illicit import of Automotive Diesel Fuel, High Flash High Speed Diesel fuel and Gas Oil at Mundra Port, summons were issued to him on 05.07.2024(**RUD- 20**) for appearance on 10.07.2024 in compliance to which Shri Ruparel Ketan appeared on 10.07.2024 to again tender his voluntary statement, which was recorded under Section 108 of the Customs Act'1962 as under(**RUD-21**):

- *Question 1: Please refer to Question no. 1 & 2 of your statement dated 01.05.2024 and explain your relationship with M/s Ashirwad Shipping & Logistics.*

*Answer: As submitted by me in my statement dated 01.05.2024 in reply to question no. 1 that I am utilizing the premises of M/s Ashirwad Shipping & Logistics for conducting Customs related work pertaining to Mundra Port of my firm M/s Shivshakti Shipping. The proprietor of M/s Ashirwad Shipping & Logistics is a very close friend of mine of more than 20 years and therefore in order to save expenses he has permitted me to use his offices for the conduct of business of my firm. I do not pay any rent or any other charges while using the premises for my work, However I share portion of agency charges which is received for Customs related work. Further, since M/s Ashirwad Shipping & Logistics is into similar business, I also take the services of his staff in conducting the business.*

- *Question 2: Please provide details of your own office along with the details of your staff.*

*Answer: it is submitted that I went through a very difficult period about 8 years ago and was under heavy debt. Due to which I lost almost everything. At that time my friends namely; Shri Deepak Majethiya husband of the proprietor of M/s Ashirwad Shipping & Logistics, Shri Gaurav Madhusudan Jhaveri Proprietor of M/s Gaurav M Jhaveri and Shri ApparaoGunti Proprietor of M/s A.R. Shipping & Logistics helped me and supported me during the difficult period from 2016 to 2021. During this period, I used their office premises for conducting business of my own firm as I could not afford*

rent of an independent office and employees. Since then, I'm still continuing to use their respective premises for conducting my business as well as utilizing the services of their staff also. However, as far as my own staff is concerned, they mostly are doing field work at the Mundra port while some of my staff uses the office premises of M/s A.R. Shipping & Logistics belonging to my friend Shri A.R. Gunti at Plot no.338, Dc-5, Adipur, Katchh. My firm M/s Shivshakti Shipping also is registered at this address only. Further the details of my staff are as under:

Name	Designation/ Work Assigned	Mobile No.
Rafik Odheja	Field Work at Mundra Port	8758975947
Lakharam	Field Work at Mundra Port	9680252051
Tagharam	Field Work at Mundra Port	7976451623
Rahul Saran	Field Work at Mundra Port	7877498116
GovindGirdhari Ram	Field Work at Mundra Port	8302921991
NarayanNarna Ram	Field Work at Mundra Port	8905451800
Vivek Soni	Field Work at Mundra Port	9979689585
Devi Lal	Field Work at Mundra Port	9660253347

- Question 3: With reference to your statement tendered on 01.05.2024 please explain your relationship with M/s Gaurav M. Jhaveri.

Answer: As stated by me in the answer to the previous question, Gaurav M. Jhaveri proprietor of M/s Gaurav M Jhaveri is an old friend of mine who helped me in my difficult period which began in 2016. I bring business for M/s Gaurav M. Jhaveri and provide documents obtained from the party, which are forwarded through E-mail "info.shivshakti1121@gmail.com" or WhatsApp for Customs clearance related work like filing of Bill of Entry, Examination of consignment, Out of charge of consignment after examination etc.

- Question 4: After the documents have been forwarded through your email to M/s Gaurav M Jhaveri, who files the Bill of entry on behalf of the importers.

Answer: As per my knowledge, an employee by the name of Sahil files online Bill of entry on behalf of the importers on ICEGATE website by using the ID of M/s Gaurav M Jhaveri.

- Question 5: Please state what is the agreement or payment terms between your firm and M/s Gaurav M Jhaveri?

Answer: As stated by me in previous questions, I use office space, office staff and facilities of M/s Ashirwad Shipping & Logistics for agency charges which are negotiated with the importer. Bill is raised first by M/s Ashirwad

*Shipping & Logistics for the entire amount. Thereafter after deducting the share which is approx. 25% of the total amount, M/s Shiv Shakti Shipping raises bill for this amount upon M/s Ashirwad Shipping & Logistics. Thereafter M/s Gaurav M Jhaveri raised a bill for fixed amount of Rs. 750/- per container which is transferred by me online. The balance amount retained by me after deducting the expenses incurred on port handling. There is no written agreement between M/s Shivshakti Shipping and Gaurav M Jhaveri as well as M/s Ashirwad Shipping & Logistics.*

- *Question 6: Why payment is not being made by the importer directly to the CHA firm instead of the manner as stated by you in reply to your question no. 5?*

*Answer: According to me there is nothing wrong in this practice. If there is a forwarder or associate in between the importer and the CHA, he is the contact person who takes responsibility for the realization of the payment from the importer. After realization of the payment, the share of the CHA is paid as per agreed terms for the services of the Customs Clearance rendered by him.*

- *Question 7: Please specify the Customs port for which you negotiate with parties with regard to Customs related works.*

*Answer: I negotiate with the clients for getting their Customs related works at Mundra Port.*

- *Question 8: What are the commodities being dealt by you for which you are providing services related to Customs work.*

*Answer: My firm M/s Shivshakti Shipping deals with the importer who are engaged in the import of petroleum Products*

- *Question 9: Please specify the petroleum products as replied by you in answer to Ques no.8.*

*Answer: The Petroleum Products include Mix Hydrocarbon Oil (MHO), Base Oil and Fuel Oil.*

- *Question 10: What is the reason for specialization and concentration in petroleum products only?*

*Answer: The clients for whom I am looking after customs related work import only these petroleum Products and I get new business reference in the same field from the existing clients.*

- *Question 11: How is the classification of the items Mix Hydrocarbon Oil decided.*

*Answer: The classification is decided on the basis of import documents provided by the importer. After the documents are forwarded online by M/s Shivshakti Shipping, a checklist is prepared which is forwarded on whatsapp group or through mail to the importer. The importer conveys his approval to the checklist back through either whatsapp or mail which is then accordingly communicated M/s Gaurav M Jhaveri, Who afterwards files bill of entry on the basis of the said checklist. As far as classification is concerned the same is done on the basis of the description given in the import documents, provisions of Customs Tariff and practice followed in respect of similar items at the Customs Port.*

- *Question 12: Please provide the printout of approval granted by the importer and communicated by you to M/s Gaurav M Jhaveri.*

*Answer: The approval communicated must be available in the Mobile phone resumed on 01.05.2024.*

- *Question 13: Your attention is invited to your reply to Question no. 8 of your statement dated 01.05.2024, wherein you have replied that Mix Hydrocarbon Oil is used for industrial purposes. Please specifically state for which industry and the purpose the said Mix Hydrocarbon Oil imported by your clients namely; M/s A.A. Cable Layers, M/s Shree Hari Krupa Petrochem and M/s Shree Shyam Fuelco Pvt Ltd.*

*Answer: The said reply was given on the basis of the information provided by the importer as well as my knowledge that the Mix Hydrocarbon Oil is used in the furnace of various industries.*

- *Question 14: Please refer to your further reply to Question no. 8 of your statement dated 01.05.2024, wherein you had stated that "sometimes the importer provides the chemical analysis report related to the subject consignment and sometimes not." In the light of this submission please furnish copies of the said chemical analysis report as you have already stated in reply to Question no. 7 of your statement dated 01.05.2024 that the customer provides documents on whatsapp.*

*Answer: Yes, I admit that I had made the said submissions in my reply to Question no. 7 & 8 of my statement dated 01.05.2024. As far as submission of the copies of the said submission is concerned, as per my knowledge these three parties namely; M/s A.A. Cable Layers, M/s Shree Hari Krupa Petrochem and M/s Shree Shyam Fuelco Pvt Ltd have not provided chemical analysis reports in respect of any of the consignment but apart from these three parties, I look after the Customs related work for several other companies like; M/s Divya Petrochem, M/s Kumar Enterprises, etc. I don't readily remember which party specifically provided chemical analysis report.*

However, if any party submits chemical analysis report, the same is uploaded with other import documents at the time of filing of the Bill of entry.

- Question 15: Did you ask the respective importers to provide chemical analysis report/test report/literature in support of the goods declared to be as MHO in the consignment which have been put on hold and currently are in investigation?

Answer: I made inquiries with the importer regarding chemical analysis report/test report in support of the goods declared to be as MHO in the import consignment, they informed that no such chemical analysis/Test report was provided by the supplier to them.

- Question 16: Please refer to your reply to the Question above. If the chemical analysis report in respect of the said three importers namely; M/s A.A. Cable Layers, M/s Shree Hari Krupa Petrochem and M/s Shree Shyam Fuelco Pvt Ltd was not provided by them. then how it was decided to classify the said goods i.e., Mix Hydrocarbon Oil/Mix Mineral oil under the Customs Terrif heading 27101990 pertaining to "others".

Answer: Based on the import documents provided by the importer and the practice of the classification being followed at Mundra Port in respect of Mix Hydrocarbon Oil/Mix Mineral oil imported by other parties at the Mundra port, it was decided to classify the consignments accordingly under the Customs Terrif heading 27101990 pertaining to "others".

- Question 17: Your attention is invited to your reply to Question No. 21 of your statement dated 01.05.2024, wherein on being asked "whether goods i.e., Mix Hydrocarbon Oil so imported in consignments/containers hold by DRI and imported in earlier consignments are same" and you had replied that "Yes sir, as per my understanding they are the same". In this regard, please peruse the respective test reports of consignments that have been put on hold by DRI Noida regional Unit. The test results of each of the consignment have been summarized in the table below.

S.No	IEC Name	BOE No	No of containers	Sample no.	Test report result
1	M/S A. A. Cable Layers	9765080Dt. 21.01.2024	14	AB3-344709	Gas Oil
		9765081 Dt. 21.01.2024	12	AA1-344704	Gas Oil
2	M/S Shree Hari Krupa Petrochem	2083192 Dt. 10.02.2024	10	HC1-A217700	Automotive Diesel Fuel BS(IV)
		2100062 Dt. 12.02.2024	10	HD3-A217692	Automotive Diesel Fuel BS(IV)
		9999773 Dt. 06.02.2024	10	HB1-	Adulterated Diesel

				A217693	
		2043286 Dt. 08.02.2024	10	HA1-A217686	Automotive Diesel Fuel BS(IV)
		2148664 Dt. 15/02/2024	10	HE1-A215389	Automotive Diesel Fuel BS(IV)/HFHSD (High Flash High Speed Diesel)
3	M/S Shree Shyam Fuelco Private Limited.	2131398Dt. 14.02.2024	10	SSA3-A2154900	HFHSD (High Flash High Speed Diesel)

*Having perused the test reports please offer your comments in the light of your reply to Question No. 21 of your statement dated 01.05.2024.*

*Answer: I have seen the test reports detailed above as well as the parameters detailed therein. Further, I have also signed all the said test reports as a token of having seen them. On perusal of the test reports, it is seen that contrary to my submission that Mix Hydrocarbon Oil so declared in the bill of entry and sought to be imported in consignments/containers hold by DRI and imported in earlier consignments are same, the lab has come to a conclusion that the consignment does not consist of MHO but a different oil as mentioned in the Respective report.*

- *Question 18: Do you agree with the outcome of the test reports and the result mentioned therein?*

*Answer: Since the samples have been tested in approved and competent laboratory, I agree with the test reports and the parameters as mentioned in the respective test.*

- *Question 20. Your kind attention is invited to the conclusion of the test report for the sample of M/S Shree Hari Krupa Petrochem filed under Bill of Entry no 2083192 Dt. 10.02.2024 wherein the oil has been found to be "Automotive Diesel Fuel as per IS 1460:2017. On the basis of the conclusion of CRCL lab, the goods are actually ADF as per IS 1460:2017 and are hence classifiable under CTH 27101944. In the light of the test report and your reply to question No 33 above, do you agree that the ADF as per IS 1460:2017 imported in consignment covered under Bill of Entry no 2083192 Dt. 10.02.2024 filed by you and imported by M/S Shree Hari Krupa Petrochem is correctly classifiable under CTH 27101944 and not 27101990 as classified by you in the bill of entry filed by you.*

*Answer: I again agree with the result of the test report in respect of the said consignment and the conclusion that the same consists of "Automotive Diesel Fuel as per IS 1460:2017. I also agree that the correct classification of the oil in the consignment covered under BOE no 2083192 Dt. 10.02.2024 should be under*

CTH 27101944. Thus the declaration of the item made in the bills of entries is incorrect and wrong in case of this Bill of Entry also.

- Question 21. Your kind attention is invited to the conclusion of the test report for the sample of M/S Shree Hari Krupa Petrochem filed under Bill of Entry no 2100062 Dt. 12.02.2024 wherein the oil has been found to be "Automotive Diesel Fuel as per IS 1460:2017. On the basis of the conclusion of CRCL lab, the goods are actually ADF as per IS 1460:2017 and are hence classifiable under CTH 27101944. In the light of the test report and your reply to question No 33 above, do you agree that the ADF as per IS 1460:2017 imported by you in consignment covered under Bill of Entry no 2100062 Dt. 12.02.2024 filed by you and imported by M/S Shree Hari Krupa Petrochem is correctly classifiable under CTH 27101944 and not 27101990 as classified by you in the bill of entry filed by you.

Answer: In this case also I am in agreement with the result of the test report in respect of the said consignment and the conclusion that the same consists of "Automotive Diesel Fuel as per IS 1460:2017. I also agree that the correct classification of the oil in the consignment covered under BOE no 2100062 Dt. 12.02.2024 should be under CTH 27101944. Thus the declaration of the item made in the bills of entries is incorrect and wrong in case of this Bill of Entry also.

- Question 22. Your kind attention is invited to the conclusion of the test report for the sample of M/S Shree Hari Krupa Petrochem filed under Bill of Entry no 2043286 Dt. 08.02.2024 wherein the oil has been found to be "Automotive Diesel Fuel as per IS 1460:2017. On the basis of the conclusion of CRCL lab, the goods are actually ADF as per IS 1460:2017 and are hence classifiable under CTH 27101944. In the light of the test report and your reply to question No 33 above, do you agree that the ADF as per IS 1460:2017 imported in consignment covered under Bill of Entry no 2043286 Dt. 08.02.2024 filed by you and imported by M/S Shree Hari Krupa Petrochem is correctly classifiable under CTH 27101944 and not 27101990 as classified by you in the bill of entry filed by you.

Answer: I am in agreement with the result of the test report in respect of the said consignment and the conclusion that the same consists of "Automotive Diesel Fuel as per IS 1460:2017. I also agree that the correct classification of the oil in the consignment covered under BOE no 2043286 Dt. 08.02.2024 should be under CTH 27101944. Thus the declaration of the item made in the bills of entries is incorrect and wrong in case of this Bill of Entry also.

- Question 23. Your kind attention is invited to the conclusion of the test report for the sample of M/S Shree Hari Krupa Petrochem filed under Bill of

*Entry no 2148664 Dt. 15/02/2024 wherein the oil has been found to be "Automotive Diesel Fuel as per IS 1460:2017. On the basis of the conclusion of CRCL lab, the goods are actually ADF as per IS 1460:2017 and are hence classifiable under CTH 27101944. In the light of the test report and your reply to question No 33 above, do you agree that the ADF as per IS 1460:2017 imported in consignment covered under Bill of Entry no 2148664 Dt. 15/02/2024 filed by you and imported by M/S Shree Hari Krupa Petrochem is correctly classifiable under CTH 27101944 and not 27101990 as classified by you in the bill of entry filed by you.*

*Answer: In this case also I am in agreement with the result of the test report in respect of the said consignment and the conclusion that the correct classification of the oil in the consignment covered under Bill of Entry no 2148664 Dt. 15/02/2024 should be under CTH 27101944. The declaration of the item made in the bills of entries is incorrect and wrong.*

- *Question 24. Your kind attention is invited to the conclusion of the test report for the sample of M/S Shree Hari Krupa Petrochem filed under Bill of Entry no 9999773 Dt. 06.02.2024 wherein the oil has been found to be adulterated diesel fuel. On the basis of the conclusion of CRCL lab, the goods are actually Adulterated diesel fuel which as per the parameters, can be classified as GAS oil under CTH 27101941. In the light of the test report and your reply to question No 33 above, do you agree that the GAS oil imported in consignment covered under Bill of Entry no 9999773 Dt. 06.02.2024 filed by you and imported by M/S Shree Hari Krupa Petrochem is correctly classifiable under CTH 27101941 and not 27101990 as classified by you in the bill of entry filed by you.*

*Answer: I agree with the result of the test report in respect of the said consignment and the conclusion that the same consists of "Gas Oil". I also agree that the correct classification of the oil in the consignment covered under BOE no 9999773 Dt. 06.02.2024 should be under CTH 27101941. Thus the declaration of the item made in the bill of entry is incorrect and wrong.*

- *Question 27: Please take cognizance of your reply to the question no 19-26 above and state whether the goods declared in the Bills of entries were mis-declared.*

*Answer: on consideration of the test result and the declaration made in the bill of entry as well as its classification, it is evident that there is a mis-match between the two and thus the declaration made in the Bill of entry is incorrect and wrong. I have already stated my acceptance with all the test reports shown to me and referred to in Question no. 19-26. Though prima-facie it appears to be a case of mis-declaration however I wish to submit that all the*

*declaration and classification made in the bill of entry were on the basis of the documents provided by the respective importers.*

- *Question 28: Please take cognizance of the reply to question no 27 above. The goods identified by the lab comprising the consignments and classifiable under the said headings are not freely importable as they are restricted in nature and can only be imported by STEs (State Trading Enterprises). Then why Bill of Entry has been filed by way of mis-declaration for restricted items. Answer: I agree that the items identified by the lab comprising of the said consignments are restricted and can only be imported by STEs. I again submit that the Bill of entry was filed on the basis of documents and information provided by the importer. The importer can only explain the discrepancy with regard to the declaration given in the import documents in respects of the goods vis-à-vis the goods identified by the Laboratory.*
- *Question 29: Do you wish to state anything else? Answer: I wish to request that the facts of the case may be taken into consideration while arriving at the role of my firm. M/s Shivshakti Shipping and that of M/s Gaurav M Jhaveri under whose F-card my firm conducted Custom related work of the companies under investigation.*

**14.** And whereas, investigation and other proceedings of the case could not be completed within stipulated period of six months, an extension of further six months was sought from the Competent Authority, which was accordingly granted vide letter dated 27.07.2024(**RUD-22**).

