

		<p>प्रधान आयुक्त का कार्यालय, सीमा शुल्क सदन, मुन्द्रा  <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: adj-mundra@gov.in</p>
A	फा /सं. FILE NO.	GEN/ADJ/ADC/413/2025-Adjn-O/o Pr Commr-Cus-Mundra
B	मूल आदेश सं. ORDER-IN- ORIGINAL NO.	MCH/ADC/ZDC/57/2026-27
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	28-04-2026
E	जारी करने की तिथि DATE OF ISSUE	28-04-2026
F	कारण बताओ नोटिस सं एवं तिथि . SCN NO. & DATE	GEN/ADJ/ADC/413/2025-Adjn dated 10.02.2025
G	नोटिसीपार्टी / आयातक/ NOTICEE/PARTY/ IMPORTER	M/s. 18 International (IEC No. AJUPA3490K), First Floor, Plot No. 211, Office No. 10, Shah Avenue-11, Ward 12/B, Gandhidham, Gujarat - 370 201
H	डिन DIN	20260471MO000000DC25

- यह अपील आदेश संबन्धित को निःशुल्क प्रदान किया जाता है।  
This Order - in - Original is granted to the concerned free of charge.
- यदि कोई व्यक्ति इस अपील आदेश से असंतुष्ट है तो वह सीमा शुल्क अपील नियमावली 1982 के नियम 6(1) के साथ पठित सीमा शुल्क अधिनियम 1962 की धारा 129A(1) के अंतर्गत प्रपत्र सीए3-में चार प्रतियों में नीचे बताए गए पते पर अपील कर सकता है-  
Any person aggrieved by this Order - in - Original may file an appeal under Section 128 A of Customs Act, 1962 read with Rule 3 of the Customs (Appeals) Rules, 1982 in quadruplicate in Form C. A. -1 to:  
"सीमा शुल्क आयुक्त) अपील(, चौथी मंजिल, हुडको बिल्डिंग, ईश्वर भुवन रोड, नवरंगपुरा, अहमदाबाद 380009"  
"The Commissioner of Customs (Appeals), Mundra, 4<sup>TH</sup> Floor, Hudco Building, Ishwar Bhuvan Road, Navrangpura, Ahmedabad-380009."
- उक्त अपील यह आदेश भेजने की दिनांक से तीन माह के भीतर दाखिल की जानी चाहिए।  
Appeal shall be filed within three months from the date of communication of this order.
- उक्त अपील के पर न्यायालय शुल्क अधिनियम के तहत 5 -/रुपए का टिकट लगा होना चाहिए और इसके साथ निम्नलिखित अवश्य संलग्न किया जाए -  
Appeal should be accompanied by a fee of Rs. 5/- under Court Fee Act it must accompanied by -
- उक्त अपील पर न्यायालय शुल्क अधिनियम के तहत 5/- रुपये 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

M/s. 18 International (IEC:AJUPA3490K) (hereinafter also referred to as "the Importer"), having address at First Floor, Plot No. 211, Office No. 10, Shah Avenue-11, Ward 12/B, Gandhidham, filed Bill of Entry No. 5020653 dated 12.08.2024 at Mundra Port. Intelligence gathered by the Directorate of Revenue Intelligence (DRI), indicated that the said importer had tried to import Diesel/Light Diesel Oil by mis-declaring the same as Distillate Oil. The import of Diesel/Light Diesel Oil into India is restricted and only State Trading Enterprises are allowed to import the subject goods as per Foreign Trade Policy. Details of the said consignment is as under:

**Table-I**

<b>Bill of Entry No.</b>	5020653 dated 12.08.2024 (INMUN1)
<b>Bill of Lading No.</b>	ARGJEAMUN2401251 dated 07.08.2024
<b>Declared Goods</b>	Distillate Oil HS Code: 27101961
<b>Customs Broker</b>	M/s. Gaurav M. Jhaveri
<b>Assessable Value</b>	Rs. 1,10,00,877/-
<b>Country of Origin</b>	UAE
<b>Container No.</b>	14 Containers as per Bill of Lading
<b>Supplier</b>	D1 Global General Trading LLC, Dubai, UAE

2 . Accordingly, after approval of the competent authority, the above said consignment was put on hold by the DRI on 14.08.2024. Further, Examination of the 14 containers covered under the said consignment was carried out by the DRI under panchnama dated 20.08.2024 in presence of the representative of the Customs Broker, at M/s CWC CFS (M/s Speedy Multimodes Ltd.). During the said examination proceedings, representative samples, in duplicate, were also drawn from each of the 14 containers, for testing to ascertain the exact nature of the import goods in the said consignment.

### **3. Testing and Seizure:**

3.1 The 14 representative samples were sent to Central Excise and Customs Laboratory (CECL), Vadodara for testing of the same. CECL, Vadodara submitted their test reports dated 15.10.2024 in respect of the said 14 samples. The said test reports in respect of **all of the 14 samples**, on the basis of the tested parameters by the CECL Vadodara, indicated that *"the sample meets the requirement of Petroleum Hydrocarbon Solvent 145/205 as per IS 1745:2018."*

3.2 Import of "Petroleum Hydrocarbon Solvent 145/205", is restricted into India, and the same can only be imported subject to Policy Condition No. 5 of Chapter 27. Therefore, it appeared that said importer has imported restricted goods i.e. **"Petroleum Hydrocarbon Solvent 145/205"** by mis-declaring the same as "distillate oil" under the said consignment. Accordingly, there being a reasonable belief that the said goods were liable for confiscation under the provisions of Section 111 of the Customs Act, the same were placed under seizure under Section 110 of the Customs Act, 1962, vide Seizure Memo dated 17.10.2024.

