



सीमा शुल्क के प्रधान आयुक्त का कार्यालय
सीमा शुल्क सदन, मुंद्रा, कच्छ, गुजरात
OFFICE OF THE PRINCIPAL COMMISSIONER OF
CUSTOMS
CUSTOMS HOUSE, MUNDRA, KUTCH, GUJARAT
Phone No.02838-271165/66/67/68
FAX.No.02838-271169/62,
Email-adj-mundra@gov.in



| | | |
|--|---|---|
| A. फाइल संख्या / File No. | : | VIII/48-02/Adj./ADC/MCH/2024-25 |
| B. जारीकर्ता / Passed by | : | Amit Kumar Mishra, Additional Commissioner of Customs, Customs House, AP & SEZ, Mundra. |
| C. Noticee(s)/Party/Importer नोटिसकर्ता/पार्टी/आयातक | : | M/s Venkateshwara Chemical Industries Private Limited (IEC- AAICV1692C) |
| D. DIN/ दस्तावेज़ पहचान संख्या | : | 20250271MO000000E8A7 |
| E. Date of issue | : | 12.02.2025 |

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

1. Intelligence was garnered that M/s Venkateshwara Chemical Industries Private Limited,(IEC-AAICV1692C) 180 Sqf Area at, Unit No B-201, Metro Plaza, Meerut, Uttar Pradesh, 250002 (hereinafter referred to as the "Importer" or "Venkateshwara Chemical") 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 Competent Authority. According to intelligence, the said entity was resorting to illicit import by mis-declaring the consignments as "Mixed Hydrocarbon Oil (MHO)" and mis-classifying them under Customs Tariff Item (CTI) 27101990 wherein the import policy is "Free." Therefore, 20 containers covered under 2 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 the officers of DRI. Further 14 containers covered under one Bill of Entry were again put on hold by DRI on 27.02.2024. The details of the containers are given as below:

| Sl. No. | BE No. | BE date | Name of the Importer | Container No. | CHA |
|---------|---------|----------|--|-----------------|---------------------------------|
| 1. | 2025444 | 07/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | MEDU5333141 | AIRTRAX FREIGHT LOGISTICS |
| 2. | 2025444 | 07/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | MEDU 6727290 | AIRTRAX FREIGHT LOGISTICS |
| 3. | 2025444 | 07/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | MSDU 1325021 | AIRTRAX FREIGHT LOGISTICS |

| | | | | | |
|-----|---------|----------|--|-----------------|---------------------------------|
| 4. | 2025444 | 07/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | SEGU 2931085 | AIRTRAX FREIGHT LOGISTICS |
| 5. | 2025444 | 07/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | TGBU 3814897 | AIRTRAX FREIGHT LOGISTICS |
| 6. | 2025444 | 07/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | TGHU 1691769 | AIRTRAX FREIGHT LOGISTICS |
| 7. | 2025444 | 07/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | BMOU 2665861 | AIRTRAX FREIGHT LOGISTICS |
| 8. | 2025444 | 07/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | CAIU 3058939 | AIRTRAX FREIGHT LOGISTICS |
| 9. | 2025444 | 07/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | GLDU 5136881 | AIRTRAX FREIGHT LOGISTICS |
| 10. | 2025444 | 07/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | MEDU 3374820 | AIRTRAX FREIGHT LOGISTICS |
| 11. | 2071959 | 09/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | MSDU 2697698 | AIRTRAX FREIGHT LOGISTICS |
| 12. | 2071959 | 09/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | HPCU 2295375 | AIRTRAX FREIGHT LOGISTICS |
| 13. | 2071959 | 09/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | MSDU 2229655 | AIRTRAX FREIGHT LOGISTICS |
| 14. | 2071959 | 09/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | MSDU 2734220 | AIRTRAX FREIGHT LOGISTICS |
| 15. | 2071959 | 09/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | MSDU 2771650 | AIRTRAX FREIGHT LOGISTICS |
| 16. | 2071959 | 09/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | MSMU 1435771 | AIRTRAX FREIGHT LOGISTICS |
| 17. | 2071959 | 09/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | MSDU 1880322 | AIRTRAX FREIGHT LOGISTICS |
| 18. | 2071959 | 09/02/24 | VENKATESHWARA | MSMU | AIRTRAX |