**15.** And whereas, summons were issued to M/s Shree Hari Krupa Petrochemon 21.06.2024(**RUD-23**) for appearance on 03.07.2024. Vide e-mail dated 01.07.2024 (**RUD-24**) Sh. NayabhaRajabhaSumaniya, proprietor of M/s Shree Hari Krupa Petrochem, expressed his inability to attend to the summons citing his health condition and he requested for some time before his appearance at the office of DRI. Therefore, fresh summons were again issued on 05.07.2024(**RUD-25**) for appearance on 18.07.2024 to which Sh. NayabhaRajabhaSumaniyavide e-mail dated 16.07.2024(**RUD-26**) again expressed his inability to attend to the summons due to some family emergency. Then fresh summons were again issued on 24.07.2024(**RUD-27**) for appearance on 05.08.2024. Sh. NayabhaRajabhaSumaniya, propreitor of M/s Shree Hari Krupa Petrochem, appeared on 05.08.2024 to tender his voluntary statement. His statement was recorded on 05.08.2024 under section 108 of the Customs Act 1962 wherein he inter alia stated that:(**RUD-28**).

- *I am the Proprietor of M/s Shree Hari Krupa Petrochem. I look after the overall work related to the firm. M/s Shree Hari Krupa Petrochem was established in 2022, and is engaged in the trading of various Oils such as Fuel Oil, Industrial Oil, and Furnace oil then from June 2023, we started the import of Mix Hydrocarbon Oil and have been importing since. The registered office of the Company is Plot no 55 office no 10, Ground floor, Sector 8, Madhav Palace, Gandhidham- 370201. There are currently four employees working for the firm, two of them look after the accounting of the firm, and two of them look after the logistics related to the trading of the firm and normal routine office work.*

*As far as my personal details are concerned, I am BE Graduate from V.V.P. Engineering College, Rajkot, which I completed in 2019. After completing my graduation I started working in Nirma Chemicals, Bhaavnagar. I worked there for approx 6 months. After that in the year 2022 I ventured into the trading business of Oil and registered my firm then in January 2023 I got my IEC code and eventually in June 2023 I started importing Mix Hydrocarbon oil.*

*As far as my personal Details are concerned, I am not married and I live along with my brothers family and my mother, father at the above-mentioned address only.*

- *Question 1: Please provide a certified copy of the Buyer-seller agreement for the consignments.*

*Answer: There is no buyer-seller agreement between us and the overseas supplier.*

- *Question 2: Please state with whom and how do you place an order with the overseas supplier.*

*Answer: The order is generally placed by me with the overseas suppliers over the Mobile phone.*

- *Question 3: How many consignments have you imported till now.*

*Answer: We have imported approx. 27 consignments of oil till now including those which have been put on hold by DRI Noida.*

- *Question 4: Please submit the details of the overseas suppliers of MHO (Mineral Hydrocarbon Oil) imported by you which have been put on hold by DRI at Mundra.*

*Answer: We generally import through two selected suppliers i.e. M/s Sai Petrochemical FZE and M/s Halar Petrochem FZC. I contact a person namely ShRamjibhai, manager, who looks after the sales of Halar Petrochemical FZC*

*in Dubai and similarly Sh. Amit Shah who looks after the sales of Sai Petrochemcam FZE in Dubai.*

- *Question 5: What is the status of the overseas supplier of the import of MHO(Mineral Hydrocarbon Oil)?*

*Answer: To my knowledge all the overseas suppliers, are traders only.*

- *Question 6: What are your payment terms with the overseas supplier?*

*Answer: Once an order is finalized over the mobile phone, the overseas suppliers send the consignment to the designated port in India, after clearance from customs and delivery I pay them full payment via SWIFT.*

- *Question 7: Please describe your product viz MHO (Mineral Hydrocarbon Oil) and state the characteristic parameters/specifications based on which the declaration has been made.*

*Answer: To my understanding, MHO is Mix Hydrocarbon Oil. As far as the parameters/specification of the product i.e. MHO is concerned I do not know in detail. MHO is used for industrial purposes.*

- *Question 8: If you are not aware of the parameters/specifications of the MHO (Mineral Hydrocarbon Oil) then on what basis it is being imported by you?*

*Answer: Answer: The requirement of oil (MHO) is communicated to us by our clients and based on the requirement we place orders with overseas suppliers. After that, we communicate the same requirement to the overseas supplier from Dubai. We are just traders of the product and work on the market demand.*

- *Question 9: Please provide certified copies of the Chemical Analysis report or Test report of all the consignments of MHO (Mineral Hydrocarbon Oil) imported by you.*

*Answer: I have submitted copies of the Specification report that has been provided by the supplier in respect of the consignments put on hold.*

- *Question 10: In the said reports it has been mentioned that the tests conducted are as per ASTM testing standards. In the light of your reply to question no.05 wherein you had mentioned that all your suppliers are traders, is the report of the supplier without any technical qualification mentioned therein, is valid and proper?*

*Answer: I am not aware about his technical qualification and competency to issue the lab report but since it was provided by the supplier, I have submitted the same*

- *Question 11: Please state whether the goods pertaining to the said consignment has been declared as MHO in the invoice, packing list based on the parameters mentioned in the chemical analysis report.*

*Answer: I am not sure about but I think the supplier has considered these parameters while declaring the goods declared so in the import documents.*

- *Question 12: Do you have any literature or documents that can help you classify your product as MHO according to the chemical analysis report provided by the overseas supplier?*

*Answer: We do not have any documents or literature that helped us in the classification of the product as MHO according to the test report provided by the overseas supplier. Our CHA only guided us in the classification of the same as MHO.*

- *Question 13: Please provide the Details of the refinery/oil firm from where each consignment has originated/been manufactured.*

- *Answer: I am not aware of the source of purchase of MHO by my overseas supplier.*

- *Question 14: Please provide the Chemical Analysis Report issued by the Original manufacturer/refinery/oil firm for each of the consignments that are put on hold by the office of DRI, along with a Certified copy of the invoice generated by the firm to the overseas supplier and Details (contact details and correspondence addresses) of all traders between the overseas supplier and the Original manufacturer/ refinery for each consignment.*

*Answer: I have submitted copies of the Specification Report provided by the overseas supplier for all the BOEs I do not have Chemical Analysis Report provided by the original manufacturer. I have submitted the invoices pertaining to the consignments that were put on hold by your office. Further, I am not aware of the address and details of the traders as sought by you.*

- *Question 15: In the light of your reply to question no 12 above. Kindly detail the basis of the classification of the consignment under CTI 27101990 and declaration of the same as Mix Hydrocarbon Oil.*

*Answer: We declared the product as MHO (Mineral Hydrocarbon Oil) and classified it under CTH 27101990 as per the discussions with the CHA and as per the general practice of the trade.*

- *Question 16: Please provide a Certified copies of each :*

*Load Port report*

*surveyor report of the port*

*Compliance report.*

*Answer: No such document or report is available with me, nor has been provided by the overseas supplier.*

- *Question 17: Please refer to the reply of Question 02 and 04 above and provide the certified copies of communication (emails/letters etc.) with the overseas suppliers w.r.t. the consignments.*

*Answer: As stated by me above all the communication with the supplier happens telephonically over mobile phone and hence no such copies of communication (emails/letters etc.) are available with me*

- *Question 18: Please provide details of key officials (name and designation) of your company.*

*Answer: All the operations of the company are being handled by me only.*

- *Question 19: Please provide a Certified copy of the Invoice for each consignment, including itemized description, quantities, values, and any applicable discounts or rebates.*

*Answer: M/s Shree Hari Krupa Petrochem, has imported about 27 Consignments of Mix/mixed Hydrocarbon oil since July 2023, including the ones that have been put on hold by DRI. I am submitting the documents such as Bill of Lading, Bill of Entry, invoice and packing list of the consignment that are put on hold by DRI Noida Regional Unit.*

- *Question 20: Please provide a Certified copy of bank statement indicating payments made to suppliers for consignments.*

*Answer: I am submitting the SWIFT transaction receipts related to two of my consignments, that have been put on hold by your office. The payment of the remaining three consignments was to be done after the customs clearance and delivery of the goods.*

- *Question 21. Please provide the details of the warehouse/storage place where the imported goods are stored after their import by your firm.*

*Answer. M/s Shree Hari Krupa Petrochem does not have any warehouse/storage place where the imported goods are stored as the MHO imported by the firm after customs clearance is delivered directly to the buyers.*

- *Question 22. Please peruse the test report submitted by CRCL Vizag dated 03.06.2024 with regard to the test memo dated 09.04.2024 pertaining to samples drawn from your consignment on hold at Mundra port covered under BOE no 2083192 Dt. 10.02.2024. As per the parameters described in the test*

*report, the conclusion arrived at, regarding the goods is "Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017". Please peruse the said report and offer your comments.*

*Answer. I have seen the copy of the test report dated 08.04.2024 of the CRCL Vizag in respect of the sample drawn from the consignment covered under BOE no 2083192 Dt. 10.02.2024 pertaining to M/s Shree Hari Krupa Petrochem and I have signed the said report as a token of having seen it. I have also perused the parameters detailed in the test report and I submit that I agree with the parameters of the report of CRCL and that they meet the specifications of "Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017".*

- *Question 23. Please peruse the test report submitted by CRCL Vizag dated 03.06.2024 with regard to the test memo dated 09.04.2024 pertaining to samples drawn from your consignment on hold at Mundra port covered under BOE no 2100062 Dt. 12.02.2024. As per the parameters described in the test report, the conclusion arrived at, regarding the goods is "Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017". Please peruse the said report and offer your comments.*

*Answer. I have seen the copy of the test report dated 08.04.2024 of the CRCL Vizag in respect of the sample drawn from the consignment covered under BOE no 2100062 Dt. 12.02.2024 pertaining to M/s Shree Hari Krupa Petrochem and I have signed the said report as a token of having seen it. I have also perused the parameters detailed in the test report and I submit that I agree with the parameters of the report of CRCL and that they meet the specifications of "Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017".*

- *Question 24. Please peruse the test report submitted by CRCL Vizag dated 03.06.2024 with regard to the test memo dated 09.04.2024 pertaining to samples drawn from your consignment on hold at Mundra port covered under BOE no 2043286 Dt. 08.02.2024. As per the parameters described in the test report, the conclusion arrived at, regarding the goods is "Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017". Please peruse the said report and offer your comments.*

*Answer. I have seen the copy of the test report dated 08.04.2024 of the CRCL Vizag in respect of the sample drawn from the consignment covered under BOE no 2043286 Dt. 08.02.2024 pertaining to M/s Shree Hari Krupa Petrochem and I have signed the said report as a token of having seen it. I have also perused the parameters detailed in the test report and I submit that I agree with the parameters of the report of CRCL and that they meet the specifications of "Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017".*

- *Question 25. Please peruse the test report submitted by CRCL Vizag dated 03.06.2024 with regard to the test memo dated 09.04.2024 pertaining to samples drawn from your consignment on hold at Mundra port covered under BOE no 2148664 Dt. 15/02/2024. As per the parameters described in the test report, the conclusion arrived at, regarding the goods is "HFHSD as per IS 16861:2018". Please peruse the said report and offer your comments.*

*Answer. I have seen the copy of the test report dated 08.04.2024 of the CRCL Vizag in respect of the sample drawn from the consignment covered under BOE no 2148664 Dt. 15/02/2024 pertaining to M/s Shree Hari Krupa Petrochem and I have signed the said report as a token of having seen it. I have also perused the parameters detailed in the test report and I submit that I agree with the parameters of the report of CRCL and that they meet the specifications of "HFHSD as per IS 16861:2018".*

- *Question 26. Please peruse the test report submitted by CRCL Vizag dated 03.06.2024 with regard to the test memo dated 09.04.2024 pertaining to samples drawn from your consignment on hold at Mundra port covered under BOE no 9999773 Dt. 06.02.2024. As per the parameters described in the test report, the conclusion arrived at, regarding the goods can be said to be "Gas Oil". Please peruse the said report and offer your comments.*

*Answer. I have seen the copy of the test report dated 08.04.2024 of the CRCL Vizag in respect of the sample drawn from the consignment covered under BOE no 9999773 Dt. 06.02.2024 pertaining to M/s Shree Hari Krupa Petrochem and I have signed the said report as a token of having seen it. I have also perused the parameters detailed in the test report and I submit that I agree with the parameters of the report of CRCL and that they meet the specifications of "Gas Oil".*

- *Question 27. Your kind attention is invited to the conclusion of the test report wherein the parameters suggests that the oil has been found to be "Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017". whereas you have declared the same as Mixed Hydrocarbon Oil in BOE no 2083192 Dt. 10.02.2024, filed by you. The test report suggests misdeclaration on your part. Please offer your comment in this regard.*

*Answer. I agree that the description given in BOE no 2083192 Dt. 10.02.2024, and the conclusions of the test reports of CRCL dated 03.06.2024 are different. The Bill of Entry was filed on the basis of the order placed by me with the overseas supplier and the import documents provided by me. I had specifically ordered for Mixed Hydrocarbon oil but as per the report I can see that the supplier has sent wrong item by mistake and not the one that I ordered. I regret for the mistake and having accept the findings of the CRCL, Vizag, I request that the same may be re-exported back to the supplier.*

- *Question 28. Your kind attention is invited to the conclusion of the test report wherein the parameters suggests that the oil has been found to be "Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017". whereas you have declared the same as Mixed Hydrocarbon Oil in BOE no 2100062 Dt. 12.02.2024, filed by you. The test report suggests misdeclaration on your part. Please offer your comment in this regard.*

*Answer. I agree that the description given in BOE no 2100062 Dt. 12.02.2024, and the conclusions of the test reports of CRCL dated 03.06.2024 are different. The Bill of Entry was filed on the basis of the order placed by me with the overseas supplier and the import documents provided by me. I had specifically ordered for Mixed Hydrocarbon oil but as per the report I can see that the supplier has sent wrong item by mistake and not the one that I ordered. I regret for the mistake and having accept the findings of the CRCL, Vizag, I request that the same may be re-exported back to the supplier.*

- *Question 29. Your kind attention is invited to the conclusion of the test report wherein the parameters suggests that the oil has been found to be "Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017". whereas you have declared the same as Mixed Hydrocarbon Oil in BOE no 2043286 Dt. 08.02.2024, filed by you. The test report suggests misdeclaration on your part. Please offer your comment in this regard.*

*Answer. I agree that the description given in BOE no 2043286 Dt. 08.02.2024, and the conclusions of the test reports of CRCL dated 03.06.2024 are different. The Bill of Entry was filed on the basis of the order placed by me with the overseas supplier and the import documents provided by me. I had specifically ordered for Mixed Hydrocarbon oil but as per the report I can see that the supplier has sent wrong item by mistake and not the one that I ordered. I regret for the mistake and having accept the findings of the CRCL, Vizag, I request that the same may be re-exported back to the supplier.*

- *Question 30. Your kind attention is invited to the conclusion of the test report wherein the parameters suggest that the oil has been found to be "HFHSD as per IS 16861:2018". whereas you have declared the same as Mixed Hydrocarbon Oil in BOE no 2148664 Dt. 15/02/2024, filed by you. The test report suggests misdeclaration on your part. Please offer your comment in this regard.*

*Answer. I agree that the description given in BOE no 2148664 Dt. 15/02/2024, and the conclusions of the test reports of CRCL dated 03.06.2024 are different. The Bill of Entry was filed on the basis of the order placed by me with the overseas supplier and the import documents provided by me. I had specifically ordered for Mixed Hydrocarbon oil but as per the report I can see that the supplier has sent wrong item by mistake and not the one that I ordered. I regret for the mistake and*

*having accept the findings of the CRCL, Vizag, I request that the same may be re-exported back to the supplier.*

- *Question 31. Your kind attention is invited to the conclusion of the test report wherein based on the parameters the oil can be concluded as "Gas Oil". whereas you have declared the same as Mixed Hydrocarbon Oil in BOE no 9999773 Dt. 06.02.2024, filed by you. The test report suggests misdeclaration on your part. Please offer your comment in this regard.*

*Answer. I agree that the description given in BOE no 9999773 Dt. 06.02.2024, and the conclusions of the test reports of CRCL dated 03.06.2024 are different. The Bill of Entry was filed on the basis of the order placed by me with the overseas supplier and the import documents provided by me. I had specifically ordered for Mixed Hydrocarbon oil but as per the report I can see that the supplier has sent wrong item by mistake and not the one that I ordered. I regret for the mistake and having accept the findings of the CRCL, Vizag, I request that the same may be re-exported back to the supplier.*

- *Question 32. Your kind attention is again invited to the conclusion of the test report pertaining to BOE no. 2083192 Dt. 10.02.2024 wherein the oil has been found to be "Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017", on the basis of the test report of CRCL, Vizag. In light of the test report and your reply to question No 22 above, do you agree that the Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017 imported by you in consignment covered under BOE no 2083192 Dt. 10.02.2024 is correctly classifiable under CTH 27101944 and not 27101990 as classified by you in the bill of entry filed by you?*

*Answer. In view of the conclusion of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2083192 Dt. 10.02.2024 is under CTH 27101944, however, we had ordered for Mixed Hydrocarbon oil only, classifiable under CTH 27101990.*

- *Question 33. Your kind attention is again invited to the conclusion of the test report pertaining to BOE no. 2100062 Dt. 12.02.2024 wherein the oil has been found to be "Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017", on the basis of the test report of CRCL, Vizag. In light of the test report and your reply to question No 23 above, do you agree that the Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017 imported by you in consignment covered under BOE no 2100062 Dt. 12.02.2024 is correctly classifiable under CTH 27101944 and not 27101990 as classified by you in the bill of entry filed by you?*

*Answer. In view of the conclusion of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2100062 Dt.*

12.02.2024 is under CTH 27101944, however, we had ordered for Mixed Hydrocarbon oil only, classifiable under CTH 27101990.