### **4. Investigation and recording of statements:**

4.1. Letter dated 17.09.2024 and subsequent reminders were sent to Shipping Agent M/s Sky Bliss Shipping Agency Pvt. Ltd., Gandhidham requesting to provide copies of all the documents i.e. Customs declaration, etc. submitted to the shipping line M/s Argo Anchor Shipping LLC by the shipper M/s. D1 Global General Trading LLC, Dubai, UAE located in UAE in case of the subject Bill of Lading No. ARGJEAMUN2401251 dated 31.07.2024, however no information/reply was received from the said Shipping Agent.

4.2 Statement of Shri Ahir Jiten Navinbhai, proprietor of M/s. 18 International was recorded on 09.10.2024, during which he interalia, stated that his firm was primarily engaged in the trading of Distillate Oil. Shri Ahir stated that the firm sells the product to buyers based on their requirements, who used it primarily for boilers and other burning purposes. His firm exclusively imported Distillate Oil, with around 10 consignments imported to date at Mundra Port. The supplier of this particular shipment was M/s. D-1 Global General Trading LLC, based in Dubai, UAE. Shri Ahir disclosed that he personally placed the order for this consignment. When asked about correspondence with the supplier, Shri Ahir stated that no email communication was conducted with the supplier, as all interactions were telephonic. Documents related to the import were also shared over the phone. Shri Ahir submitted copies of the bill of lading, analysis report, invoice, packing list and Certificate of Origin as supporting documents for the import transaction. Upon being presented with reports from the Central Excise and Customs Laboratory, Vadodara, Shri Ahir reviewed the findings and acknowledged their conclusions. The laboratory tested samples from the imported consignment under Test Memo Nos. 329/2024 to 342/2024. The results indicated that the samples met the requirements of Petroleum Hydrocarbon Solvent 145/205 as per IS 1745:2018. Shri Ahir was also informed that this product is restricted for import under Policy Condition No. 5 of Chapter 27 of the ITC (HS) Import Policy.

4.3 In his said statement, Shri Ahir accepted the test report findings and opted against re-testing. He clarified that his firm had been regularly importing Distillate

Oil and suggested that the incorrect specification might be due to an error on the part of the supplier. He submitted an analysis report provided by the supplier, which described a different specification than that indicated by the Customs Laboratory test. He also committed to providing the shipping declaration made by the overseas supplier at UAE Customs within 2-3 days after obtaining it from the supplier. In response to questions about the discrepancy between the specifications submitted by his firm and the test results from the Customs Laboratory, Shri Ahir admitted that it appeared the supplier had cheated them by providing goods of specifications different from those promised. He noted that the supplier's provided specifications indicated a flash point of 51 degrees Celsius, an initial boiling point (IBP) of 161 degrees Celsius, and a final boiling point (FBP) of 417 degrees Celsius. However, the Customs Laboratory test results showed a flash point of 39 degrees Celsius and an IBP and FBP range of 157 to 200 degrees Celsius. He reiterated his intention to address this discrepancy with the supplier.

**4.4** Statement of Shri Gaurav Madhusudan Jhaveri, an 'F Card' holder of Customs Broker M/s. Gaurav M. Jhaveri, was recorded on 29.11.2024, during which he interalia, stated that he obtained his 'F Card' in 2010 from Mumbai Customs House and currently operated at various ports and locations, including Nhava Sheva, Sahar Air Cargo, Mundra, Kandla, and others. The Head Office of his firm was in Mumbai, where all operations and documentation, such as Bills of Entry and Shipping Bills, were processed under his supervision. Regarding his non-appearance against the summons dated 29.10.2024, Shri Jhaveri explained that he was occupied with a family function and the Maharashtra assembly elections, which prevented his attendance. When asked about the import by M/s. 18-International, Shri Jhaveri stated that he filed the Bill of Entry based on documents and declarations provided by the importer. These documents included a chemical analysis/test report and other import-related paperwork, which declared the goods as Distillate Oil under CTH 27101961. On being shown the statement of Shri Ahir Jiten Navinbhai, proprietor of M/s.18-International, dated 09.10.2024, Shri Jhaveri affirmed its content and signed it. He also acknowledged the test reports from the Central Excise and Customs Laboratory, Vadodara, which classified the imported goods as Petroleum Hydrocarbon Solvent 145/205. He accepted that the said item was restricted for import as per Policy Condition No. 5 of Chapter 27 of the ITC (HS) Import Policy and noted that the importer had opted not to re-test the said goods. On the issue of mis-declaration, Shri Jhaveri stated that he was unaware of any discrepancies and relied entirely on the documents and information provided by the importer when filing the import paperwork.

## **5. Findings of the investigation:**

**5 . 1** The Directorate of Revenue Intelligence (DRI) gathered intelligence that M/s 18 International, Gandhidham had misdeclared the import goods in an import consignment, covered under Bill of Entry No. 5020653 dated 12.08.2024 filed at Mundra, was declared to contain "Distillate Oil," classified under HS Code 27101961. The intelligence indicated that the consignment, shipped from the UAE by M/s. D1 Global General Trading LLC, was suspected to contain Diesel or Light Diesel Oil – products restricted for import under India's Foreign Trade Policy.