- Question 34. Your kind attention is again invited to the conclusion of the test report pertaining to BOE no. 2043286 Dt. 08.02.2024 wherein the oil has been found to be "Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017", on the basis of the test report of CRCL, Vizag. In light of the test report and your reply to question No 24 above, do you agree that the Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017 imported by you in consignment covered under BOE no 2043286 Dt. 08.02.2024 is correctly classifiable under CTH 27101944 and not 27101990 as classified by you in the bill of entry filed by you?

Answer. In view of the conclusion of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2043286 Dt. 08.02.2024 is under CTH 27101944, however, we had ordered for Mixed Hydrocarbon oil only, classifiable under CTH 27101990.

- Question 35. Your kind attention is again invited to the conclusion of the test report pertaining to BOE no. 2148664 Dt. 15/02/2024 wherein the oil has been found to be "HFHSD as per IS 16861:2018", on the basis of the test report of CRCL, Vizag. In light of the test report and your reply to question No 25 above, do you agree that the HFHSD as per IS 16861:2018 imported by you in consignment covered under BOE no 2148664 Dt. 15/02/2024 is correctly classifiable under CTH 27101949 and not 27101990 as classified by you in the bill of entry filed by you?

Answer. In view of the conclusion of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2148664 Dt. 15/02/2024 is under CTH 27101949, however, we had ordered for Mixed Hydrocarbon oil only, classifiable under CTH 27101990.

- Question 36. Your kind attention is again invited to the test report of CRCL pertaining to BOE no. 9999773 Dt. 06.02.2024 wherein the oil can be concluded as "Gas Oil". In light of the test report and your reply to question No 26 above, do you agree that the Gas oil imported by you in consignment covered under BOE no 9999773 Dt. 06.02.2024 is correctly classifiable under CTH 27101941 and not 27101990 as classified by you in the bill of entry filed by you?

Answer. In view of the conclusion of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 9999773 Dt. 06.02.2024 is under CTH 27101941, however, we had ordered for Mixed Hydrocarbon oil only, classifiable under CTH 27101990.

- Question 37. Please refer to your reply to questions number 32,33,34,35 and 36 above wherein you have agreed that the correct classification of the oil i.e. Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017, HFHSD as per IS 16861:2018 and Gas Oil, are restricted items and can only be imported by STE (State Trading Enterprise). Please offer your comments about this.

Answer. Yes, I have been shown the said provisions and I have come to know that Automotive Diesel Fuel (Bharat Stage IV) as mentioned in IS 1460:2017, HFHSD as per IS 16861:2018 and Gas Oil are restricted items and can only be imported by STE (State Trading Enterprise). In view of this fact and also as stated by me, since it is not as per my order and as requested by me in reply to questions no 32,33,34,35 and 36 above, I once again request that the consignment may be reexported back to the overseas supplier.

## 16. LEGAL PROVISIONS

**16.1** From the foregoing it appears that the goods in the instant case, Gas Oil is correctly classifiable under CTH 2710 1941, High Flash High Speed Diesel is correctly classifiable under CTH 27101949 and Automotive Diesel Fuel is correctly classifiable under CTH 2710 1944. The relevant portion of the Customs tariff head 2710 reads as under:

SECTION-V

CHAPTER-27

(1)	(2)	Policy	Remarks
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 other than those containing bio-diesel and other than 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:		
2710 19	--	Other :		
2710 19 41	---	Gas Oil	State trading enterprises	Import as per policy conditions (5) of Chapter 27
2710 1944	---	Gas oil and oils obtained from gas oil: ---- Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460	State trading enterprises	Import as per policy conditions (5) of Chapter 7
27101949	---	Gas oil and oils obtained from gas oil: ---- High flash high speed diesel fuel conforming to standard IS 16861	State trading enterprises	Import as per policy conditions (5) of Chapter 27

## 16.2 Policy Conditions of Chapter 27:

- (1) ----.
- (2) ----.
- (3) ----.
- (4) ----.
- (5) *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&NG's Resolution No. P23015/1/2001-MKT. Dated 8.3.2002 including HPCL, BPCL & IBP who have been marketing transportation fuels before this date.*

## 16.3. Section 3 of The Foreign Trade (Development and Regulation) Act, 1992 :

*Powers to make provisions relating to imports and exports. –*

- (1) ----
- (2) *The Central Government may also, by Order published in the Official Gazette, make provision for prohibiting, restricting or otherwise regulating, in all cases or in specified classes of cases and subject to such exceptions, if any, as may be made by or under the Order, the import or export of goods.*

(3) All goods to which any Order under sub-section (2) applies shall be deemed to be goods the import or export of which has been prohibited under section 11 of the Customs Act, 1962 (52 of 1962) and all the provisions of that Act shall have effect accordingly.

**16.4.** Section 2(2) of the Customs Act, 1962:

*"assessment" means determination of the dutiability of any goods and the amount of duty, tax, cess or any other sum so payable, if any, under this Act or under the Customs Tariff Act, 1975 (hereinafter referred to as the Customs Tariff Act) or under any other law for the time being in force, with reference to-*

- (a) *the tariff classification of such goods as determined in accordance with the provisions of the Customs Tariff Act;*
- (b) *the value of such goods as determined in accordance with the provisions of this Act and the Customs Tariff Act;*
- (c) *exemption or concession of duty, tax, cess or any other sum, consequent upon any notification issued therefore under this Act or under the Customs Tariff Act or under any other law for the time being in force;*
- (d) *the quantity, weight, volume, measurement or other specifics where such duty, tax, cess or any other sum is leviable on the basis of the quantity, weight, volume, measurement or other specifics of such goods;*
- (e) *the origin of such goods determined in accordance with the provisions of the Customs Tariff Act or the rules made thereunder, if the amount of duty, tax, cess or any other sum is affected by the origin of such goods;*
- (f) *any other specific factor which affects the duty, tax, cess or any other sum payable on such goods, and includes provisional assessment, self-assessment, re-assessment and any assessment in which the duty assessed is nil;*

**16.5** Section 2(14) of the Customs Act, 1962: *"dutiable goods" means any goods which are chargeable to duty and on which duty has not been paid;*

**16.6** Section 2(16) of the Customs Act, 1962: *"entry" in relation to goods means an entry made in a bill of entry, shipping bill or bill of export and includes the entry made under the regulations made under Section 84.*

**16.7** Section 2 (33) of the Customs Act 1962 :

*"prohibited goods" means any goods the import or export of which is subject to any prohibition under this Act or any other law for the time being in force but does not include any such goods in respect of which the conditions subject to which the goods are permitted to be imported or exported have been complied with ;*

**16.8** Section 2(39) of the Customs Act'1962 –

*"smuggling", in relation to any goods, means any act or omission which will render such goods liable to confiscation under section 111 or section 113;*

**16.9 Section 17 of the Customs Act, 1962:**

*Section 17. Assessment of duty. – (1) An importer entering any imported goods under section 46, or an exporter entering any export goods under section 50, shall, save as otherwise provided in section 85, self-assess the duty, if any, leviable on such goods.*

*(2) .....*

*(3) .....*

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

**16.10. Section 46(4) and 46 (4A)of the Customs Act, 1962 :**

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

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

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

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

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

**16.11. Section 112 of the Customs Act, 1962 :**

*Penalty for improper importation of goods, etc.- Any person, - (a) who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under section 111, or abets the doing or omission of such an act, or (b) who acquires possession of or is in any way concerned in carrying, removing, depositing, harbouring, keeping, concealing, selling or purchasing, or in any other manner dealing with any goods which he knows or has reason to believe are liable to confiscation under section 111,*

*shall be liable, -*

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

*(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a 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”

**16.12.** Section 114AA of the Customs Act, 1962 – 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.

**16.13.** Regulation 10 of the Customs Broker Licensing Regulation 2018:

*Obligations of Customs Broker.-A Customs Broker shall –*

- (a) obtain an authorisation from each of the companies, firms or individuals by whom he is for the time being employed as a Customs Broker and produce such authorisation whenever required by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;
- (b) transact business in the Customs Station either personally or through an authorized employee duly approved by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;
- (c) not represent a client in any matter to which the Customs Broker, as a former employee of the Central Board of Indirect Taxes and Customs gave personal consideration, or as to the facts of which he gained knowledge, while in Government service;
- (d) advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;
- (e) exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;
- (f) not withhold information contained in any order, instruction or public notice relating to clearance of cargo or baggage issued by the Customs authorities, as the case may be, from a client who is entitled to such information;
- (g) promptly pay over to the Government, when due, sums received for payment of any duty, tax or other debt or obligations owing to the Government and promptly account to his client for funds received for him from the Government or received from him in

- excess of Governmental or other charges payable in respect of cargo or baggage on behalf of the client;*
- (h) not procure or attempt to procure directly or indirectly, information from the Government records or other Government sources of any kind to which access is not granted by the proper officer;*
  - (i) not attempt to influence the conduct of any official of the Customs Station in any matter pending before such official or his subordinates by the use of threat, false accusation, duress or the offer of any special inducement or promise of advantage or by the bestowing of any gift or favour or other thing of value;*
  - (j) not refuse access to, conceal, remove or destroy the whole or any part of any book, paper or other record, relating to his transactions as a Customs Broker which is sought or may be sought by the Principal Commissioner of Customs or Commissioner of Customs, as the case may be;*
  - (k) maintain up to date records such as bill of entry, shipping bill, transshipment application, etc., all correspondence, other papers relating to his business as Customs Broker and accounts including financial transactions in an orderly and itemised manner as may be specified by the Principal Commissioner of Customs or Commissioner of Customs or the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;*
  - (l) immediately report the loss of license granted to him to the Principal Commissioner of Customs or Commissioner of Customs, as the case may be;*
  - (m) discharge his duties as a Customs Broker with utmost speed and efficiency and without any delay;*
  - (n) verify correctness of Importer Exporter Code (IEC) number, Goods and Services Tax Identification Number (GSTIN), identity of his client and functioning of his client at the declared address by using reliable, independent, authentic documents, data or information;*
  - (o) inform any change of postal address, telephone number, e-mail etc. to the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be, of all Customs Stations including the concerned Deputy Commissioner or Assistant Commissioner of the Commissionerate who has granted the*
  - (p) maintain all records and accounts that are required to be maintained under these regulations and preserve for at least five years and all such records and accounts shall be made available at any time for the inspection of officers authorised for this purpose; and*
  - (q) co-operate with the Customs authorities and shall join investigations promptly in the event of an inquiry against them or their employees*

#### **16.14 Section 3 of the Petroleum Act, 1934**

*Import, transport and storage of petroleum. – (1) No one shall import, transport or store any petroleum save in accordance with the rules made under section 4. (2) Save in accordance with the conditions of any licence for the purpose which he may be required to*

*obtain by rules made under section 4, no one shall import petroleum Class A, and no one shall transport or store any petroleum.*

**16.15 Section 4 of the Petroleum Act, 1934 Rules for the import, transport and storage of petroleum. –**

*The Central Government may makes rules –*

- a) prescribing places where petroleum may be imported and prohibiting its import elsewhere;*
- b) regulating the import of petroleum;*
- c) prescribing the periods within which licences for the import of petroleum Class A shall be applied for, and providing for the disposal, by confiscation or otherwise, of any [petroleum Class A] in respect of which a licence has not been applied for within the prescribed period or has been refused and which has not been exported;*
- d) regulating the transport of petroleum;*
- e) specifying the nature and condition of all receptacles and pipe-lines in which petroleum may be transported;*
- f) regulating the places at which and prescribing the conditions subject to which petroleum may be stored;*
- g) specifying the nature, situation and condition of all receptacles in which petroleum may be stored;*
- h) prescribing the form and conditions of licences for the import of 5 [petroleum Class A], and for the transport or storages of any petroleum, the manner in which applications for such licences shall be made, the authorities which may grant such licences and the fees which may be charged for such licences;*
- i) determining in any class of cases whether a licence for the transport of petroleum shall be obtained by the consignor, consignee or carrier;*
- j) providing for the granting of combined licences for the import, transport and storage of petroleum, or for any two of such purposes;*
- k) prescribing the proportion in which any specified poisonous substance may be added to petroleum, and prohibiting the import, transport or storage of petroleum in which the proportion of any specified poisonous substance exceeds the prescribed proportion; and*
- l) generally, providing for any matter which in its opinion is expedient for proper control over the import, transport and storage of petroleum including the charging of fees for any services rendered in connection with the import, transport and storage of petroleum.*

**16.16 Rule 4 of Petroleum Rules, 2002: Approval of containers. –**

- (1) Containers exceeding one litre in capacity for petroleum Class A and five litres in capacity for petroleum Class B or petroleum class C, shall be of a type approved by the Chief Controller.*

- (2) *Where the approval of the Chief Controller is sought to a type of container not previously approved, an application together with copies of drawings thereof to scale showing the design, materials to be used, the method of construction and capacity of the container together with two samples containers and a fee of rupees one thousand for scrutiny shall be submitted to the Chief Controller.*
- (3) *Nothing in sub-rules (1) and (2) shall apply to containers in the possession of the Defence Forces of the Union.*

**16.17 Rule 6 of Petroleum Rules, 2002: Containers for petroleum Class B and Class C**

- (1) *Containers for petroleum class B or petroleum class C shall be constructed of steel or iron and be of a type approved by the Chief Controller.*
- (2) *An air space of not less than 5 percent of its capacity shall be kept in each container for petroleum Class B and not less than 3 percent of its capacity in each container for petroleum Class C.*
- (3) *Nothing in this rule shall apply to containers in the possession of the Defence Forces of the Union.*

**16.18 Rule 25 of Petroleum Rules, 2002: Petroleum to be imported by land only at authorized places.**

*No petroleum shall be imported into India by land except at places specially authorized for the purpose by the Central Government.*

**16.19 Rule 30 of Petroleum Rules, 2002: Restriction on passengers, combustible and inflammable cargo -**

*Save as provided in rules 38,39 and 52 and clause, (b) of rule 60, no ship, vessel or vehicle shall carry petroleum petroleum Class A or petroleum Class B and Class C in bulk if it is carrying passengers or any combustible cargo other than petroleum: Provided that nothing in this rule shall prohibit the use of dunnage for packing purposes in the case of coastwise transport of petroleum Class A otherwise than in bulk.*

**16.20 Rule 35: Tank fittings on ships or vessels. -**

*The following provisions shall apply for the transport of petroleum other than petroleum Class C in ship or other vessels, namely: -*

- (a) *All tanks shall be fitted with independent approved filling and suction pipes and valves, or with stand pipes with blank flanges, all pipes being carried down nearly to the bottom of the tanks, and no petroleum in bulk shall be taken on board or*

*discharged except through such pipes and valves, unless otherwise permitted by the Chief Controller in writing;*

*(b) All tanks shall be fitted with manholes having screw-down cover with petroleum-tight joints and, in the case of tanks intended for use with petroleum class A, with ventilators or relief valves of approved pattern properly protected with wire gauge of a mesh not less than 11 meshes to linear centimeter; and*

*(c) Ventilators similarly protected shall be fitted to all spaces, around tanks.*

## **16.21 General Rules For The Interpretation Of The Harmonized System**

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

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

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

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

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

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

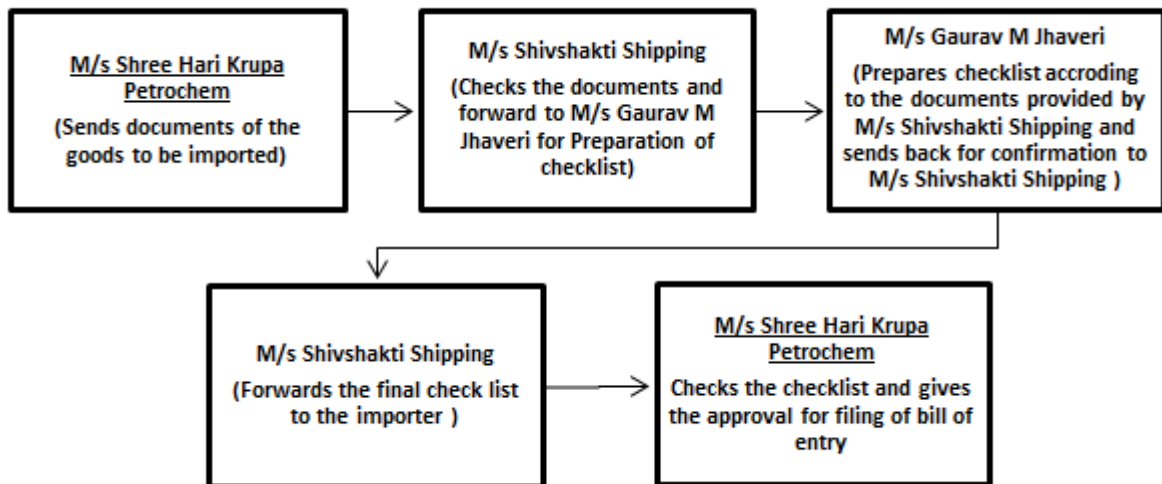
*(b) Mixtures, composite goods consisting of different materials or made up of different components, and goods put up in sets for retail sale, which cannot be classified by reference to 3 (a), shall be classified as if they consisted of the material or component which gives them their essential character,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

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

17. Whereas it appears from the foregoing paras that:

- (i) As per Condition No.5 of Import Policy of Chapter 27, import of Automotive Diesel Fuel, High Flash High Speed Diesel fuel and Gas Oil which were imported by M/s Shree Hari Krupa Petrochemin the consignment seized by DRI, by way of mis-declaration, is allowed only 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 the said date. Thus it is evident that the said goods are not freely importable but can be imported only by State Trading Enterprises such as IOCL, HPCL, BPCL and IBP.
- (ii) M/s Shree Hari Krupa Petrochem appeared to be well aware about the said restriction imposed by the Policy. As such in order to circumvent the said provision, in collusion with the CHA namely M/s Gaurav.M.Jhaveri along with their respective subsidiary agents of M/s Shiv Shakti Shipping, as well as Overseas Suppliers namely M/s Sai Petrochemical FZE and M/s Halar Petrochem FZC in Dubai devised a modus operandi to import Automotive Diesel Fuel, High Flash High Speed Diesel fuel and Gas Oil- (restricted commodities), in the garb of importing freely importable goods. The nexus of the said entities are explained with the help of chart as under:

**Pictorial depiction of flow of documents from M/s Shree Hari Krupa Petrochem to the CHA- M/s Gaurav.M.Jhaveri**



- (iii) In accordance with the said modus operandi, the importer resorted to the import of Automotive Diesel Fuel, High Flash High Speed Diesel fuel and Gas Oil by declaring the same as "Mixed Hydrocarbon Oil (MHO)". They classified the said goods i.e. "Mixed Hydrocarbon Oil (MHO)" under Customs Tariff Heading (CTH) 27101990 which pertains to "Others" where no restriction was prescribed in the Import Policy. In accordance with said modus operandi, the suppliers namely M/s Sai Petrochemical FZE and M/s Halar Petrochem FZC in Dubai appear to have deliberately declared the said goods in the import documents viz invoices and the corresponding packing list as "Mixed Hydrocarbon Oil (MHO)".
- (iv) It appears that on the basis of fudged and fabricated documents namely invoice, Packing List and Chemical Analysis Report, the Importer namely M/s Shree Hari Krupa Petrochem filed Bill of Entries wherein they declared the goods as "Mixed Hydrocarbon Oil (MHO)" and classified the same under Chapter Heading 27101990 wherein no restriction was in force in terms of the Import Policy.
- (v) It further appears that M/s Shree Hari Krupa Petrochem all along were aware of the fact that the items which they sought to import actually were restricted items and as such they were not eligible to import the Automotive Diesel Fuel, High Flash High Speed Diesel fuel and Gas Oil. The documents were manipulated so that the same could be cleared on the basis of the mis-declaration and mis-classification of the goods with the Customs at Mundra Port.

- (vi) During the course of the investigations, M/s Shree Hari Krupa Petrochem as well as their related entities involved in the case, were asked to submit supporting and related relevant documents, like buyer seller agreement, details of refinery/oil firm from where the consignment originated, copies of communication made with the supplier, copies of export declaration form filed in the supplier country etc pertaining to the said consignments vide summons issued to them. The said documents were called for as they would have enabled the identification of the commodity imported by M/s Shree Hari Krupa Petrochem in the consignment under investigation. It appears that the documents were deliberately not submitted by them so as to prevent the identification of the commodity by the Officers of the DRI.
- (vii) In order to ascertain the exact nature of the goods and to confirm the identity, samples were drawn from the consignment which were sent to Government Lab namely CRCL, Vizag. The parameters of the test conducted by the Lab clearly suggest that the commodity covered under the consignments pertaining to the importer as declared in the import documents and the Bill of Entry were different and not as per the import documents filed by the importer. The parameters of the samples drawn from the consignments covered under BEs viz - 2083192 dt 10.02.2024, 2100062 dt 12.02.2024 and 2043286 dt. 06.02.2024 on being tested and analysed, indicate that all the parameters conform to limits stipulated in IS:1460 specifications which pertain to Automotive diesel fuel, while consignments pertaining to the BE 2148664 dt. 15.02.2024 on being tested and analysed, indicate that all the parameters conform to specification of IS:16861 which pertains to High Flash High Speed Diesel fuel. As there is no deviation in all the parameters as mentioned in the Test reports vis-a vis parameters prescribed IS 1460 and IS 16861, there appears to be no doubt about the identity of the said commodity. Further, the parameters of the samples drawn from the consignments covered under BE 9999773 dt. 06.02.2024 on being tested and analysed, suggests that the parameters conform to that of the IS standard of Gas Oil (IS:17789). While the parameters of Gas Oil mentioned in the Indian Standard (IS 1789:2022) serve as a reference, it is important to note that Gas Oil is not strictly limited to these parameters. The lab report specifically indicates that the product is primarily composed of diesel fractions (95% to 98%) as per the CGMS pattern, which further supports its classification as Gas Oil. Further, Gas Oil falls under Customs Tariff Item 27101941 which does not have any import condition of conforming to IS:17789.

- (viii) The commodity sought to be actually imported viz Automotive Diesel Fuel, High Flash High Speed Diesel fuel and Gas Oil under the subject consignments find specific mention in different tariff Item and not the tariff Item in which they were declared in the import documents i.e 27101990 which does not lay down any restriction if the goods are covered under the said CTH and are classified accordingly. It appears that the item has been given description Mix Hydrocarbon Oil so that the same can be classified in the category of Chapter Heading 27101990 pertaining to others deliberately where there is no restriction in the import of commodities falling in the said category of the Customs Tariff Act'1985.
- (ix) The importer failed to provide any document to substantiate the chemical composition/constituent if any of Mixed Hydrocarbon Oil. It appears that the misclassification was done deliberately so as to mislead the department. The correct classification is 27101944 pertaining to "Automotive Diesel Fuel as per IS 1460" and 27101949 pertaining to "High Flash High Speed Diesel fuel as per IS 16861", and 27101941 pertaining to "Gas Oil". The act of mis-declaration and misclassification leading to import of restricted goods namely Automotive Diesel Fuel, High Flash High Speed Diesel fuel and Gas Oil has been accepted and acknowledged in their respective voluntary statements by M/s Shree Hari Krupa Petrochem and the CHA M/s Gaurav.M.Jhaveri along with their respective subsidiary agent M/s Shiv Shakti Shipping.
- (x) M/s Shree Hari Krupa Petrochem are not an STE entity and hence they are not eligible to import the said restricted goods. Therefore they appeared to resort to the act of mis-declaration and mis-classification so as to import the said restricted goods.
- (xi) M/s Shree Hari Krupa Petrochem failed to submit any document in support of the item Mixed Hydrocarbon Oil declared by the supplier in the import documents and Bills of Entry filed by M/s Shree Hari Krupa Petrochem. Even subsequently during the course of the investigations after the containers were put on hold, till date they have not been able to submit any such document to substantiate the identity of the goods in accordance with declaration in Invoice & Packing list as well as Bills of Entries.
- (xii) M/s Shree Hari Krupa Petrochem failed to provide specific use of the item "Mixed Hydrocarbon Oil". On being asked in his voluntary statement tendered under Section 108 of the Customs Act'1962 whether

he was aware about the parameters/specifications of the MHO, Shri NayabhaSumania, Prop of M/s Shree Hari Krupa Petrochem gave vague reply that the MHO was used for industrial purposes. But he failed to provide information about the specific industry which used the Mixed Hydrocarbon Oil. Further, he could not state anything about the parameters /specification of Mixed Hydrocarbon Oil. Further even the CHAs and their agents could not give any information about the use of the Mixed Hydrocarbon Oil. This suggests that they were not aware about the use of the said commodity.i.e “Mixed Hydrocarbon Oil” as the same was not intended to be imported actually in the containers put on hold and subsequently examined by the Officers of the DRI.

(xiii) The parties also appear to have violated the provisions of Petroleum Act, 1934. The goods were imported in gross violation of the said provisions. The Petroleum Act, 1934, classifies petroleum products into 3 categories based on their flash points as detailed below:

S.No	Petroleum products Class	Flash Point
1	Class A	Below 23°C (73°F)
2	Class B	Between 23°C and 65°C (73°F to 149°F)
3	Class C	Between 65°C and 93°C (149°F to 200°F)

Further, as per the test reports the goods in question here fall under the “Class B and Class C” category of petroleum products as per the Petroleum Act 1934. Class B and Class C petroleum products are hazardous, and their import, storage, and transport are strictly regulated. Now to import the class B category of petroleum products an Importer has to follow certain rules and require certain certifications as discussed below:

1. Class B and Class C petroleum products must be handled with proper care due to their flammable nature. The Petroleum Act and the Petroleum Rules, 2002, mandate the use of appropriate containers for the storage and transport of such products. Flexi bags are not suitable for carrying Class B and Class C petroleum products because they do not meet the stringent safety standards for the containment of flammable liquids. Containers used for storing and transporting Class B and Class C petroleum must be certified as per PESO standards and must be explosion-proof and fire-resistant to prevent any accidental ignition. The use of Flexi bags, which are typically not compliant with these safety norms, violates this requirement.

2. Any importer dealing with Class B and Class C petroleum products must have requisite licenses and approvals, such as an import license from the Petroleum and Explosives Safety Organization (PESO).

By importing restricted Class B and Class C petroleum in Flexi bags in total disregard of the safety norms which could lead to serious mishaps, it appears that M/s Shree Hari Krupa Petrochem in the greed for earning illicit profits have put the public and the environment at great risk.

- (xiv) Shri NayabhaSumania, Prop of M/s Shree Hari Krupa Petrochemon being shown the Test Reports and the parameters mentioned therein has accepted the conclusions and findings of the Test Reports of CRCL. He has also accepted that the consignments were mis-declared and misclassified. On the basis of the conclusions of the Test Reports he agreed that the respective consignments comprised of Automotive Diesel Fuel, High Flash High Speed Diesel fuel and Gas Oil as suggested in the said Test Report. However he has sought to shift the onus and blame for mis-dclaration upon the supplier and has claimed that the issue of the mis-dclaration can be explained by the supplier. He has sought to project his innocence in the case which however was not the case. The fact that the importer has not produced any document from the supplier or the supplier has not issued any clarification till date, suggests that the consignment was as per the orders placed by M/s Shree Hari Krupa Petrochem.
- (xv) The provisions of Section 17 (1) of the Customs Act, 1962 read with Section 2 (2) of the Customs Act and CBIC Circular No. 17/2011-Customs dated 08.04.2011 lay the onus on the importer and the CHAs to determine duty, classification etc. by way of self-assessment. The importer, at the time of self-assessment, is required to ensure that he declared the correct classification, applicable rate of duty, value, benefit of exemption notifications claimed, if any, in respect of the imported goods while presenting the Bill of Entry. By furnishing incorrect and wrong information in the import documents, it appears that M/s Shree Hari Krupa Petrochem and the CHA M/s Gaurav.M.Jhaveri have violated the provisions of the said Section 17(1) read with Section 2(2) of the Customs Act 1962.
- (xvi) In terms of Section 46(4) of the Customs Act, 1962, the importer has to certify the truth of the contents of the Bills of Entry. Further, in terms of Section 46 (4A) of the Customs Act, 1962, the importer who presents a bill of entry shall ensure the accuracy and completeness of the

information given therein; shall ensure the authenticity and validity of any document supporting it; and shall ensure compliance with the restriction or prohibition, if any, relating to the goods under this Act or under any other law for the time being in force. In the instant case it appears that the importer was fully aware of the actual goods imported by them. Also on being shown the Test Reports, Shri NayabhaSumania, Prop of M/s Shree Hari Krupa Petrochem has accepted that they had mis-declared the description imported under subject bills of entry before the custom authorities in his voluntary statement. Thus, in view of the facts discussed in the foregoing paras and material evidences available on records, it appears that the importer has contravened the provisions of Section 46(4) and 46(4A) of the Customs Act, 1962, in as much as they appear to have intentionally mis-declared the description of the goods imported by them with a malafide intention to import a restricted good under the garb and guise of a freely importable good.

(xvii) Further, by attempting to import restricted goods, the importer- M/s Shree Hari Krupa Petrochem appear to have indulged in the act of smuggling as defined under Section 2(39) of the Customs act'1962. With the introduction of self-assessment and consequent upon amendments to Section 17 of the Customs Act, 1962 w.e.f. 08.04.2011, it was the obligatory on their part to declare the actual description and correct classification of the goods imported by them and pay the duty applicable in respect of the said goods. Therefore, by not disclosing the true and correct facts to the proper officer, at the time of filing of Bill of Entry for the respective consignment, the importer appears to have indulged in mis-declaration and mis-classification by way of suppression of facts and willfully mis-declared and mis-classified the imported goods with intent to import restricted goods. Thus, the importer appears to have contravened the provisions of Section 46(4) & 46(4A) of the Customs Act, 1962, in as much as they have mis-classified and mis-declared the goods imported by them by suppressing the true and actual description of the goods, while filing the declaration seeking clearance at the time of importation of impugned goods.

(xviii) The facts and the investigations have revealed that the CHAs- M/s Gaurav M.Jhaveri was actively involved in facilitating and assisting the customs clearance of the restricted goods namely Automotive Diesel Fuel, High Flash High Speed Diesel fuel and Gas Oil in the garb of Mixed Hydrocarbon Oil. The CHA appear to have failed to fulfil the following obligations as prescribed under Regulation 10 of Customs Broker Licensing Regulation 2018-

- (b) *transact business in the Customs Station either personally or through an authorised employee duly approved by the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be*
- (d) *advise his client to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof, and in case of non-compliance, shall bring the matter to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs, as the case may be;*
- (e) *exercise due diligence to ascertain the correctness of any information which he imparts to a client with reference to any work related to clearance of cargo or baggage;*
- (q) *co-operate with the Customs authorities*

They failed to fulfil the said obligations as under:

M/s GauravM.Jhaveri allowed their sub-agents- M/s Shivshakti Shipping and M/s Ashirvad Shipping & Logistics to utilize their“F” Card for import of restricted goods by way of mis-declaration and mis-classification.M/s Shivshakti Shipping and M/s Ashirvad Shipping & Logisticswere allowed to engage themselves and conduct business of customs clearance on their behalf in violation of obligation (b) of Regulation 10. M/s Shiv Shakti Shipping have been found to negotiate with M/s Shree Hari Krupa Petrochemon behalf of M/s GauravM.Jhaveri, and in fact the bill for the agency charges are raised by M/s Aashirvad Shipping & Logistics upon the Importer. Thereafter M/s Shivshakti Shipping raised bill upon M/s Ashirvad Shipping & Logistics after deducting 25% from the bill amount raised by M/s Ashirvad Shipping & Logistics upon the Importer i.eM/s Shree Hari Krupa Petrochem. Subsequently M/s Gaurav M..Jhaveri raised bill @ Rs.750/- per container upon M/s Shivshakti Shipping in respect of the amount raised as agency charges. Thus it is seen that the lion’s share is taken and shared by the sub-agents and not by the CHA-i.e M/s GauravM.Jhaveri. Theemployees of sub-agents- M/s Shivshakti Shipping and M/s Ashirvad Shipping & Logisticshave been found to be actively involved in the process of customs clearance like obtaining documents, deciding the classification of the goods with the importer in violation of the obligation though the sub-agents were not authorized to do so. Further M/s Gaurav.M.Jhaverialso appear to have not advised theirclient as obligated vide obligation (d) of the Regulation 10 to comply with the provisions of the Act, other allied Acts and the rules and regulations thereof. They further did not bring the violations and contraventions of the import of restricted goods by way of mis-declaration and mis-classification to the

notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs. They did not advise them against importing restricted commodities by way misclassification and mis-declaration in flexi bags in violation of the provisions of the Customs Act'1962 and the Petroleum Act'1934. M/s Gaurav.M.Jhaveri appear to also have violated the obligation (e) as they did not exercise due diligence to ascertain the correctness of the details and documents provided by the importer for filing of bill of entries. They have been found to be in the business of customs clearance for a considerable period of time yet they did not ask for any proper chemical/analysis report from the importer in support of the details and the description filed by them in the Bills of Entry in respect of the goods sought to be imported under vide the consignments under investigation. In fact they submitted the fudged and fabricated parameters reproduced by the supplier as Chemical Analysis Report alongwith the bills of entries in support of the goods misdeclared as Mixed Hydrocarbon Oil. M/s Gaurav.M.Jhaveri also did not co-operate with the Customs authorities as provided under obligation (q) of the Regulation 10 of the CBLR. During the course of the investigation they did not disclose vital information relating to the case on their own. However, on being shown the relevant documents subsequently they have accepted the Lab Reports and have also accepted that the consignments were mis-declared and misclassified in their voluntary statements.