5 . 2 After approval from the competent authority, the DRI initiated the investigation into the matter and put the consignment on hold on 14.08.2024 and conducted a detailed examination of the 14 containers on 20.08.2024 at M/s CWC CFS (M/s Speedy Multimodes Ltd.). During the examination, representative samples were drawn from each container and sent to the Central Excise and Customs Laboratory (CECL) in Vadodara for testing. The test results, dated 15.10.2024, revealed that the goods met the specifications of "**Petroleum Hydrocarbon Solvent 145/205**" as per IS 1745:2018. This said product was restricted for import into India, requiring compliance with Policy Condition No. 5 of Chapter 27 under the ITC (HS) Import Policy. Given the restricted nature of the goods and the apparent misdeclaration, the consignment was seized under Section 110 of the Customs Act, 1962, on 17.10.2024, as it was liable for confiscation under Section 111.

5 . 3 The CECL test results revealed significant discrepancies between the declared and actual specifications of the imported goods. The declared product, "Distillate Oil," was described under HS Code 27101961, while the laboratory's findings confirmed the goods to be "Petroleum Hydrocarbon Solvent 145/205," falling under HS Code 27101239. The reported properties, such as flash point and boiling point ranges, also deviated from the specifications declared by the importer.

5 . 4 During further investigation, the DRI recorded statements from key individuals involved in the transaction, including Shri Ahir Jiten Navinbhai, the proprietor of M/s. 18 International, and Shri Gaurav Madhusudan Jhaveri, the customs broker who facilitated the import. Shri Ahir's statement was recorded on 09.10.2024. He stated that his firm specialized in the trading of "Distillate Oil" and had imported approximately 10 consignments at Mundra Port prior to this shipment. The supplier for this consignment was M/s. D1 Global General Trading LLC, based in Dubai. Shri Ahir disclosed that he personally placed the order and handled all communications with the supplier via telephone, with no email correspondence or written agreements. Supporting documents for the transaction, including an analysis report, invoice, packing list, and overseas declaration made at Sharjah Customs, were provided to substantiate the import.

5.5 Upon being presented with the CECL test results, Shri Ahir acknowledged the findings and opted against re-testing the samples. He suggested that the discrepancy in product specifications might have been due to an error on the supplier's part. He provided an analysis report from the supplier, which indicated different specifications than those found in the CECL test. Specifically, the supplier's report showed a flash point of 51 degrees Celsius, an initial boiling point (IBP) of 161 degrees Celsius, and a final boiling point (FBP) of 417 degrees Celsius, while the CECL test reported a flash point of 39 degrees Celsius and an IBP-FBP range of 157-200 degrees Celsius. Shri Ahir admitted that the supplier might have provided goods that did not conform to the declared specifications and committed to addressing the issue with the supplier.

5 . 6 The DRI also recorded the statement of Shri Gaurav Madhusudan Jhaveri, an 'F Card' holder and the customs broker for the consignment, on 29.11.2024. Shri

Jhaveri explained that he had been operating as a customs broker since 2010, with his firm handling import and export operations at several major ports, including Mundra and Nhava Sheva. He stated that the Bill of Entry for this consignment was filed based on the documents and declarations provided by the importer, including a chemical analysis report and other import-related documents that declared the goods as "Distillate Oil" under HS Code 27101961.

5.7 Shri Jhaveri acknowledged the findings of the CECL test and confirmed that the imported goods were classified as "Petroleum Hydrocarbon Solvent 145/205" under HS Code 27101239. He admitted that the product was restricted for import under Policy Condition No. 5 of Chapter 27 and noted that the importer had opted not to re-test the goods. However, Shri Jhaveri denied any knowledge of discrepancies in the declared and actual specifications of the goods, asserting that he had relied entirely on the information provided by the importer.

5 . 8 During the investigation, the DRI issued letters and reminders to the shipping agent, M/s. Sky Bliss Shipping Agency Pvt. Ltd., requesting documentation submitted to the shipping line, M/s. Argo Anchor Shipping LLC, by the supplier, M/s. D1 Global General Trading LLC. Despite repeated follow-ups, the shipping agent failed to provide the requested information, hampering efforts to trace the source of the discrepancy.

5 . 9 From the investigation carried out by the DRI, it was revealed that the imported goods covered under Bill of Entry No. 5020653 dated 12.08.2024 filed at Mundra, were misdeclared by M/s. 18 International to circumvent import restrictions. The importer's proprietor, Shri Ahir Jiten Navinbhai, admitted to the findings but attributed the misdeclaration to the supplier's error. The customs broker, Shri Gaurav Madhusudan Jhaveri, acknowledged the restricted nature of the goods but claimed he was unaware of any discrepancies and acted based on the importer's declarations.

## 6. Relevant Legal Provisions:

6.1. Para 2.21 of the Foreign Trade Policy, 2023 reads as under:

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

*(a) State Trading Enterprises (STEs) are governmental and non-governmental enterprises, including marketing boards, which deal with goods for export and/or import. Any good, import or export of which is governed through exclusive or special privilege granted to State Trading Enterprise (STE), may be imported or exported by the concerned STE as per conditions specified in ITC (HS). The list of STEs notified by DGFT is in Appendix-2J.*

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

*(c) DGFT may, however, grant an authorisation to any other entity to import or*

*export any of the goods notified for exclusive trading through STEs.”*

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

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

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

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

...