Thus the CHA- M/s Gaurav.M.Jhaveri appear to have acted in tandem with the importer- M/s Shree Hari Krupa Petrochem in the illicit and illegal import of the restricted commodity. They have attempted to project their innocence in the case by stating that they filed import documents on the basis of the documents provided by the importer but considering the goods and the Chapter of the goods they had the responsibility of ensuring that the importer does not indulge in the illicit act of smuggling of restricted commodities or violate the provisions of Customs Act'1962 which rested on their shoulders in accordance with the obligations laid down in Regulation 10 of the Customs Broker Licensing Regulations 2018. But they have been found to have not observed and complied with the obligations prescribed under the Customs Broker Licensing Regulation 2018.

- (xix) The consignments consisting of 50 containers pertaining to 5 BEs were imported by way of mis-declaration and mis-classification as Mixed Hydrocarbon Oil in the manner as discussed above in contravention of Section 17 (1), Section 46(4) and 46(4A) ,appear liable for confiscation in terms of Section 111(d), (f), (l) and (m) of Customs Act, 1962. Further,

M/s Shree Hari Krupa Petrochem, Shri NayabhaSumania, Prop of M/s Shree Hari Krupa Petrochem, M/s Gaurav M. Jhaveri, M/s Aashirvad Shipping & Logistics, M/s Shivshakti Shipping, Shri Ruparel Ketan of M/s Shivshakti Shipping, for their respective roles in the instant case appear to have rendered themselves liable for imposition of penalty under Section 112 (a) or (b), and 114 AA of the Customs Act'1962.

## **18 ROLE PLAYED BY THE VARIOUS ENTITIES:**

### **18.A. Role played by the Importer- M/s Shree Hari Krupa Petrochem**

Whereas it appears that the Importer -M/s Shree Hari Krupa Petrochem deliberately and knowingly resorted to illicit import of restricted goods (Automotive Diesel Fuel, High Flash High Speed Diesel fuel and Gas Oil) under the guise of "Mixed Hydrocarbon Oil (MHO)" to bypass import restrictions applicable to non-State Trading Enterprises (STEs). They misused Customs Tariff Heading 27101990 ("Others") to declare the goods as freely importable. M/s Shree Hari Krupa Petrochem appear to have colluded with suppliers (M/s Sai Petrochemical FZE and M/s Halar Petrochem FZC) to submit falsified invoices, packing lists, and chemical Analysis Reports in order to misrepresent the true nature of the goods. They further failed to declare the correct classification and description of goods during self-assessment under Section 17(1) of the Customs Act, 1962. They provided inaccurate and incomplete information in the Bills of Entry, thereby violating Sections 46(4) and 46(4A) of the Customs Act, 1962. M/s Shree Hari Krupa Petrochem appear to be fully aware that the imported items were restricted commodities (Automotive Diesel Fuel, High Flash High Speed Diesel fuel and Gas Oil) and not "Mixed Hydrocarbon Oil," as evidenced by voluntary statements. They deliberately withheld key documents, including buyer-seller agreements and export declarations to prevent the identification of the goods. The mis-declared goods namely Automotive Diesel Fuel, High Flash High Speed Diesel fuel and Gas Oil have been categorized as hazardous Class B and class C petroleum products (Automotive Diesel Fuel, High Flash High Speed Diesel fuel and Gas Oil) but were imported in unsafe Flexi bags violating and compromising safety norms mandated by the Petroleum Rules, 2002. The misdeeds and malafide acts of M/s Shree Hari Krupa Petrochem appear to be confirmed from the fact that they accepted the findings of the lab tests conducted by CRCL which confirmed the goods as Automotive Diesel Fuel, High Flash High Speed Diesel fuel and Gas Oil. They have attempted to pass the responsibility for their malafide act of importing restricted goods on the shoulders of the supplier. The illicit acts of M/s

Shree Hari Krupa Petrochem which include misdeclaration, misclassification, and illegal importation of restricted petroleum products appear to violate multiple provisions of the Customs Act, 1962, the Foreign Trade Policy, and the Petroleum Act, 1934 for financial gain. The illicit import of the said restricted goods viz Automotive Diesel Fuel, High Flash High Speed Diesel fuel and Gas Oil amounts to act of smuggling as defined under Section 2(39) of the Customs Act'1962. Thus, for their acts of omission and commission in the case borne out by the investigation, M/s Shree Hari Krupa Petrochem appear to have rendered themselves for penalty under the provisions of Sections 112 (a) or (b) and 114 AA of the Customs Act'1962.

#### **18.B Role played by the CHA- M/s Gaurav M. Jhaveri**

Similarly, it appears that M/s Gaurav M. Jhaveri the CHA of the Importer- M/s Shree Hari Krupa Petrochem were also equally involved in the illicit import of the restricted goods namely restricted items (Automotive Diesel Fuel, High Flash High Speed Diesel fuel and Gas Oil) under the guise of freely importable goods labelled as "Mix Hydrocarbon Oil (MHO)." M/s Gaurav M. Jhaveri allowed sub-agents (M/s Shivshakti Shipping and M/s Ashirvad Shipping & Logistics) to transact business at Ports. They permitted sub-agents to actively engage in customs clearance, including document processing and classification decisions. They have been found to have not fulfilled the obligations prescribed under Regulation 10 of Customs Broker Licensing Regulation 2018. As a Customs House Agent, they did not advise M/s Shree Hari Krupa Petrochem to comply with the applicable laws under the Customs Act, 1962, and the Petroleum Act, 1934. They similarly allowed misclassification and misdeclaration of restricted petroleum products as "Mixed Hydrocarbon Oil (MHO)." M/s Gaurav M. Jhaveri failed to exercise due diligence and did not verify the accuracy and the authenticity of import documents, including invoices and chemical analysis reports. This becomes more important and critical in view of the kind of goods being imported. M/s Gaurav M. Jhaveri filed false/fabricated documents, enabling the import of restricted petroleum products in unsafe Flexi bags, violating the Petroleum Act, 1934, and Customs Act, 1962. For their acts of omission and commission in the case borne out by the investigation, which appear to tantamount to smuggling in accordance with Section 2(39) of the Customs Act'1962, M/s Gaurav M. Jhaveri appear to have rendered themselves liable for penalty under the provisions of Sections 112 (a) or (b) and 114 AA of the Customs Act'1962

**18.C. Role palyed by M/s Shivshakti Shipping:**

M/s Shivshakti Shipping have acted as sub-agent of M/s Shree Hari Krupa Petrochem in the instant case. In the voluntary statement tendered by Shri Ruparel Ketan, partner of the firm, he has accepted that they share portion of agency charges which is received for customs related work. They have also accepted that they bring business for the CHA- M/s GauravM.Jhaveri. Further they have stated that they obtain relevant documents from the clients and forward them to M/s Gaurav.M.Jhaveri for customs related work. They have been found to be the interface between the CHA and the importer and has been stated that they only negotiate with the clients on behalf of M/s Gaurav.M.Jhaveri. They have been found to get major chunk of the agency charges amounting to Rs.15,000/- per container while the CHA- M/s Gaurav.M.Jhaveri has been found to be getting a mere amount of Rs.750/- per container for customs clearance work. In spite of the regulations prescribed under the Customs Broker Licensing Regulations 2018, he has found no anomaly in engaging and conducting business of customs clearance work without possessing valid 'F' Card. Further it has also been stated that they look after customs related work of petroleum products only. Further they have been even found to be involved in the decision of classification of goods and forwarding of the checklist from the CHA to the Importer for approval. The involvement of M/s Shivshakti Shipping Services is unauthorized as he does not possess valid 'F' Card and have acted on the basis of the 'F' Card issued to M/s Gaurav.M.Jhaveri. For being involved in illicit import of restricted goods by attending to customs clearance work of the said goods which amounts to smuggling in terms of the provisions of Section 2(39) of the Customs Act'1962, they appear to be liable for penalty under the provisions of Sections 112 (a) or (b) and 114 AA of the Customs Act'1962.

**18.D Role Played by Shri Ruparel Ketan (M/s Shivshakti Shipping):**

Shri Ruparel Ketan Acted as an unauthorized sub-agent of M/s Gaurav M. Jhaveri, handling customs clearance work without possessing a valid 'F' Card. He acted as the intermediary between the importer and the CHA by negotiating with the importer and collecting documents for customs clearance. Shri Ruparel Ketan played a direct role in deciding the classification of goods and forwarding checklists from the CHA to the importer for approval. He received Rs.15,000/- per container as clearance charges while M/s Gaurav M. Jhaveri received only Rs.750/- per container, highlighting his pivotal role in the customs clearance process. He also allowed M/s Shivshakti Shipping to use the office, infrastructure, and employees of M/s Aashirvad Shipping for customs clearance work without a valid 'F' Card. For being associated in the act

of importing restricted goods which appears to be akin to smuggling as defined in Section 2(39) of the Customs Act'1962, he appears to have rendered himself for penalty under the provisions of Sections 112 (a) or (b) and 114 AA of the Customs Act'1962.

#### **18.E M/s AashirvadShipping & Logistics:**

M/s Aashirvad Shipping & Logistics provided the office and the premises to M/s Shivshakti Shipping Services to conduct customs clearance work unauthorisedly without a valid 'F' Card. In fact M/s Shivshakti Shipping Services is registered at the address of M/s Aashirvad Shipping & Logistics. M/s Shivshakti Shipping Services have been found to have not only utilised the premises but they have utilised the infrastructure also. They further utilise the services of the employees of M/s Aashirvad Shipping & Logistics in the process. In order to justify the utilisation of the premises and the infrastructure it has been stated that the same was done as rent was unaffordable. As agency charges for customs clearance work, bill for same is first raised by M/s Aashirvad Shipping & Logistics and subsequently, the bill is raised by M/s Shiv Shakti Shipping for their share upon M/s Aashirvad Shipping & Logistics. Thus it appears that they played an important role in the case and in the act of illicit import of Automotive Diesel Fuel, High Flash High Speed Diesel fuel and Gas Oil which can be termed as smuggling in terms of Section 2(39) of the Customs Act'1962, they appeared to be liable for penalty under the provisions of Sections 112 (a) or (b) and 114 AA of the Customs Act'1962.

**19.1** Accordingly, Show Cause Notice issued vide F. No. VIII/48-05/ADJ/ADC/MCH/2024-25 dated 13.02.2025 was issued to the importer M/s Shree Hari Krupa Petrochem (IEC-GORPS2205Q), calling upon it to show cause as to why:-

(i) The declared classification of the impugned goods i.e. High Flash High Speed Diesel fuel conforming to IS 16861 having total quantity 199.570 MTS mis-declared as Mixed Hydrocarbon Oil under Customs Tariff Item 27101990 under Bill of Entry No. 2148664 Dt. 15.02.2024, should not be rejected and re-classified under the Customs Tariff Item 27101949.

(ii) The declared classification of the impugned goods i.e. Automotive Diesel Fuel conforming to IS 1460 having total quantity of 583.690 MTS mis-declared as Mixed Hydrocarbon Oil under Customs Tariff Item 27101990 under Bill of Entry Nos. 2083192 Dt. 10.02.2024, 2100062 Dt. 12.02.2024 and 2043286 Dt.

08.02.2024, should not be rejected and re-classified under the Customs Tariff Item 27101944.

(iii) The declared classification of the impugned goods i.e. Gas Oil having total quantity 189.615 MTS mis-declared as Mixed Hydrocarbon Oil under Customs Tariff Item 27101990 under Bill of Entry No. 9999773 Dt. 06.02.2024, should not be rejected and re-classified under the Customs Tariff Item 27101941.

(iv) Automotive Diesel Fuel, High Flash High Speed Diesel fuel and Gas Oil sought to be imported by them in 50 containers pertaining to 5 Bills of Entry having declared value of Rs. 7,39,21,026/- seized under Section 110 of the Customs Act, 1962 vide Seizure Memorandums dated 13.09.2024 and 08.10.2024 lying seized at Mundra Port should not be confiscated under Sections 111(d), 111(f), 111(l) & 111(m) of the Customs Act, 1962.

(v) Penalty should not be imposed upon them under Section 112(a) and/or 112(b) and/or 114AA of the Customs Act, 1962.

**19.2** Accordingly, Show Cause Notice was also issued to M/s Gaurav M. Jhaveri, Customs House Agent calling upon them to show cause as to why penalty should not be imposed upon them under Section 112(a) and/or 112(b) and/or 114AA of the Customs Act, 1962.

**19.3** Accordingly, Show Cause Notice was also issued to M/s Shivshakti Shipping, Sub-agent of CHA calling upon them to show cause as to why penalty should not be imposed upon them under Section 112(a) and/or 112(b) and/or 114AA of the Customs Act, 1962.

**19.4** Accordingly, Show Cause Notice was also issued to Shri Ruparel Ketan, Partner of M/s Shivshakti Shipping, Sub-agent of CHA calling upon him to show cause as to why penalty should not be imposed upon him under Section 112(a) and/or 112(b) and/or 114AA of the Customs Act, 1962.

**19.5** Accordingly, Show Cause Notice was also issued to M/s Aashirvad Shipping & Logistics, Sub-agent of CHA, calling upon them to show cause as to why penalty should not be imposed upon them under Section 112(a) and/or 112(b) and/or 114AA of the Customs Act, 1962.

### **WRITTEN SUBMISSIONS**

20. The SCN dated 13.02.2025 was served upon all the Noticees through proper channels. Opportunity to file written submissions and appear for personal hearing was duly afforded to all the Noticees. The submissions made by each Noticee in writing are summarised below.

20.1 M/s Shree Hari Krupa Petrochem (Noticee No. 1) – The importer submitted written reply vide letter dated 11.09.2025 through their authorized consultant Shri Pradeep Kumar Kedia. Further, the importer appeared for personal hearing on 30.09.2025 through authorized consultant Shri Pradeep Kumar Kedia. The Noticee has inter alia submitted as under:

(i) The test report of CRCL, Vizag is unrealistic and vague as the parameters of Mixed Hydrocarbon Oil (MHO) have not been determined with precision so as to differentiate MHO from other restricted petroleum products. The methodology of the test conducted by CRCL has not been disclosed. MHO is a trade and commercial term used in the petroleum and petrochemical industry to describe a blend or mixture of hydrocarbon fractions obtained during the refining or petrochemical processing of crude oil – it is a non-standardized mixture which does not conform to any single BIS, ASTM or EN fuel specification such as those governing diesel, kerosene or gasoline. There is no Indian Standard (IS) or globally recognized specification that defines or regulates MHO. It does not fall within the scope of IS 1460 (Diesel), IS 1459 (Kerosene), IS 15770 (LDO) or IS 16861 (HFHSD). Reliance placed on CBIC Circular No. 30/2017-Cus dated 18.07.2017 invoking the right to re-test.

(ii) Similarity in flash point, viscosity or density does not by itself make MHO a regulated fuel unless it conforms in full to all regulatory parameters of such fuels. The CRCL test report does not reveal the exact characteristics of MHO and thus cannot conclusively identify the goods as restricted petroleum products.

(iii) All import documents (invoice, packing list, chemical analysis report) provided by the overseas suppliers M/s Sai Petrochemical FZE and M/s Halar Petrochem FZC clearly described the goods as 'Mixed Hydrocarbon Oil (For Industrial Use Only).' The importer was acting in bonafide belief based on supplier documents.

(iv) Request for re-testing of the samples at the importer's cost in the spirit of CBIC Circular No. 30/2017-Cus dated 18.07.2017, so that the samples may be tested

for parameters of MHO with precision and natural justice may be met. The adjudication proceedings be kept in abeyance until the retest report is received.

(v) Vide letter dated 06.03.2026, the Noticee submitted that they are willing to re-export the goods back to the supplier and requested permission for re-export of all 5 BEs.

**20.2** M/s Gaurav M. Jhaveri, CHA (Noticee No. 2) – Written submission dated 11.07.2025 filed through Advocate Shri Chandan Kumar Jain (CJ Legal). The Noticee appeared for personal hearing on 11.07.2025. They have inter alia submitted as under:

(i) The Noticee is a Mumbai-based licensed CHA and handled Mundra Port clearance through their authorized representative Shri Ruparel Ketan of M/s Shivshakti Shipping. Bills of Entry were filed on the basis of documents provided by the importer after due KYC verification of IEC, GSTIN, PAN etc. from official government websites. The arrangement with M/s Shivshakti Shipping and M/s Aashirvad Shipping & Logistics is a legitimate business expansion arrangement and not a violation of CBLR 2018.

(ii) BOEs were filed on first check basis on their own as a precautionary measure – entailing 100% examination of goods by examining officers, thus precluding the possibility of misdeclaration going without detection. This itself demonstrates bonafide intent and due diligence on the part of the CHA.

(iii) The CHA received only Rs. 750/- per container and has no concern with any commission charged by the sub-agents. There is no allegation of any financial gain or pecuniary benefit accruing to the CHA from the alleged misdeclaration.

(iv) Goods were found to be Automotive Diesel/HFHSD/Gas Oil only after test reports – no prior knowledge alleged against the CHA. Violation, if any, is solely attributable to the importer. There is no evidence on record that the CHA had prior knowledge of the misdeclaration.

(v) CBIC Instruction No. 20/2024-Customs dated 03.09.2024 directs avoidance of routine implication of CHAs as co-noticees in matters involving interpretative disputes in a routine manner unless the element of abetment of the Customs Broker in the investigation is established by the investigating authority. Penalty under Sec. 112 and 114AA cannot be imposed in absence of mens rea or prior knowledge.

(vi) The CHA filed the BOEs only on the basis of authorization and KYC documents provided by the importer, in compliance with CBLR requirements. The bills of entry have no discrepancy in the import documents. Hence no penalty under Section 114AA of the Customs Act, 1962 is imposable.

**20.3** M/s Shivshakti Shipping (Noticee No. 3) and Shri Ruparel Ketan, Partner (Noticee No. 4) – Joint written submission dated 11.07.2025 filed through Advocate Shri Chandan Kumar Jain (CJ Legal). The Noticees appeared for personal hearing on 11.07.2025. They have inter alia submitted as under:

(i) The Noticees are authorized representatives of the CHA firm M/s Gaurav M. Jhaveri since 2017 and handle Mundra Port operations related to oil consignments. The arrangement is a legitimate business expansion with no violation of the Customs Act or CBLR 2018.

(ii) BOEs were filed on first check basis by the CHA firm M/s Gaurav M. Jhaveri only. The Noticees only monitored and supervised the process and forwarded importer-provided documents to the CHA through email. No F-Card was used by the Noticees themselves – all BOEs were filed by the licensed CHA in their own name.

(iii) Shri Bharat Parmar, G-Card Holder of M/s Gaurav M. Jhaveri, handled the actual physical customs clearance at the port. The Noticees had no role in classification decisions – the classification was done by the CHA on the basis of documents provided by the importer.

(iv) Goods were found to be Automotive Diesel/HFHSD/Gas Oil only after test reports. No prior knowledge of restricted nature of goods is alleged against the Noticees. Violation, if any, is solely attributable to the importer. No statement or incriminating evidence shows mala fide intent on the part of the Noticees.

(v) Rs. 15,000/- per container is the normal sub-agent commission for full port handling operations including documentation, port coordination and container tracking – it does not indicate any illicit arrangement. Charging a meager amount for committing misdeclaration does not make any sense.

(vi) No allegation of undue financial gain over and above normal agency charges. Penalty under Sec. 112(a)/(b) and 114AA not attracted in absence of knowledge, mens rea or proof of deliberate misdeclaration.

**20.4** M/s Aashirvad Shipping & Logistics (Noticee No. 5) – Written submission dated 11.07.2025 filed through Advocate Shri Chandan Kumar Jain (CJ Legal). The Noticee appeared for personal hearing on 11.07.2025. They have inter alia submitted as under:

(i) The Noticee is involved in container handling facilitation, fuel pumping facilitation and local transportation of containers at the port area. The Noticee merely provided office premises to Shri Ruparel Ketan who is a 20+ year old personal friend – no active role in customs clearance, classification decisions or document preparation.

(ii) The statement of the Noticee was not recorded by DRI – which itself indicates that DRI did not find any incriminating role played by the Noticee in the alleged misdeclaration.

(iii) Bills of Entry were filed by the licensed CHA M/s Gaurav M. Jhaveri only, following all CBLR requirements. The CHA has also authorized their G-Card Holder Shri Bharat Parmar for attending customs clearance. The Noticee has no role in filing of any Bill of Entry or any document therein.

(iv) No allegation of any undue financial gain over and above normal service charges. No evidence of collusion or connivance with the importer or the supplier to deliberately import restricted goods.

(v) Penalty under Sec. 112(a)/(b) and 114AA not attracted in absence of knowledge, mens rea or proof of deliberate misdeclaration by the Noticee. The impugned SCN deserves to be quashed qua the Noticee.

### **PERSONAL HEARINGS**

**21.** Personal hearings were conducted in the instant matter on the dates detailed below. The record of the personal hearings is as under:

**21.1** The first personal hearing was held on 11.07.2025. Advocate Shri Chandan Kumar Jain appeared on behalf of M/s Gaurav M. Jhaveri (Noticee No. 2), M/s Shivshakti Shipping (Noticee No. 3), Shri Ruparel Ketan, Partner of M/s Shivshakti Shipping (Noticee No. 4), and M/s Aashirvad Shipping & Logistics (Noticee No. 5). He reiterated their respective written submissions. He stated that there is no infirmity as far as their business transactions as Customs Broker are concerned. He

further stated that there was no evidence on record that the CHA firm had prior knowledge of misdeclaration of goods as they filed the Bills of Entry based on the documents supplied by the importer. He submitted that the arrangement with M/s Shivshakti Shipping and M/s Aashirvad Shipping & Logistics does not violate Customs Broker Regulations.

**21.2** The second personal hearing was held on 30.09.2025. Consultant Shri Pradeep Kumar Kedia appeared on behalf of M/s Shree Hari Krupa Petrochem (Noticee No. 1). He requested for re-testing of the goods in the interest of natural justice as the Noticee is not agreeing with the test results of CRCL, Vizag.

**21.3** Further, the importer vide letter dated 06.03.2026, submitted that they are willing to re-export the goods back to the supplier and requested permission for re-export of all 5 BEs.

### **DISCUSSION AND FINDINGS**

**22.** I have carefully gone through the Show Cause Notice, the relied upon documents, the submissions made by the Noticees both in writing and in personal hearing, the legal provisions and the records available before me. I find that in the present case, the principles of natural justice have been complied with and therefore, I proceed to decide the case on the basis of applicable laws/rules, written submissions and documentary evidences available on record.

**22.1** I now proceed to decide the issues framed in the instant SCN before me. On a careful perusal of the subject Show Cause Notice and case records, I find that the following main issues are involved in this case, which are required to be decided at the stage of adjudication:

**(i)** Whether the declared classification of the impugned goods i.e. High Flash High Speed Diesel Fuel conforming to IS 16861 having total quantity 199.570 MTs mis-declared as Mix Hydrocarbon Oil under Customs Tariff Item 27101990 under Bill of Entry No. 2148664 dt. 15.02.2024, should be denied and re-classified under the Customs Tariff Item 27101949;

**(ii)** Whether the declared classification of the impugned goods i.e. Automotive Diesel Fuel conforming to IS 1460 having total quantity 583.690 MTs mis-declared as Mix Hydrocarbon Oil under Customs Tariff Item 27101990 under Bill of Entry Nos. 2083192 dt. 10.02.2024, 2100062 dt. 12.02.2024 and 2043286 dt. 08.02.2024, should be denied and re-classified under the Customs Tariff Item 27101944;

(iii) Whether the declared classification of the impugned goods i.e. Gas Oil having total quantity 189.615 MTs mis-declared as Mix Hydrocarbon Oil under Customs Tariff Item 27101990 under Bill of Entry No. 9999773 dt. 06.02.2024, should be denied and re-classified under the Customs Tariff Item 27101941;

(iv) Whether Automotive Diesel Fuel, High Flash High Speed Diesel Fuel and Gas Oil sought to be imported in 50 containers pertaining to 5 Bills of Entry having declared value of **Rs. 7,39,21,026/-** seized vide Seizure Memorandums dated 13.09.2024 and 08.10.2024 should be confiscated under Sections 111(d), 111(f), 111(l) & 111(m) of the Customs Act, 1962;

(v) Whether penalty should be imposed upon the 5 Notices under Section 112(a) and/or 112(b) and/or 114AA of the Customs Act, 1962.

### **23. CLASSIFICATION OF HIGH FLASH HIGH SPEED DIESEL FUEL (HFHSD)**

**23.1** Regarding the first issue, I find that M/s Shree Hari Krupa Petrochem filed Bill of Entry No. 2148664 dated 15.02.2024 at Mundra Port through CHA M/s Gaurav M. Jhaveri, declaring the goods as "Mixed Hydrocarbon Oil (MHO)" and classifying the same under Customs Tariff Item 27101990 ("Others" – import policy: Free). The said Bill of Entry covered a total of 10 containers with assessable value of **Rs. 1,51,53,171/-**.

**23.2** I find that on the basis of intelligence, DRI Noida Regional Unit put the said containers on hold on 15.02.2024 for examination. The said containers were examined on 11.03.2024 and 14.03.2024 in the presence of the authorised representative of Custom Broker Shri Ravindra Kumar of M/s Gaurav M. Jhaveri and representative of CFS. During the examination, it was observed that Flexi bags containing yellow coloured liquid substance were kept inside the containers. Representative samples were drawn from one randomly selected container from the Bill of Entry, drawn in triplicate. The samples were sent to CRCL, Vizag for testing and identification of the goods.

**23.3** I find that the CRCL, Vizag tested the samples and submitted their test report dated 03.06.2024. On analysis of the parameters detailed in the Test Report vis-à-vis the parameters stipulated in the BIS standard IS:16861 for High Flash High Speed Diesel Fuel, I find that the goods imported under BE No. 2148664 dated 15.02.2024 meet the requirements of both High Flash High Speed Diesel Fuel (HFHSD)

conforming to IS:16861:2018 and Automotive Diesel Fuel as per IS 1460:2017, and are therefore correctly classifiable under CTH 27101949. The test report further specifically states that there is no specification available for 'Mixed Hydrocarbon Oil' in any National/International Standard.

**23.4** I find that the Noticee M/s Shree Hari Krupa Petrochem has raised the contention that the CRCL test report does not establish the identity of MHO and that re-testing should be allowed. It has been submitted that the CRCL test report is unrealistic as the parameters of MHO have not been determined with precision so as to differentiate the same from other restricted petroleum products, and the methodology of the test conducted by CRCL has not been disclosed to the importer. Reliance has been placed on CBIC Circular No. 30/2017-Cus dated 18.07.2017 invoking the right to re-test.

**23.5** I have carefully considered the above submission and find that the same is not tenable for the following reasons:

(a) I find that the test report issued by CRCL, Vizag, being a Government of India accredited laboratory, carries significant evidentiary value and prevails over trade description or private test certificates. In the case of *M/s M.M. Trading Company v. Commissioner of Customs, Mundra [Final Order No. A/11695/2023 dated 14.08.2023]*, the Hon'ble CESTAT, Ahmedabad has categorically held that when the importer does not seek re-test of the sample or challenge the laboratory findings at the appropriate stage, the test report attains finality and cannot subsequently be assailed. The Tribunal further observed that an error not resisted is deemed to have been accepted and that acquiescence to the laboratory findings precludes later challenge. In the present case, Shri Nayabha Sumaniya, Proprietor of M/s Shree Hari Krupa Petrochem, in his voluntary statement recorded on 05.08.2024 under Section 108 of the Customs Act, 1962, explicitly accepted and agreed with the CRCL, Vizag test report findings for BE No. 2148664 dated 15.02.2024 without any demur or reservation. He sought to shift the blame onto the supplier by claiming that wrong goods were sent by mistake; however, no purchase order, no protest communication, and no correspondence with the supplier acknowledging the alleged mistake has been produced till date, which itself suggests that the consignments were entirely as per the orders placed by M/s Shree Hari Krupa Petrochem. There is no material on record to discredit the CRCL, Vizag test report or to suggest that the sampling or testing procedure was in any manner defective.

(b) Furthermore, the request for re-testing made vide letter dated 11.09.2025 is clearly time-barred in terms of CBIC Circular No. 30/2017-Cus dated 18.07.2017, which mandates that a request for re-testing must be made in writing within ten days of receipt of the communication of the test results. In the present case, the re-testing request was made only on 11.09.2025, more than one year after the test result. The request for re-testing was accordingly examined in detail and rejected vide Department's letter dated 14.10.2025, which clearly noted that the request was made after an unreasonably long period and was not supported by any valid or acceptable reasons.

(c) The importer's own request for re-export of the consignment made vide letter dated 06.03.2026 also implies acknowledgement of the fact that the goods actually imported are different from what was declared. An importer who genuinely believed the goods were MHO would not seek re-export without first establishing the true nature of the goods. The re-export request is itself an implicit admission of mis-declaration.

(d) MHO is not a recognized product under any Indian or international standard. No IS/ASTM/ISO/EN specification exists for MHO. The Noticee has failed to produce any document, certificate or analysis report from any recognized laboratory or authority establishing the identity of the goods as 'Mixed Hydrocarbon Oil' with defined parameters.

In view of the above, I accept the CRCL, Vizag test report as conclusive evidence regarding the nature and identity of the impugned goods, and the submissions of the Noticee in this regard are rejected.

**23.6** I therefore find, on the basis of the CRCL, Vizag test report dated 03.06.2024, the admission of the Proprietor Shri Nayabha Sumaniya recorded under Section 108, and the overall facts and circumstances of the case, that the goods imported under Bill of Entry No. 2148664 dated 15.02.2024 are High Flash High Speed Diesel Fuel (HFHSD) conforming to IS:16861:2018 and are correctly classifiable under CTH 27101949, and not under CTH 27101990 as declared by the importer.

**23.7** I further find that as per ITC(HS) 2022, Schedule I, Chapter 27, goods falling under CTH 27101949 i.e. "High Flash High Speed Diesel fuel conforming to standard IS 16861" are restricted goods under Policy Condition No. 5 of Chapter 27, which prescribes: "Import allowed through IOC subject to para 2.21 of Foreign Trade

Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NG's Resolution No. P23015/1/2001-MKT dated 08.03.2002 including HPCL, BPCL and IBP who have been marketing transportation fuels before this date." M/s Shree Hari Krupa Petrochem is not a State Trading Enterprise (STE) nor has it been granted any authorisation by DGFT for import of the said restricted goods, and no such claim has been made by the Noticee at any stage of the proceedings. Therefore, the import of HFHSD under the guise of freely importable MHO is a clear and deliberate circumvention of the import policy conditions. Accordingly, I hold that the declared classification of goods under BE No. 2148664 dated 15.02.2024 as MHO under CTH 27101990 is rejected, and the said goods are re-classified as High Flash High Speed Diesel Fuel conforming to IS:16861 under CTH 27101949.

The relevant extract from the Customs Tariff Act, 1985 and ITC(HS) 2022 is reproduced below for ready reference:

27101943	Light diesel oil conforming to standard IS 15770	kg.	10.00	5.00	---	18.00	0.50	24.490	ing enter-prises State Trading Enterprises	Condition (5) of Chapter 27 Import as per Policy Condition (5) of Chapter 27
27101944	Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460	kg.	10.00	5.00	---	14% + Rs. 15 per	0.15		State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
27101949	High flash high speed diesel fuel conforming to standard IS 16861	kg.	10.00	5.00	---	14% + Rs. 15 per litre	0.15		State Trading Enterprises	SWS - 3% by Nfn 12/2018-Cus. Import as per Policy Condition (5) of Chapter 27 SWS - 3% by Nfn

Chapter Heading 27101949

27101949	Gas oil and oils obtained from gas oil: High flash high speed diesel fuel conforming to standard IS 16861	State Trading Enterprise	Import as per Policy Condition (5) of Chapter 27.
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Product Description and Import Policy

*Policy Condition (5) of Chapter 27 of ITC (HS) Import Policy is reproduced below for ready reference*

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

Notification No. 27/2015-2020  
New Delhi, Dated: 16<sup>th</sup> 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.

*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-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 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."*

## **24. CLASSIFICATION OF AUTOMOTIVE DIESEL FUEL (IS:1460)**

**24.1** Regarding the second issue, I find that M/s Shree Hari Krupa Petrochem filed three Bills of Entry bearing Nos. 2083192 dated 10.02.2024, 2100062 dated 12.02.2024 and 2043286 dated 08.02.2024 at Mundra Port through CHA M/s Gaurav M. Jhaveri, declaring the goods as "Mixed Hydrocarbon Oil (MHO)" and classifying the same under Customs Tariff Item 27101990 ("Others" – import policy: Free). The said three BEs covered a total of 30 containers (10+10+10) with combined assessable value of **Rs. 4,43,59,102/-**.

**24.2** I find that these containers were also put on hold and examined on 11.03.2024 and 14.03.2024 in the presence of the authorised representative of Custom Broker and representative of CFS. Yellow coloured liquid in Flexi bags was observed during examination. Representative samples were drawn from one randomly selected container per Bill of Entry (Sample Nos. HC1-A217700, HD3-A217692 and HA1-A217686 respectively). The samples were sent to CRCL, Vizag for testing.

**24.3** I find that the CRCL, Vizag test reports dated 03.06.2024 confirm that the goods imported under BE Nos. 2083192 dated 10.02.2024, 2100062 dated 12.02.2024 and 2043286 dated 08.02.2024 meet the requirements of Automotive Diesel Fuel (Bharat Stage IV) as per IS:1460:2017 of the Bureau of Indian Standards (BIS), and are therefore correctly classifiable under CTH 27101944. The test reports further specifically state that there is no specification available for 'Mixed Hydrocarbon Oil' in any National/International Standard.

**24.4** The Noticee has raised the same contention regarding the CRCL test reports as discussed above in Para 23.4, submitting that the test methodology has not been disclosed and re-testing should be allowed.