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

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

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

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

**SECTION 112 of the Customs Act. Penalty for improper importation of goods, etc.**

*Any person, -*

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

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

*shall be liable, -*

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

(ii) in the case of dutiable goods, other than prohibited goods, subject to the provisions of section 114A, to a penalty not exceeding ten per cent. of the duty sought to be evaded or five thousand rupees, whichever is higher:

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

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

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

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

**SECTION 114AA. Penalty for use of false and incorrect material.** - If a person knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular, in the transaction of any business for the purposes of this Act, shall be liable to a penalty not exceeding five times the value of goods.

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

(i) Whenever confiscation of any goods is authorised by this Act, the officer adjudging it may, in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods [or, where such owner is not known, the person from whose possession or custody such goods have been seized,] an option to pay in lieu of confiscation such fine as the said officer thinks fit:

**6.4** Import of "Petroleum Hydrocarbon Solvent 145/205" into India is subject to Policy Condition No. 5 of Chapter 27 of Customs Tariff, which is produced above, therefore, the importer has violated the provisions of import of the said imported goods, since the importer is not an STE and neither possesses a license to import

the same. Therefore, it appears that the importer has violated the provisions of the Customs Act, 1962, by importing restricted import goods, as discussed in foregoing paras, and rendered the said goods liable for confiscation under the Customs Act, 1962.

## **7. Valuation:**

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

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

*“Rule 12. Rejection of declared value. -*

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

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

*Explanation. -*

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

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

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

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

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

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

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

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

- country of origin, year of manufacture or production;*
- (e) the non-declaration of parameters such as brand, grade, specifications that have relevance to value;*
- (f) the fraudulent or manipulated documents."*

**7 . 2** The Value is required to be re-determined by sequentially proceeding in terms of Rules 3 to 9 of CVR, 2007. The relevant Rules of CVR, 2007 are reproduced hereunder:

**3. Determination of the method of valuation. -**

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

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

*(a) there are no restrictions as to the disposition or use of the goods by the buyer other than restrictions which - (i) are imposed or required by law or by the public authorities in India; or (ii) limit the geographical area in which the goods may be resold; or (iii) do not substantially affect the value of the goods;*

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

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

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

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

*(b) In a sale between related persons, the transaction value shall be accepted, whenever the importer demonstrates that the declared value of the goods being valued, closely approximates to one of the following values ascertained at or about the same time. (i) the transaction value of identical goods, or of similar goods, in sales to unrelated buyers in India; (ii) the deductive value for identical goods or similar goods; (iii) the computed value for identical goods or similar goods:*

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

**4. Transaction value of identical goods. -**

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

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

*(c) Where no sale referred to in clause (b) of sub-rule (1), is found, the transaction value of identical goods sold at a different commercial level or in different quantities or both, adjusted to take account of the difference attributable to commercial level or to the quantity or both, shall be used, provided that such adjustments shall be made on the basis of demonstrated evidence which clearly establishes the reasonableness and accuracy of the adjustments, whether such adjustment leads to an increase or decrease in the value.*

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

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

**7.3** On going through the import data for the said period, it was found that value of the import goods which have been declared as Petroleum Hydrocarbon Solvent 145/205, was available. It was noticed that the average import value of such import goods, was declared to be around USD 1.5 per Kg (Rs. 126.90 as per exchange rate of Rs. 84.6 Per USD). Thus, as per Rule 4 of CVR, 2007, the same value can be taken for the offending goods in this case.

**7.4.** As per the facts discussed in foregoing paras, the consignment imported in this case vide aforesaid Bill of Entry was reported to be "Petroleum Hydrocarbon Solvent 145/205" as per Test Reports of CECL, Vadodara. The outcome of Test Reports of CECL, Vadodara and end use of the subject goods gathered during investigation give reason to believe that the value of the goods reflected in the invoice provided by the importer with Customs authorities at Mundra port is not reflecting the actual value of the subject goods i.e. "Petroleum Hydrocarbon Solvent 145/205" since the goods is mis-declared in the BE. In view of these facts, the declared value of **Rs. 1,10,00,877/-**, cannot be considered true and accurate "transaction value" for the purposes of section 14 of Customs Act, 1962 and is liable to be rejected in terms of Rule 12 of the CVR, 2007, as above.

**7 . 5 .** Accordingly, for valuation purpose, in order to arrive at a fair and reasonable value of the subject goods in question within the framework of law and procedures as ordained in the Valuation Rules, import data of the goods "Petroleum Hydrocarbon Solvent 145/205" was referred, and it was noticed that the average import price of such goods, covered under CTH 27101239 was found to be around USD 1.5 Kg. (Rs.126.90 as per exchange rate of Rs. 84.6 Per USD), during the said period, while the declared value of the import consignment was around Rs. 1.837 AED (approx. Rs.43.22 per Kg.). Accordingly, the re-determined value of the consignment as per the said import data, of "Petroleum Hydrocarbon Solvent 145/205", having total quantity of 254.56 MT, is **Rs. 3,23,03,664/-**, in terms of provisions of Rule 4 (Transaction value of identical goods), of the CVR, 2007.