**24.5** I have carefully considered this submission and find it not tenable, for the same reasons as discussed in detail in Para 23.5 supra, which are equally applicable here. I further specifically find that:

(a) All decisive identifying parameters of Automotive Diesel Fuel as per IS:1460:2017 viz. Flash Point, Density, Kinematic Viscosity, Distillation characteristics, Cetane Index and Sulphur content were tested and found to conform to the standard. The residual entry CTH 27101990 ("Others") cannot be invoked when a specific entry exists for the goods. The goods fall squarely under CTH 27101944 which specifically covers 'Automotive Diesel Fuel conforming to standard IS 1460'.

(b) Shri Nayabha Sumaniya, Proprietor of M/s Shree Hari Krupa Petrochem, on being shown the CRCL test reports for BE Nos. 2083192 dated 10.02.2024, 2100062 dated 12.02.2024 and 2043286 dated 08.02.2024, accepted and agreed with the findings in his voluntary statement dated 05.08.2024 without any demur or reservation. He accepted that the goods meet the specifications of Automotive Diesel Fuel BS IV as mentioned in IS 1460:2017.

In view of the above, I accept the CRCL, Vizag test reports in respect of BE Nos. 2083192 dated 10.02.2024, 2100062 dated 12.02.2024 and 2043286 dated 08.02.2024 as conclusive evidence regarding the nature and identity of the impugned goods, and the submissions of the Noticee in this regard are rejected.

**24.6** I therefore find, on the basis of the CRCL, Vizag test reports dated 03.06.2024, the admission of the Proprietor Shri Nayabha Sumaniya recorded under Section 108, and the overall facts, that the goods imported under BE Nos. 2083192 dated 10.02.2024, 2100062 dated 12.02.2024 and 2043286 dated 08.02.2024 are Automotive Diesel Fuel conforming to IS:1460:2017 and are correctly classifiable under CTH 27101944, and not under CTH 27101990 as declared by the importer.

**24.7** I further find that as per ITC(HS) 2022, Schedule I, Chapter 27, goods falling under CTH 27101944 i.e. "Automotive Diesel fuel conforming to standard IS 1460" are restricted goods under Policy Condition No. 5 of Chapter 27 (same as discussed in Para 23.7, supra). M/s Shree Hari Krupa Petrochem, being neither an STE nor an authorised importer, was completely ineligible to import Automotive Diesel Fuel. The mis-declaration of Automotive Diesel Fuel as freely importable MHO under CTH 27101990 was a deliberate act to circumvent this restriction. Accordingly, I hold

that the declared classification of goods under BE Nos. 2083192 dated 10.02.2024, 2100062 dated 12.02.2024 and 2043286 dated 08.02.2024 as MHO under CTH 27101990 is rejected, and the said goods are re-classified as Automotive Diesel Fuel conforming to IS:1460 under CTH 27101944.

The relevant extract from the Customs Tariff Act, 1985 and ITC(HS) 2022 is reproduced below for ready reference:

27101941	---- Gas oil	kg.	5.00	5.00	---	18.00	0.50	24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
27101942	---- Vacuum gas oil	kg.	5.00	5.00	---	18.00	0.50	24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
27101943	---- Light diesel oil conforming to standard IS 15770	kg.	5.00	5.00	---	18.00	0.50	24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
27101944	---- Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460	kg.	2.50	2.50	---	14% + Rs. 15 per litre	0.08		State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27 <i>SWS - 3% by Ntfn 12/2018-Cus.</i>
27101949	---- High flash high speed diesel fuel conforming to standard IS 16861	kg.	2.50	2.50	---	14% + Rs. 15 per litre	0.08		State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27 <i>SWS - 3% by Ntfn 12/2018-Cus.</i>

*Chapter Heading 27101944*

27101944	---	Gas oil and oils obtained from gas oil: ---- Automotive diesel fuel, not containing biodiesel, conforming to standard IS 1460	State Trading Enterprise	Import as per Policy Condition (5) of Chapter 27.
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*Product Description and Import Policy*

**25. CLASSIFICATION OF GAS OIL**

**25.1** Regarding the third issue, I find that M/s Shree Hari Krupa Petrochem filed Bill of Entry No. 9999773 dated 06.02.2024 at Mundra Port through CHA M/s Gaurav M. Jhaveri, declaring the goods as "Mixed Hydrocarbon Oil (MHO)" and classifying the same under CTH 27101990 (Free import policy). The said Bill of Entry covered a total of 10 containers with assessable value of **Rs. 1,44,08,753/-**.

**25.2** I find that these containers were also examined on 11.03.2024 and 14.03.2024. Yellow coloured liquid in Flexi bags was observed during examination. A representative sample was drawn from one randomly selected container (Sample No. HB1-A217693) and sent to CRCL, Vizag for testing.

**25.3** I find that the CRCL, Vizag test report dated 03.06.2024 confirms that the goods imported under BE No. 9999773 dated 06.02.2024 do not meet the stringent

parameters of Automotive Diesel Fuel with reference to IS 1460:2017 in terms of Kinematic Viscosity, Distillation at 95% (v/v) recovered, Sulphur content and Flash Point. However, the sample is mainly composed of diesel fractions (above 95% and less than 98%) as per the GCMS pattern and exhibits characteristics typical of Gas Oil – moderate kinematic viscosity (3.46 cSt), low flash point (34°C), distillation range aligning with middle distillates, and sulphur content of 102.58 mg/kg. The report further states that the sample is 'adulterated diesel for Automotive Fuel' and that there is no specification available for 'Mixed Hydrocarbon Oil' in any National/International Standard. The goods are therefore correctly classifiable under CTH 27101941.

**25.4** The Noticee has raised the same contention regarding the CRCL test report as discussed above in Para 23.4, submitting that the test methodology has not been disclosed and re-testing should be allowed.

**25.5** I have carefully considered this submission and find it not tenable, for the same reasons as discussed in detail in Para 23.5 supra, which are equally applicable here. I further specifically find that:

**(a)** Gas Oil classifiable under CTH 27101941 does not require conformity to any specific BIS standard as a condition of classification. The GCMS analysis conclusively establishes that the sample is primarily composed of diesel fractions (95% to 98%), which is characteristic of Gas Oil. All decisive identifying parameters i.e. Flash Point, Density, Kinematic Viscosity, Distillation and Sulphur content have been tested and are consistent with Gas Oil.

**(b)** Shri Nayabha Sumaniya, Proprietor of M/s Shree Hari Krupa Petrochem, on being shown the CRCL test report for BE. No. 9999773 dated 06.02.2024, accepted and agreed with the findings in his voluntary statement dated 05.08.2024 that the goods meet the specifications of Gas Oil.

In view of the above, I accept the CRCL, Vizag test report in respect of BE. No. 9999773 dated 06.02.2024 as conclusive evidence regarding the nature and identity of the impugned goods, and the submissions of the Noticee in this regard are rejected.

**25.6** I therefore find, on the basis of the CRCL, Vizag test report dated 03.06.2024, the admission of the Proprietor Shri Nayabha Sumaniya recorded under Section 108, and the overall facts, that the goods imported under BE No. 9999773 dated

06.02.2024 are Gas Oil correctly classifiable under CTH 27101941, and not under CTH 27101990 as declared by the importer.

**25.7** I further find that Gas Oil under CTH 27101941 is also a restricted good under Policy Condition No. 5 of Chapter 27 of ITC(HS) (same as discussed in Para 23.7, supra). M/s Shree Hari Krupa Petrochem, being neither an STE nor an authorised importer, was completely ineligible to import Gas Oil. The mis-declaration of Gas Oil as freely importable MHO under CTH 27101990 was a deliberate act to circumvent this restriction. Accordingly, I hold that the declared classification of goods under BE No. 9999773 dated 06.02.2024 as MHO under CTH 27101990 is rejected, and the said goods are re-classified as Gas Oil under CTH 27101941.

*The relevant extract from the Customs Tariff Act, 1985 and ITC(HS) 2022 is reproduced below for ready reference:*

27101939	--- Aviation turbine fuels, kerosene type conforming to standard IS 1571	kg.	5.00	5.00	---	11.00	0.50	17.105	State Trading Enterprises	Exemption: See Ntfn 52/2017-Cus. dated 30.06.2017 Import as per Policy Condition (5) of Chapter 27 ACD Nil by Ntfn 32/2022-Cus. Excise Duty by Ntfn 11/2017-CE dated 30.06.2017
--- Gas oil and oils obtained from gas										
27101941	--- Gas oil	kg.	5.00	5.00	---	18.00	0.50	24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
27101942	--- Vacuum gas oil	kg.	5.00	5.00	---	18.00	0.50	24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27
27101943	--- Light diesel oil conforming to standard IS 15770	kg.	5.00	5.00	---	18.00	0.50	24.490	State Trading Enterprises	Import as per Policy Condition (5) of Chapter 27

*Chapter Heading 27101941*

27101941	--- Gas oil and oils obtained from	State Trading	Import as per Policy Condition
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*Product Description and Import Policy*

**26. CONFISCATION**

**26.1** Regarding the fourth issue, I find that the Show Cause Notice has proposed confiscation of the impugned goods under Sections 111(d), 111(f), 111(l) and 111(m) of the Customs Act, 1962. The relevant provisions of Section 111 of the Customs Act, 1962 are reproduced below:

*"(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, 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;"*

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

**26.2** I find that M/s Shree Hari Krupa Petrochem filed 5 Bills of Entry at Mundra Port declaring the goods as "Mixed Hydrocarbon Oil (MHO)" under CTH 27101990. Upon examination and testing of representative samples by CRCL, Vizag, the goods were found to be Automotive Diesel Fuel conforming to IS:1460 (3 BEs, 30 containers, 583.690 MTs), High Flash High Speed Diesel Fuel conforming to IS:16861 (1 BE, 10 containers, 199.570 MTs) and Gas Oil (1 BE, 10 containers, 189.615 MTs), all being restricted goods classifiable under CTH 27101944, 27101949 and 27101941 respectively.

**26.3** I find that there is no ambiguity that the goods were mis-declared by the importer with respect to description, classification and import policy status. The goods actually imported i.e. Automotive Diesel Fuel (IS:1460), High Flash High Speed Diesel Fuel (IS:16861) and Gas Oil are restricted goods under Policy Condition No. 5 of Chapter 27 of ITC(HS) and can be imported only by State Trading Enterprises (STEs) or entities specifically authorised by DGFT. M/s Shree Hari Krupa Petrochem is neither an STE nor possesses any such authorisation. By mis-declaring the restricted goods as freely importable MHO under CTH 27101990, the importer deliberately circumvented the import restrictions imposed under the Foreign Trade (Development and Regulation) Act, 1992 read with the Foreign Trade Policy. Further, Automotive Diesel Fuel and High Flash High Speed Diesel Fuel being Class B petroleum products, and Gas Oil being a Class C petroleum product as per the Petroleum Act, 1934, their import, transport and storage are strictly regulated

under the Petroleum Rules, 2002. Rules 4, 6, 25, 30 and 35 of the Petroleum Rules, 2002 mandate that such petroleum products shall be stored and transported only in approved containers by licence holders. Flexi bags are not approved containers for transportation of Class B/C petroleum products and do not meet the prescribed safety standards. Thus the importer has violated the provisions of the Foreign Trade (Development and Regulation) Act, 1992 read with Foreign Trade Policy on one count, and the Petroleum Act, 1934 read with Petroleum Rules, 2002 on another count, both being laws for the time being in force. The goods are therefore liable for confiscation under Section 111(d) of the Customs Act, 1962.

**26.4** Further, the goods declared as "Mixed Hydrocarbon Oil" under CTH 27101990 in the Bills of Entry do not correspond with the actual goods found on testing i.e. Automotive Diesel Fuel (IS:1460), High Flash High Speed Diesel Fuel (IS:16861) and Gas Oil. The description, classification and policy status mentioned in the Bills of Entry are completely at variance with the actual nature of the goods. Therefore, the goods are also liable for confiscation under Section 111(m) of the Customs Act, 1962.

**26.5** Since the goods were not correctly declared in the Bills of Entry and the import manifest in respect of the actual description and classification, the goods are also liable for confiscation under Section 111(f) and 111(l) of the Customs Act, 1962.

**26.6** Accordingly, I find that the imported goods in all 5 Bills of Entry (BE Nos. 2148664 dated 15.02.2024, 2083192 dated 10.02.2024, 2100062 dated 12.02.2024, 2043286 dated 08.02.2024 and 9999773 dated 06.02.2024) covering 50 containers, with declared assessed value of **Rs. 7,39,21,026/-** (Rupees Seven Crore Thirty Nine Lakhs Twenty One Thousand and Twenty Six Only), seized vide Seizure Memorandums dated 13.09.2024 and 08.10.2024, are liable for confiscation under Sections 111(d), 111(f), 111(l) and 111(m) of the Customs Act, 1962.

**26.7** 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. Section 125 *ibid* reads as under:

*"Section 125. Option to pay fine in lieu of confiscation. – (1) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may,*

*in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods an option to pay in lieu of confiscation such fine as the said officer thinks fit."*

**26.8** 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, M/s Shree Hari Krupa Petrochem vide their letter dated 06.03.2026, have explicitly requested permission for re-export of all the goods covered under the 5 BEs back to the supplier. The goods have remained under customs control at Mundra Port and have not been cleared for home consumption.

**26.9** I find that import of Automotive Diesel Fuel (CTH 27101944), High Flash High Speed Diesel Fuel (CTH 27101949) and Gas Oil (CTH 27101941) 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.

**26.10** 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.

**26.11** 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.

## **27. PENALTIES ON NOTICEES**

**27.1** Regarding the fifth issue, I now proceed to examine the role of each Noticee for the purpose of determining liability to penalty under the provisions of the Customs Act, 1962.

### **PENALTY ON M/S SHREE HARI KRUPA PETROCHEM (NOTICEE NO. 1)**

**27.1.1** Regarding the proposed penalty on M/s Shree Hari Krupa Petrochem, I find that they filed 5 Bills of Entry at Mundra Port declaring the goods as "Mixed Hydrocarbon Oil (MHO)" under CTH 27101990, whereas the goods on testing by CRCL, Vizag were found to be Automotive Diesel Fuel (IS:1460), High Flash High Speed Diesel Fuel (IS:16861) and Gas Oil, all restricted commodities importable only by STEs under Policy Condition No. 5 of Chapter 27 of ITC(HS).

**27.1.2** I find that the importer deliberately mis-declared and mis-classified the restricted goods as freely importable MHO with the malafide intent to circumvent import restrictions. I find that:

**(a)** There is no standard or recognized literature that defines 'Mixed Hydrocarbon Oil' or 'MHO' as a specific product category. Even Shri Ruparel Ketan (sub-agent) admitted in his statement that no BIS standards are applicable on MHO. The importer has been unable to define the specific composition, specifications or end use of the purported MHO. Shri Nayabha Sumaniya, Proprietor, could not explain the specific industrial use of MHO even when questioned during investigation.

**(b)** The overseas suppliers M/s Sai Petrochemical FZE and M/s Halar Petrochem FZC (Dubai) issued fabricated chemical analysis reports on their own letterheads showing the goods as MHO. No independent test report from a recognized third-party laboratory establishing the goods as MHO was ever produced. This points to a

structured arrangement between the importer and the overseas suppliers to create a false paper trail.

(c) Shri Nayabha Sumaniya in his voluntary statement dated 05.08.2024 agreed with the CRCL, Vizag test report findings and admitted that the actual goods are Automotive Diesel Fuel, HFHSD and Gas Oil. He sought to shift the blame by claiming the supplier sent wrong goods by mistake. However, no purchase order, no protest communication to the supplier on receipt of wrong goods, no correspondence with the supplier acknowledging the mistake has been produced. The claim of "supplier mistake" is a mere afterthought devoid of any evidentiary support.

(d) I find that the import of petroleum products declared as 'MHO' under CTH 27101990 was not a one-time or isolated transaction. The evidence on record, including the statement of Shri Ruparel Ketan recorded on 01.05.2024, reveals that M/s Shree Hari Krupa Petrochem had been regularly importing petroleum products under the guise of 'MHO' through the same clearance chain. This systematic and repeated pattern conclusively rules out any possibility of a genuine mistake and establishes a deliberate and organized scheme to import restricted goods under the cover of a fictitious freely importable category.

(e) The importer also violated the provisions of the Petroleum Act, 1934 by importing Class B and Class C petroleum products in Flexi bags without the requisite PESO licence, a violation that cannot be attributed to any supplier mistake.

**27.1.3** I find that the importer has violated the provisions of Section 17(1) of the Customs Act, 1962 (self-assessment obligation) and Sections 46(4) and 46(4A) (declaration of truth and accuracy). The illicit import of restricted Automotive Diesel Fuel, High Flash High Speed Diesel Fuel and Gas Oil by mis-declaration and mis-classification amounts to an act of smuggling as defined under Section 2(39) of the Customs Act, 1962.

**27.1.4** I find that M/s Shree Hari Krupa Petrochem, by mis-declaring the description and classification of the impugned goods and by causing import of restricted goods under the guise of freely importable MHO, have done acts which have rendered the said goods liable to confiscation under Section 111 of the Customs Act, 1962. They are therefore liable to penalty under **Section 112(a)(i)** of the Customs Act, 1962. I further find that imposition of penalty simultaneously under both Section 112(a) and

Section 112(b) of the Act would amount to double penalty for the same act, which is not warranted. I therefore refrain from imposing penalty under Section 112(b) of the Act.