## **8. Confiscation of the goods:**

**8.1** M/s 18 International, Gandhidham imported a consignment, covered under Bill of Entry No. 5020653 dated 12.08.2024 filed at Mundra, which was declared to

contain "Distillate Oil," classified under HS Code 27101961. On testing of the samples drawn from the said consignment, the import goods were found to be "**Petroleum Hydrocarbon Solvent 145/205**", falling under HS Code 27101239. Therefore, the said misdeclared goods having declared value of **Rs. 1,10,00,877/-**, and re-determined as **Rs. 3,23,03,664/-**, in terms of provisions of Rule 4 (Transaction value of identical goods), of the CVR, 2007, appear to be liable for confiscation under Section 111 (f), 111(l) and Section 111(m) of the Customs Act, 1962.

**8.2** Further, import of "Petroleum Hydrocarbon Solvent 145/205", is restricted into India, and the same can only be imported subject to Policy Condition No. 5 of Chapter 27 of Customs Tariff, which stipulates that only State Trading Enterprises are allowed to import the same. Therefore, it appeared that said importer has imported restricted goods i.e. "**Petroleum Hydrocarbon Solvent 145/205**" by mis-declaring the same as "distillate oil" under the said consignment. Therefore the said goods having declared value of **Rs. 1,10,00,877/-**, and re-determined as **Rs. 3,23,03,664/-**, in terms of provisions of Rule 4 (Transaction value of identical goods), of the CVR, 2007, appear to be liable for confiscation under Section 111(d) of the Customs Act, 1962.

#### **Role played by various firms/persons:**

#### **9. M/s 18 International, First Floor, Plot No. 211, Office No. 10, Shah Avenue-11, Ward 12/B, Gandhidham (Importer):**

**9.1** M/s 18 International, Gandhidham imported a consignment, covered under Bill of Entry No. 5020653 dated 12.08.2024 filed at Mundra, by mis-declaring the import goods as "Distillate Oil," classified under HS Code 27101961. During investigation by the DRI, it was found that the actual goods covered under the said consignments was "Petroleum Hydrocarbon Solvent 145/205", which was restricted for import into India and only allowed to be imported through STEs, subject to Policy Condition No. 5 of the Customs Tariff.

**9.2** During the investigation, the proprietor of the importer Shri Ahir Jiten Navinbhai, accepted the mis-classification and agreed to the test reports and he had placed ordered for Distillate Oil only. He produced documents received from the shipper and claimed that the mis-classification and mis-declaration appeared due to some error on the part of the shipper. He stated that the supplier might have shipped goods which did not conform to the specifications as given in the documents shared by the shipper with him.

**9.3** Therefore, it appears that M/s. 18 International, by filing incorrect declarations and failing to ensure proper classification of the goods, violated several provisions concerning the importation of such restricted goods, and classification of the same, thus rendering the said goods liable for confiscation under the provisions of the Section 111 of the Customs Act, 1962. Therefore, M/s 18 International have made themselves liable for penalty under Section 112(a), and 112(b) of the Customs Act, 1962.

**9.4** Furthermore, M/s 18 International have deliberately filed false and incorrect documents with the Customs Authorities, suppressing the actual nature of the goods, in order to import restricted goods, M/s 18 International are also liable for penalty under Section 114AA of the Customs Act, 1962.

**10.** Accordingly, Show Cause Notice issued vide F. No. GEN/ADJ/ADC/413/2025-Adjn dated 10.02.2025 was issued to the importer M/s. 18 International (IEC: AJUPA3490K) calling upon it to show cause as to why:

**(i)** The classification of goods covered under Bill of Entry No. 5020653 dated 12.08.2024 filed at Mundra Port, declared as 'Distillate Oil', under CTH 27101961, should not be rejected and the same should not be reclassified as 'Petroleum Hydrocarbon Solvent 145/205' under CTH 27101239.

**(ii)** The declared value of the said goods declared as Distillate Oil, as Rs. **1,10,00,877/-** should not be rejected in terms of Rule 12 of the CVR, 2007 and the same should not be re-determined as **Rs. 3,23,03,664/-**, in terms of provisions of Rule 4 (Transaction value of identical goods), of the CVR, 2007.

**(iii)** The goods declared as Distillate Oil, under the Bill of Entry No. 5020653 dated 12.08.2024 filed at Mundra Port, should not be held liable for confiscation under Section 111(d), 111(f), 111(l) and 111(m) of the Customs Act, 1962.

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

#### WRITTEN SUBMISSION

**11.** The importer M/s 18 International vide their letter dated 16.04.2026 has submitted the following:

*"..... we hereby submit that we are willing to re-export the above-mentioned goods back to the supplier. We request your good office to kindly grant permission for re-export of the goods.*

*We respectfully request you to kindly consider our application and grant approval for re-export at the earliest.*

*Please kindly decide the case on merit basis and we do not need nay Personal Hearing in this matter."*

#### PERSONAL HEARING

**12.** The Noticee M/s. 18 International, vide their letter dated 16.04.2026, has requested waiver of Personal Hearing in the matter.

#### DISCUSSION AND FINDINGS

**13.** I have carefully gone through the Show Cause Notice dated 10.02.2025, the written submission dated 16.04.2026 made by the Noticee and all documentary

evidence available on record. The principles of natural justice stand duly complied with as the Noticee has been afforded opportunity to present their case through written submissions. The Noticee has requested for waiver of personal hearing. I accordingly proceed to decide the case on the basis of the facts, evidence on record and the submissions made by the Noticee.

(i) Whether the classification of goods covered under Bill of Entry No. 5020653 dated 12.08.2024 filed at Mundra Port, declared as 'Distillate Oil' under CTH 27101961, is liable to be rejected and the goods reclassified as 'Petroleum Hydrocarbon Solvent 145/205' under CTH 27101239.

(ii) Whether the declared value of the said goods of **Rs. 1,10,00,877/-** is liable to be rejected in terms of Rule 12 of the CVR, 2007 and re-determined as **Rs. 3,23,03,664/-** in terms of Rule 4 (Transaction value of identical goods) of the CVR, 2007.

(iii) Whether the goods declared as 'Distillate Oil' under Bill of Entry No. 5020653 dated 12.08.2024 are liable for confiscation under Section 111(d), 111(f), 111(l) and 111(m) of the Customs Act, 1962.

(iv) Whether penalties are imposable upon M/s. 18 International under Sections 112(a), 112(b) and 114AA of the Customs Act, 1962.

#### **14. CLASSIFICATION**

**14.1** Regarding the first issue, I find that M/s. 18 International filed Bill of Entry No. 5020653 dated 12.08.2024 at Mundra Port declaring the description of the goods as 'Distillate Oil' and classifying the same under CTH 27101961. During examination, samples were drawn from all 14 containers covered under the said Bill of Entry and sent to Central Excise and Customs Laboratory (CECL), Vadodara for testing.

**14.2** The CECL, Vadodara submitted test reports dated 15.10.2024 in respect of all 14 samples. The said test reports conclusively indicated that "*the sample meets the requirement of Petroleum Hydrocarbon Solvent 145/205 as per IS 1745:2018*". The CECL findings thus unequivocally confirm that the imported goods are not 'Distillate Oil' as declared, but are 'Petroleum Hydrocarbon Solvent 145/205' as per IS 1745:2018. A significant deviation was also noticed between the CECL test reports and the Chemical Analysis Report submitted by the importer, with none of the specifications in the importer's Analysis Report matching the CECL test results. The Importer, in his statement dated 09.10.2024, has accepted the test reports and also refused to opt for re-testing of the samples.

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



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

**14.6** Since the impugned goods have been conclusively found to be 'Petroleum Hydrocarbon Solvent 145/205' as per IS 1745:2018 by the CECL, Vadodara, the same is rightly classifiable under CTH **27101239** as above, instead of the declared CTH 27101961 for the declared description 'Distillate Oil'. The Importer has not disputed the classification as proposed in the SCN. I accordingly hold that the impugned goods are correctly classifiable under CTH **27101239** as 'Petroleum Hydrocarbon Solvent 145/205'.

## 15. VALUATION

**15.1** Regarding the second issue, I find that as the goods have been found to be mis-declared in respect of their description and classification, the value declared by the Importer in the Bill of Entry and invoices cannot be accepted as the true transaction value under Section 14 of the Customs Act, 1962 read with the Customs Valuation (Determination of Value of Imported Goods) Rules, 2007 (CVR, 2007). The grounds for doubting the declared value, as contemplated under Explanation (1)(iii) to Rule 12 of the CVR, 2007, are clearly made out in the present case, namely misdeclaration of goods in parameters such as description and classification [clause (d)], non-declaration of parameters having relevance to value [clause (e)], and fraudulent or manipulated documents [clause (f)]. Accordingly, I find that the declared value of **Rs. 1,10,00,877/-** is liable to be rejected under Rule 12 of the CVR, 2007.

**15.2** I further find that Rule 3(1) of the CVR, 2007 provides that subject to Rule 12, the value of imported goods shall be the transaction value. Since the declared value is liable to be rejected, the value is required to be re-determined by proceeding sequentially through Rules 4 to 9 of the CVR, 2007. I find that contemporaneous import data was available for the relevant period for identical goods declared as 'Petroleum Hydrocarbon Solvent 145/205 as per IS 1745:2018' covered under CTH 27101239, wherein the import value was found to be **USD 1.5 per Kg** (Rs. 126.90 per Kg at the exchange rate of Rs. 84.6 per USD). The Importer had declared the goods at approximately Rs. 1.837 AED (approx. Rs. 43.22 per Kg), which is significantly lower than the comparable contemporaneous import value.

**15.3** I accordingly hold that as per Rule 4 of the CVR, 2007 (Transaction value of identical goods), the unit value of USD 1.5 per Kg is to be adopted for the purpose of valuation of the impugned goods. The re-determined value of the consignment comprising 254.56 MT is accordingly **Rs. 3,23,03,664/-** (Rupees Three Crore Twenty Three Lakh Three Thousand Six Hundred Sixty Four Only). The declared value of Rs. 1,10,00,877/- is hereby rejected under Rule 12 of the CVR, 2007 and the value is re-determined as Rs. 3,23,03,664/- (Rupees Three Crore Twenty Three Lakh Three Thousand Six Hundred Sixty Four Only) under Rule 4 of the CVR, 2007. The Bill of

Entry No. 5020653 dated 12.08.2024 is accordingly to be re-assessed under Section 17(4) of the Customs Act, 1962.