**27.1.5** Further, I find that M/s Shree Hari Krupa Petrochem knowingly and intentionally made, signed and caused to be used Bills of Entry and supporting documents including invoices, packing lists and chemical analysis reports which were false and incorrect in material particulars, namely the description and classification of the impugned goods. The chemical analysis reports submitted by the overseas suppliers M/s Sai Petrochemical FZE and M/s Halar Petrochem FZC (Dubai) were fabricated documents prepared on suppliers' own letterheads without any testing by a recognized laboratory, and the same were knowingly used to support the mis-declared Bills of Entry. M/s Shree Hari Krupa Petrochem thereby rendered themselves liable for penalty under **Section 114AA** of the Customs Act, 1962.

#### **PENALTY ON M/S GAURAV M. JHAVERI (CHA) (NOTICEE NO. 2)**

**27.2.1** M/s Gaurav M. Jhaveri is the Customs Broker which filed all 5 Bills of Entry using their F-card. The CHA is based in Mumbai and handled Mundra Port clearance through their representative Shri Ruparel Ketan of M/s Shivshakti Shipping, as admitted by Shri Ruparel Ketan in his voluntary statement recorded on 01.05.2024.

**27.2.2** I find that M/s Gaurav M. Jhaveri allowed sub-agents M/s Shivshakti Shipping and M/s Aashirvad Shipping & Logistics to handle the entire documentation, negotiation with the importer, classification decision and forwarding of checklists without the said sub-agents possessing any valid F-Card. I find that the billing arrangement in the present case was that M/s Aashirvad Shipping & Logistics raised the invoice on the importer for the entire agency charges, out of which M/s Shivshakti Shipping retained the major portion, and M/s Gaurav M. Jhaveri received only Rs. 750/- per container as their CHA charges, as admitted by Shri Ruparel Ketan in his statement dated 01.05.2024 and Shri Gaurav M. Jhaveri in his statement dated 10.07.2024. The disproportionately small share received by the licensed CHA vis-à-vis the charges collected from the importer is indicative of the fact that the sub-agents were the de facto operators of the customs

clearance process and the licensed CHA's role was largely limited to filing of the Bills of Entry.

**27.2.3** The defence of M/s Gaurav M. Jhaveri that they filed the BOE only on the basis of documents provided by the importer and had no knowledge of the goods being restricted is not acceptable for the following reasons:

(a) As a licensed Customs Broker, M/s Gaurav M. Jhaveri was duty bound under Regulation 10 of the Customs Brokers Licensing Regulations, 2018 (CBLR, 2018) to exercise due diligence, advise the client properly, and ensure correctness of classification and compliance with import policy. Regulation 10(d) and 10(e) specifically require the CHA to verify the correctness of the Bill of Entry and to advise the client on compliance with applicable laws.

(b) M/s Gaurav M. Jhaveri failed to insist on a Chemical Analysis Report from a recognized laboratory for such sensitive petroleum product imports, despite the declared commodity (MHO) being itself undefined and lacking any BIS standard. This failure of due diligence enabled the systematic mis-declaration.

(c) Shri Gaurav M. Jhaveri in his voluntary statement dated 10.07.2024, on being shown the CRCL test reports, accepted and agreed with the test findings and admitted that the goods are restricted petroleum products and not MHO. He admitted that the declared CTH and the actual CTH are different. This admission clearly establishes knowledge of the actual nature of the goods.

(d) M/s Gaurav M. Jhaveri had been regularly clearing consignments for M/s Shree Hari Krupa Petrochem of petroleum products declared as MHO. As a specialist CHA dealing in petroleum product imports, they had sufficient reason to investigate whether the repeatedly imported 'MHO' conformed to any recognized standard, and whether it fell within restricted categories.

(e) The reliance placed on CBIC Instruction No. 20/2024-Customs dated 03.09.2024 is misplaced. The said instruction directs avoidance of routine CHA implication in cases involving interpretative disputes. The present case is not an interpretative dispute; the goods are straightforward restricted petroleum products (Automotive Diesel Fuel, HFHSD and Gas Oil) mis-declared as a fictitious freely importable category (MHO). There is no genuine classification dispute involved.

**27.2.4** I find that M/s Gaurav M. Jhaveri filed Bills of Entry containing false and incorrect declarations and facilitated the import of restricted petroleum products in

unsafe Flexi bags in violation of the Petroleum Act, 1934. They violated Regulation 10(b), (d), (e) and (q) of CBLR, 2018. Their acts of omission and commission tantamount to smuggling in accordance with Section 2(39) of the Customs Act, 1962. I find that M/s Gaurav M. Jhaveri are therefore liable to penalty under **Section 112(a)(i)** of the Customs Act, 1962. I further find that imposition of penalty simultaneously under both Section 112(a) and Section 112(b) of the Act would amount to double penalty for the same act, which is not warranted. I therefore refrain from imposing penalty under Section 112(b) of the Act.

**27.2.5** Further, M/s Gaurav M. Jhaveri knowingly and intentionally filed Bills of Entry containing false and incorrect declarations in material particulars, and caused to be used fabricated invoices, packing lists and chemical analysis reports in support thereof, thereby rendering themselves liable for penalty under Section 114AA of the Customs Act, 1962.

#### **PENALTY ON M/S SHIVSHAKTI SHIPPING AND SHRI RUPAREL KETAN (NOTICEES NO. 3 & 4)**

**27.3.1** Regarding the proposed penalty on M/s Shivshakti Shipping and its Partner Shri Ruparel Ketan, I find that they acted as unauthorized sub-agents of M/s Gaurav M. Jhaveri at Mundra Port without possessing a valid F-Card, operating from the premises of M/s Aashirvad Shipping & Logistics. As established from the voluntary statements of Shri Ruparel Ketan dated 01.05.2024 and 10.07.2024, he was involved in receiving import documents from the importer, forwarding checklists to the importer for BOE approval, and coordinating the customs clearance process for petroleum product consignments of M/s Shree Hari Krupa Petrochem. He received Rs. 15,000/- per container as sub-agent charges from the importer, whereas M/s Gaurav M. Jhaveri, the licensed CHA, received only Rs. 750/- per container, this disproportionate distribution of charges is indicative of the substantial role played by the sub-agent in the clearance operations. Significantly, in his statement dated 10.07.2024, Shri Ruparel Ketan agreed with the CRCL test reports and acknowledged that the goods are restricted petroleum products and not MHO, which itself establishes his knowledge of the actual nature of the goods being cleared.

**27.3.2** The defence that M/s Shivshakti Shipping merely forwarded documents and had no knowledge of the goods being restricted is not tenable. Being specialists

exclusively in petroleum product clearances, having regularly handled consignments of M/s Shree Hari Krupa Petrochem declaring the same 'MHO', they had every reason to know that the goods were restricted petroleum products. Their admission of the CRCL reports in the 10.07.2024 statement is itself proof of knowledge. They were not merely forwarding documents but were de facto handling the customs clearance operations using the F-card of M/s Gaurav M. Jhaveri without possessing their own valid F-card.

**27.3.3** I find that M/s Shivshakti Shipping and Shri Ruparel Ketan, by actively participating in the customs clearance of the impugned goods and being concerned in dealing with goods which they knew or had reason to believe were liable to confiscation under Section 111 of the Customs Act, 1962, have rendered themselves liable for penalty under **Section 112(b)(i)** of the Customs Act, 1962. I further find that imposition of penalty simultaneously under both Section 112(a) and Section 112(b) of the Act would amount to double penalty for the same act, which is not warranted. I therefore refrain from imposing penalty under Section 112(a) of the Act.

**27.3.4** Further, I find that M/s Shivshakti Shipping and Shri Ruparel Ketan, in view of their admission of the CRCL test reports in the statement dated 10.07.2024 and their active role in facilitating the customs clearance of the impugned goods, knowingly and intentionally caused to be used documents which were false and incorrect in material particulars, thereby rendering themselves liable for penalty under **Section 114AA** of the Customs Act, 1962.

#### **PENALTY ON M/S AASHIRVAD SHIPPING & LOGISTICS (NOTICEE NO. 5)**

**27.4.1** Regarding the proposed penalty on M/s Aashirvad Shipping & Logistics, I find that their role in the present case was that of an infrastructure provider to M/s Shivshakti Shipping and Shri Ruparel Ketan. As established from the statement of Shri Ruparel Ketan and the financial trail of agency charges, M/s Aashirvad provided their office premises, infrastructure and employees, specifically Shri Barri Praveen to facilitate the customs clearance operations of petroleum product consignments of M/s Shree Hari Krupa Petrochem. M/s Shivshakti Shipping is registered at the address of M/s Aashirvad Shipping & Logistics, and the billing arrangement was such that M/s Aashirvad first raised the invoice on the importer

for the entire agency charges, thereafter passing on the major portion to M/s Shivshakti Shipping and retaining 25% for themselves.

**27.4.2** The Noticee has submitted that the arrangement was merely one of office-sharing between friends of long standing and that they had no knowledge of the nature of goods being cleared. I find this submission not tenable. The scope of the arrangement involving document processing through their employee Shri Barri Praveen, invoice-raising on the importer, and retention of a share of agency charges goes far beyond a mere informal office-sharing arrangement. Further, I note that although the statement of M/s Aashirvad Shipping & Logistics was not recorded by DRI, this does not absolve the Noticee of liability, as their role is duly established from the statements of co-noticees, particularly Shri Ruparel Ketan, and the financial trail of agency charges on record.

**27.4.3** I find that M/s Aashirvad Shipping & Logistics, by allowing their office, infrastructure and employees to be used for the customs clearance of goods which they knew or had reason to believe were liable to confiscation under Section 111 of the Customs Act, 1962, are liable to penalty under **Section 112(b)(i)** of the Customs Act, 1962. I further find that imposition of penalty simultaneously under both Section 112(a) and Section 112(b) of the Act would amount to double penalty for the same act, which is not warranted. I therefore refrain from imposing penalty under Section 112(a) of the Act.

**27.4.4** Further, I find that M/s Aashirvad Shipping & Logistics, by providing their office premises, infrastructure and employees for the purpose of facilitating customs clearance of goods which were mis-declared, and by raising invoices on the importer and retaining a share of the agency charges in connection therewith, were knowingly concerned in the use of documents which were false and incorrect in material particulars, thereby rendering themselves liable for penalty under **Section 114AA** of the Customs Act, 1962.

### **ORDER**

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

**28.1 Classification and Confiscation:**

(i) I order to reject the declared classification of the impugned goods i.e. 'High Flash High Speed Diesel Fuel (HFHSD) conforming to IS:16861' having total quantity 199.570 MTs mis-declared as 'Mixed Hydrocarbon Oil' under Customs Tariff Item 27101990, imported vide Bill of Entry No. 2148664 dated 15.02.2024, and order to re-classify the same under Customs Tariff Item 27101949.

(ii) I order to reject the declared classification of the impugned goods i.e. 'Automotive Diesel Fuel conforming to IS:1460' having total quantity 583.690 MTs mis-declared as 'Mixed Hydrocarbon Oil' under Customs Tariff Item 27101990, imported vide Bill of Entry Nos. 2083192 dated 10.02.2024, 2100062 dated 12.02.2024 and 2043286 dated 08.02.2024, and order to re-classify the same under Customs Tariff Item 27101944.

(iii) I order to reject the declared classification of the impugned goods i.e. 'Gas Oil' having total quantity 189.615 MTs mis-declared as 'Mixed Hydrocarbon Oil' under Customs Tariff Item 27101990, imported vide Bill of Entry No. 9999773 dated 06.02.2024, and order to re-classify the same under Customs Tariff Item 27101941.

(iv) I order to confiscate the impugned goods i.e. Automotive Diesel Fuel (IS:1460) (583.690 MTs), High Flash High Speed Diesel Fuel (IS:16861) (199.570 MTs) and Gas Oil (189.615 MTs) imported by M/s Shree Hari Krupa Petrochem in 50 containers covered under 5 Bills of Entry bearing Nos. 2148664 dated 15.02.2024, 2083192 dated 10.02.2024, 2100062 dated 12.02.2024, 2043286 dated 08.02.2024 and 9999773 dated 06.02.2024, having declared value of **Rs. 7,39,21,026/-** (Rupees Seven Crore Thirty Nine Lakhs Twenty One Thousand and Twenty Six Only), seized vide Seizure Memorandums dated 13.09.2024 and 08.10.2024, under Sections 111(d), 111(f), 111(l) & 111(m) of the Customs Act, 1962. However, I give an option to M/s Shree Hari Krupa Petrochem to redeem the said goods only for **re-export** upon payment of Redemption Fine of **Rs. 73,00,000/-** (Rupees Seventy Three Lakh Only) under the provisions of Section 125 of the Customs Act, 1962.

## **28.2 Penalties under Section 112 of the Customs Act, 1962:**

(i) I impose a penalty of **Rs. 36,00,000/-** (Rupees Thirty Six Lakh Only) on M/s Shree Hari Krupa Petrochem (Noticee No. 1) under Section 112(a)(i) of the Customs Act, 1962. I do not impose penalty under Section 112(b) for reasons discussed above.

(ii) I impose a penalty of **Rs. 2,00,000/-** (Rupees Two Lakh Only) on M/s Gaurav M. Jhaveri, Customs Broker (Noticee No. 2) under Section 112(a)(i) of the Customs Act, 1962. I do not impose penalty under Section 112(b) for reasons discussed above.

(iii) I impose a penalty of **Rs. 1,00,000/-** (Rupees One Lakh Only) on M/s Shivshakti Shipping (Noticee No. 3) under Section 112(b)(i) of the Customs Act, 1962. I do not impose penalty under Section 112(a) for reasons discussed above.

(iv) I impose a penalty of **Rs. 50,000/-** (Rupees Fifty Thousand Only) on Shri Ruparel Ketan, Partner of M/s Shivshakti Shipping (Noticee No. 4) under Section 112(b)(i) of the Customs Act, 1962. I do not impose penalty under Section 112(a) for reasons discussed above.

(v) I impose a penalty of **Rs. 50,000/-** (Rupees Fifty Thousand Only) on M/s Aashirvad Shipping & Logistics (Noticee No. 5) under Section 112(b)(i) of the Customs Act, 1962. I do not impose penalty under Section 112(a) for reasons discussed above.

### **28.3 Penalties under Section 114AA of the Customs Act, 1962:**

(i) I impose a penalty of **Rs. 1,00,000/-** (Rupees One Lakh Only) on M/s Shree Hari Krupa Petrochem (Noticee No. 1) under Section 114AA of the Customs Act, 1962.

(ii) I impose a penalty of **Rs. 50,000/-** (Rupees Fifty Thousand Only) on M/s Gaurav M. Jhaveri, Customs Broker (Noticee No. 2) under Section 114AA of the Customs Act, 1962.

(iii) I impose a penalty of **Rs. 25,000/-** (Rupees Twenty Five Thousand Only) on M/s Shivshakti Shipping (Noticee No. 3) under Section 114AA of the Customs Act, 1962.

(iv) I impose a penalty of **Rs. 25,000/-** (Rupees Twenty Five Thousand Only) on Shri Ruparel Ketan, Partner of M/s Shivshakti Shipping (Noticee No. 4) under Section 114AA of the Customs Act, 1962.

(v) I impose a penalty of **Rs. 10,000/-** (Rupees Ten Thousand Only) on M/s Aashirvad Shipping & Logistics (Noticee No. 5) under Section 114AA of the Customs Act, 1962.

29. This Order is issued without prejudice to any other action that may be taken against any of the Noticees under the provisions of the Customs Act, 1962, or rules made thereunder, or under the Petroleum Act, 1934, or any other law for the time being in force.

30. The Show Cause Notice issued vide F.No. VIII/48-05/ADJ/ADC/MCH/2024-25 dated 13.02.2025 is hereby disposed of on the above terms.

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

To,

**1. M/s Shree Hari Krupa Petrochem (IEC- GORPS2205Q)**

Address 1: Ground Floor, Office No.10,  
Madhav Palace, Plot No.55, Sector 8,  
Gandhidham, Kachchh, Gujarat - 370 201

Address 2: VPO- Aniyari Tal- Dwarka, Aniyari,  
Dwarka - 361 335

**2. M/s Gaurav M.Jhaveri**

Address 1: 305/306 Sai Sadan 3<sup>rd</sup> floor 76/78  
Modi Street Fort, Mumbai, Maharashtra - 400 001

Address 2: 105/7, 4<sup>th</sup> Floor, Damodar Building,  
Princess Street, Kalba devi, Mumbai,  
Maharashtra - 400 002

**3. M/s Shivshakti Shipping.**

Office No 69, 2nd Floor, Grain,  
Merchant Association Building, Plot No 297,  
Ward 12/B, Near Old Court, Gandhidham - 370 201

**4. Shri Ruparel Ketan Partner of M/s Shivshakti Shipping**

137, Rameshwar Nagar, Ward-12, Anjar, Kachchh,  
Anjar, Gujarat - 370 110

**5. M/s Ashirwad Shipping & Logistics,**

Office No 69, 2nd Floor, Grain,  
Merchant Association Building, Plot No 297,  
Ward 12/B, Near Old Court, Gandhidham - 370 201

**Copy to:**

1. The Deputy Director, DRI, Noida Regional Unit, Noida (E-mail: dri-noida@gov.in)
2. The Dy./Asstt. Commissioner (RRA/TRC), Customs House, Mundra
3. The Dy./Asstt. Commissioner (EDI), Customs House, Mundra
4. The Deputy/Assistant Commissioner of Customs, Group-I, Custom House, Mundra
5. Guard File