## 16. CONFISCATION

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

**16.2** As regards Section 111(d) of the Customs Act, 1962, I find that the said provision provides for confiscation of any goods which are imported contrary to any prohibition imposed by or under the Customs Act, 1962 or any other law for the time being in force. In the present case, I find that as per Schedule 1 Import Policy under ITC(HS), 2022 for Chapter 27, import of 'Petroleum Hydrocarbon Solvent 145/205 as specified under standard IS 1745' covered under CTH 27101239 is restricted into India and the same can only be imported subject to Policy Condition No. 5 of Chapter 27. The said Policy Condition No. 5, as amended vide DGFT Notification No. 27/2015-2020 dated 19.09.2021, is reproduced below:

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

Notification No. 27/2015-2020  
New Delhi, Dated: 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.

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

“2.20 State Trading Enterprises (STEs)

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

*enterprises, including marketing boards, which deal with goods for export and/or import. Any good, import or export of which is governed through exclusive or special privilege granted to State Trading Enterprise (STE), may be imported or exported by the concerned STE as per conditions specified in ITC (HS). The list of STEs notified by DGFT is in Appendix-2J.*

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

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

In the present case, the importer M/s. 18 International is neither a State Trading Enterprise (STE) nor any authorisation has been granted by DGFT to the Importer for import of said restricted goods. The importer's own proprietor, Shri Ahir Jiten Navinbhai, has in his statement accepted in principle that they are not entitled to import the subject goods. I therefore hold that the goods are liable for confiscation under **Section 111(d)** of the Customs Act, 1962, as goods imported contrary to the restriction imposed under the Foreign Trade Policy.

**16.4** As regards Section 111(m) of the Customs Act, 1962, I find that the said provision provides for confiscation of any goods which do not correspond in respect of value or in any other particular with the entry made under the Act. In the present case, I find that the goods were declared as 'Distillate Oil' under CTH 27101961 at a declared value of **Rs. 1,10,00,877/-**, whereas the actual goods are 'Petroleum Hydrocarbon Solvent 145/205' under CTH 27101239 with a re-determined value of **Rs. 3,23,03,664/-**. The goods thus do not correspond in description, classification and value with the entry made under Bill of Entry No. 5020653 dated 12.08.2024. I accordingly hold that the goods are liable for confiscation under **Section 111(m)** of the Customs Act, 1962.

**16.5** As regards Section 111(f) of the Customs Act, 1962, I find that the said provision provides for confiscation of dutiable or prohibited goods which are required to be mentioned in the import manifest but are not so mentioned. Further, as regards Section 111(l) of the Customs Act, 1962, I find that the said provision provides for confiscation of goods which are not included or are in excess of those included in the entry made under the Act. In the present case, I find that the actual goods, being 'Petroleum Hydrocarbon Solvent 145/205', were neither correctly described in the import manifest nor included as such in the Bill of Entry. The goods were deliberately mis-described so as to avoid the manifest and entry capturing their restricted nature. I accordingly hold that the goods are liable for confiscation under **Section 111(f)** and **Section 111(l)** of the Customs Act, 1962.

**16.6** As I have already held the goods liable for confiscation in the preceding paras under Section 111 of the Customs Act, 1962, I find it necessary to consider as to whether redemption fine under Section 125 of the Customs Act, 1962 is liable to be imposed in lieu of confiscation in respect of the impugned goods. The Section 125 *ibid* reads as under:

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

*in the case of any goods, the importation or exportation whereof is prohibited under this Act or under any other law for the time being in force, and shall, in the case of any other goods, give to the owner of the goods or, where such owner is not known, the person from whose possession or custody such goods have been seized, an option to pay in lieu of confiscation such fine as the said officer thinks fit."*

**16.7** A plain reading of the above provision shows that imposition of redemption fine is an option in lieu of confiscation. It provides for an opportunity to the owner of confiscated goods to redeem the goods by paying redemption fine. In the present case, the Importer M/s. 18 International, vide their letter dated 16.04.2026, has requested permission for re-export of the goods back to the supplier. The goods have remained under customs control at M/s CWC CFS, Mundra and have not been cleared for home consumption.

**16.8** I find that import of 'Petroleum Hydrocarbon Solvent 145/205' is canalized through State Trading Enterprises and requires authorisation under Policy Condition No. 5 of Chapter 27 of the ITC(HS), which the Importer admittedly does not possess. Thus, the issue that arises is not one of absolute prohibition of the goods per se, but of non-fulfilment of the statutory and policy conditions governing their import. The infirmity in the present case lies in the Importer's failure to comply with the prescribed statutory conditions. In the absence of fulfilment of these essential conditions, the goods cannot be permitted to be cleared into the domestic market.

**16.9** I further observe that ordering confiscation without allowance for re-export would not serve any meaningful revenue purpose. Such a course would only result in unnecessary litigation and prolonged detention of containers at the port without yielding any revenue to the Government. The goods in question are not per se banned items; rather, their import is regulated and conditional. The confiscation ordered herein is thus a legal consequence of non-fulfilment of statutory conditions and absence of requisite authorisation.

**16.10** In view of the above discussion, I am of the considered view that the ends of justice would be met by allowing redemption of the subject goods for the limited purpose of re-export. Imposition of redemption fine along with penalty is sufficient to address the violation and convey a clear deterrent message to similarly placed importers. At the same time, this course ensures that the goods do not enter the domestic market in violation of statutory conditions. Therefore, exercising powers under Section 125 of the Customs Act, 1962, I deem it appropriate to allow the Importer an option to redeem the goods for the limited purpose of re-export on payment of redemption fine under the provisions of Section 125 of the Customs Act, 1962.

## **17. PENALTY**

**17.1** Regarding the fourth issue of proposed penalties, I find that Section 112(a) of the Customs Act, 1962 provides for imposition of penalty upon any person who, in relation to any goods, does or omits to do any act which act or omission would render such goods liable to confiscation under Section 111. I have held above that the goods are liable for confiscation under Section 111(d), 111(f), 111(l) and 111(m) of the Customs Act, 1962. M/s. 18 International, by filing a Bill of Entry with incorrect description, incorrect classification and suppressed value for goods which are restricted under Policy Condition No. 5, has clearly rendered the goods liable

to confiscation under Section 111 and has thereby rendered itself liable to penalty under **Section 112(a)(i)** of the Customs Act, 1962.

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

**17.3** As regards penalty under Section 114AA of the Customs Act, 1962, I find that the said provision provides for penalty upon any person who knowingly or intentionally makes, signs or uses, or causes to be made, signed or used, any declaration, statement or document which is false or incorrect in any material particular in the transaction of any business for the purposes of this Act. I find that in the present case, the acts of the Importer squarely attract this provision inasmuch as the Bill of Entry filed under Section 46 of the Customs Act, 1962 declared the goods as 'Distillate Oil' under CTH 27101961, which was false and incorrect in the material particular of description and classification, as the goods were actually 'Petroleum Hydrocarbon Solvent 145/205' under CTH 27101239. Further, the Chemical Analysis Report submitted by the Importer from the supplier described specifications entirely different from those found by the CECL, Vadodara (flash point 51°C, IBP 161°C, FBP 417°C as against CECL findings of flash point 39°C and IBP-FBP range 157-200°C), and was used by the Importer to support his claim of having ordered Distillate Oil.

**17.4** I find that Shri Ahir Jiten Navinbhai, Proprietor of M/s. 18 International, when confronted with the CECL test results and the discrepancy between the supplier's analysis report and the laboratory findings, failed to provide any credible explanation or corroborating evidence. When asked to provide any communication with the supplier confirming contact after discovery of the misdeclaration or any proof of having ordered Distillate Oil, he failed to produce any such proof. The Importer accepted the CECL findings without opting for re-testing, which further indicates his awareness of the actual nature of the goods. I therefore find that the Importer knowingly and intentionally used false and incorrect documents, namely the Bill of Entry and the Chemical Analysis Report, in the transaction of customs business, with the intent to import restricted goods by circumventing the applicable policy conditions. M/s. 18 International is accordingly liable for penalty under Section 114AA of the Customs Act, 1962.

### ORDER

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

**(i)** I reject the classification of goods covered under Bill of Entry No. 5020653 dated 12.08.2024 filed at Mundra Port, declared as 'Distillate Oil' under CTH 27101961, and re-classify the same as 'Petroleum Hydrocarbon Solvent 145/205' under CTH 27101239;

**(ii)** I reject the declared value of **Rs. 1,10,00,877/-** (Rupees One Crore Ten Lakh Eight Hundred Seventy Seven Only) under Rule 12 of the CVR, 2007 and re-determine the value of the goods as **Rs. 3,23,03,664/-** (Rupees Three Crore Twenty Three Lakh Three Thousand Six Hundred Sixty Four Only) in terms of Rule 4 (Transaction value of identical goods) of the CVR, 2007. The subject Bill of Entry is accordingly to be re-assessed under Section 17(4) of the Customs Act, 1962;

**(iii)** I order to confiscate the goods declared as 'Distillate Oil' under Bill of Entry No. 5020653 dated 12.08.2024, having re-determined value of **Rs. 3,23,03,664/-** (Rupees Three Crore Twenty Three Lakh Three Thousand Six Hundred Sixty Four Only), under Section 111(d), 111(f), 111(l) and 111(m) of the Customs Act, 1962. However, I give an option to M/s. 18 International to redeem the said goods for re-export only under Section 125(1) of the Customs Act, 1962, on payment of Redemption Fine of **Rs. 30,00,000/-** (Rupees Thirty Lakh Only);

**(iv)** I impose a penalty of **Rs. 15,00,000/-** (Rupees Fifteen Lakh Only) upon M/s. 18 International under Section 112(a)(i) of the Customs Act, 1962;

**(v)** I impose a penalty of **Rs. 1,00,000/-** (Rupees One Lakh Only) upon M/s. 18 International under Section 114AA of the Customs Act, 1962.

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

**20.** Show Cause Notice issued vide F. No. GEN/ADJ/ADC/413/2025-Adjn dated 10.02.2025 stands disposed of on the above terms.

**(Dipak Zala)**

Additional Commissioner of Customs,  
Customs House, Mundra

To,

M/s. 18 International (IEC No. AJUPA3490K),

First Floor, Plot No. 211, Office No. 10,

Shah Avenue-11, Ward 12/B, Gandhidham - 370 201

(e-mail: jiten.ahir11@gmail.com)

**Copy to:**

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