| | | | | | |
|-----|---------|----------|--|-----------------|---------------------------------|
| | | | CHEMICAL INDUSTRIES PRIVATE LIMITED | 2156560 | FREIGHT LOGISTICS |
| 19. | 2071959 | 09/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | TLLU 3306541 | AIRTRAX FREIGHT LOGISTICS |
| 20. | 2071959 | 09/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | TRHU 3769410 | AIRTRAX FREIGHT LOGISTICS |
| 21. | 2239930 | 21/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | BSIU2447248 | AIRTRAX FREIGHT LOGISTICS |
| 22. | 2239930 | 21/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | CBHU 3936130 | AIRTRAX FREIGHT LOGISTICS |
| 23. | 2239930 | 21/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | CCEU2006510 | AIRTRAX FREIGHT LOGISTICS |
| 24. | 2239930 | 21/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | CRXU 3150867 | AIRTRAX FREIGHT LOGISTICS |
| 25. | 2239930 | 21/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | GESU 3889196 | AIRTRAX FREIGHT LOGISTICS |
| 26. | 2239930 | 21/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | GLDU 3866509 | AIRTRAX FREIGHT LOGISTICS |
| 27. | 2239930 | 21/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | HJCU2100640 | AIRTRAX FREIGHT LOGISTICS |
| 28. | 2239930 | 21/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | HLXU 3336135 | AIRTRAX FREIGHT LOGISTICS |
| 29. | 2239930 | 21/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | MOAU 7710466 | AIRTRAX FREIGHT LOGISTICS |
| 30. | 2239930 | 21/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | NYKU 3344776 | AIRTRAX FREIGHT LOGISTICS |
| 31. | 2239930 | 21/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | TRLU8948946 | AIRTRAX FREIGHT LOGISTICS |
| 32. | 2239930 | 21/02/24 | VENKATESHWARA CHEMICAL | TSTU 0232386 | AIRTRAX FREIGHT |

| | | | INDUSTRIES PRIVATE LIMITED | | LOGISTICS |
|-----|---------|----------|---|--------------|---------------------------|
| 33. | 2239930 | 21/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | UETU2029659 | AIRTRAX FREIGHT LOGISTICS |
| 34. | 2239930 | 21/02/24 | VENKATESHWARA CHEMICAL INDUSTRIES PRIVATE LIMITED | WHLU 2850196 | AIRTRAX FREIGHT LOGISTICS |

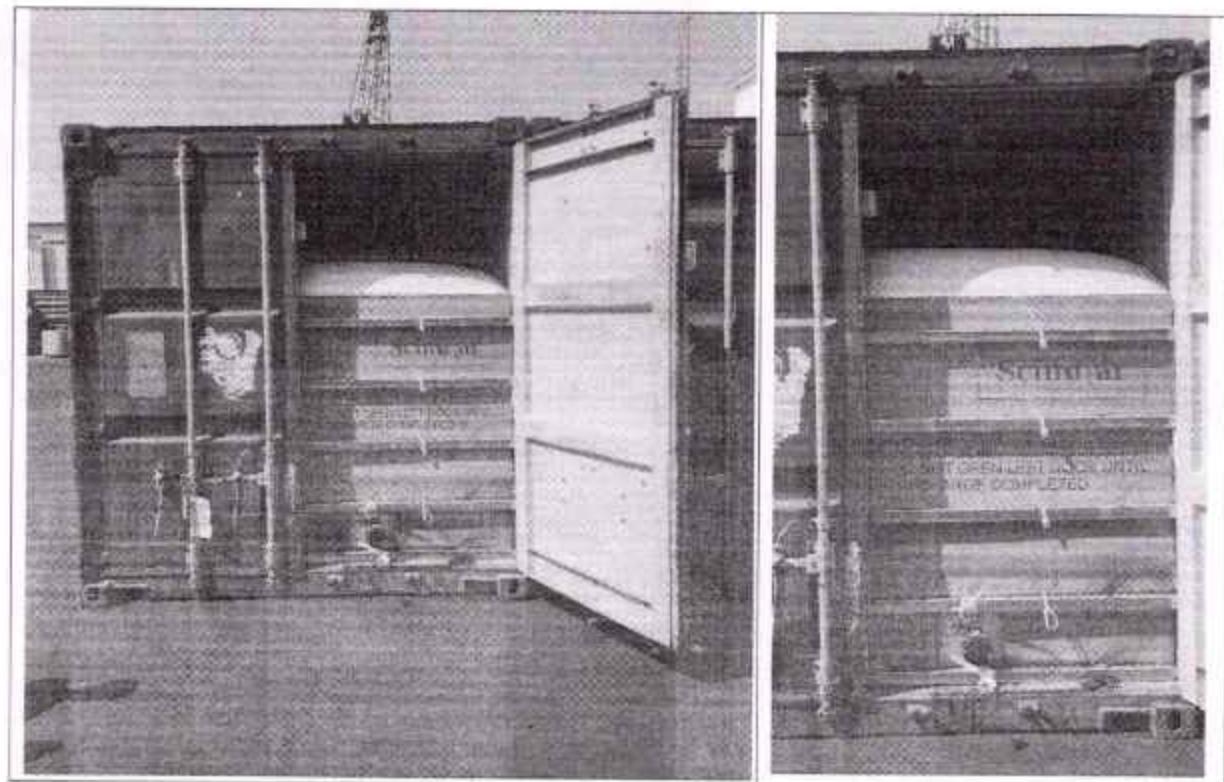
2. Thereafter, the said containers covered under the above-mentioned 3 Bills of Entry were subjected to examination on 12.03.2024 and 13.03.2024 in the presence of the following persons/representatives detailed below:

| S.No | Bill Of Entry No | No of container | Examination date | CHA/Authorised Representative | Container Freight Station | Representative of CFS |
|------|------------------------|-----------------|------------------|--|----------------------------------|---|
| 1 | 2025444 Dt. 07.02.2024 | 10 | 13.03.2024 | Shri Uttam Kumar Shahi - Authorised Representative of M/s Airtrax Freight Logistics, | Saurashtra, CFS | Shri Radheshyam Gupta, Sr Executive of Saurashtra, CFS, |
| 2 | 2071959 Dt. 09.02.2024 | 10 | 13.03.2024 | | Hind Terminal Pvt Ltd (HTPL) CFS | Shri Uresh Dawada, Sr Executive of Hind Terminal Pvt Ltd (HTPL) CFS |
| 3 | 2239930 Dt. 21/02/2024 | 14 | 12.03.2024 | | Mundra, CFS | Shri Gurpreet Singh, Sr Manager (Operations) of Mundra, CFS |

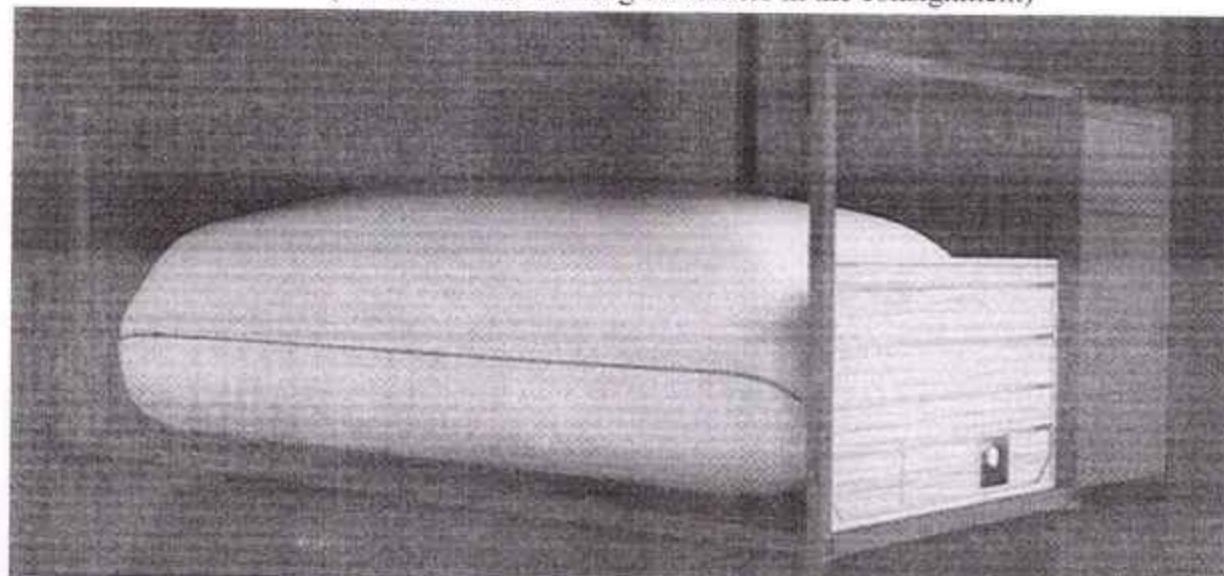
2.(i) And whereas, during the examination, Shri Uttam Kumar Shahi - Authorised Representative of M/s Airtrax Freight Logistics provided the relevant documents viz Bills of Entry along with the corresponding Invoice and packing list, Chemical Analysis Reports (**RUD-01 to 03**) The details of the consignments as per the documents provided are detailed as under:

| S.N o | Bill Of Entry No & Date | 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 | 2025444 Dt. 07.02.2024 | Mixed Hydrocarbon Oil | M/s Taurus International(FZE) | 27101990 | 72,52,392/- | 188630 |
| 2 | 2071959 Dt. 09.02.2024 | | M/s Sun Star Trading FZE | | 73,30,773/- | 190660 |
| 3 | 2239930 Dt. 21/02/2024 | | | | 1,05,86,922/- | 276180 |
| TOTAL | | | | | 2,51,70,087/- | 655470 |

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 flexibag 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. After collecting the samples, the DRI Officer resealed the container with the bottle seal provided by the custodian. The proceedings were documented in respective panchnamas dated 12.03.2024 and 13.03.2024 (RUD:04 -06)

3. Samples were sent to the lab of CRCL, Vizag for the testing purpose. The details of the samples sent to the CRCL Lab are as detailed below:

| S.No | Bill of Entry No and date | Sample No |
|------|---------------------------|--------------|
| 1 | 2025444 Dt. 07.02.2024 | VB2- A217716 |
| 2 | 2071959 Dt. 09.02.2024 | VC1- A215399 |
| 3 | 2239930 Dt. 21/02/2024 | VAI- A217685 |

4. And whereas CRCL tested the samples and sent the respective Test Reports of the above samples on 03.06.2024(RUD-07-09). The test reports are reproduced as below:

| | | |
|---|---|--|
| <p>भारत सरकार प्रौद्योगिकी, रसायन व जीव विज्ञान विभाग कार्यालय, भोपाल मध्य प्रदेश-462 002</p> |  | <p>Government of India Ministry of Science Department of Science CSIR-NATIONAL CHEMICAL LABORATORY PO BOX 100 CHINCHINNIPET, POONI ANGUL TRIPODIPURAM - 600 061 Tamil Nadu - 600 061 E-mail : nccl@vsnl.com</p> |
|---|---|--|


 Government of India
 Ministry of Finance
 Department of Revenue
CENTRAL BOARD OF SECONDARY EDUCATION
 CUSTAM HOUSE, POST BOX:
 3144/3145/3146/3147/3148
 DELHI-110001
 e-mail: cbseinfo@cbse.nic.in

Note 1: The results relate only to the firms visited.
 Note 2: Strengths and Drawbacks by this industry:
 Note 3: The report itself, not by individual opinion or full without agreement of the interviewee.

5.(a) And whereas the parameters of the Test Reports suggested that the goods being imported in the said containers of Bills of Entry 2025444 Dt. 07.02.2024 and 2071959 Dt. 09.02.2024 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 2239930 Dt. 21/02/2024 are Gas Oil.

5.(b) As per Customs Tariff Act it appears that the goods imported Bills of Entry 2025444 Dt. 07.02.2024 and 2071959 Dt. 09.02.2024 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 principles which shall govern the classification of goods in the Nomenclature. The are 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 2025444 Dt. 07.02.2024 and 2071959 Dt. 09.02.2024 are appropriately classifiable under CTI 27101949 which pertains to High Flash High Speed Diesel conforming to IS 16861 .

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 ³ | 780 to 900 | Part 167/ Part 16 ⁽ⁱ⁾ |
| ii) | Kinematic viscosity at 40 °C, mm ² /s, <i>Max</i> | 10 | Part 25/Sec 1 |
| iii) | Total sulphur, mass percent | 0.004-3.5 | Part 153 (For sulphur range – 3.0 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 ⁽ⁱ⁾ /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 |

⁽ⁱ⁾ 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⁽ⁱⁱ⁾’ 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.⁽ⁱⁱ⁾

⁽ⁱⁱ⁾ 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 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. | Characteristics | Requirement | Method of test, Ref to [P:] of IS1448/ISO/ASTM/IP |
|--------|---|---------------------|---|
| (1) | (2) | (3) | (4) |
| i) | Appearance | Clear and Bright | Visual |
| ii) | Acid Number, mg KOH/g, Max | 0.5 | [P : 2] ⁷ /D 654/D 974 |
| iii) | Ash, percent by mass, Max | 0.01 | [P : 4] ⁷ /ISO 6245/D 482 |
| iv) | Carbon residue on the 10 percent Volume Distillation Residue, mass %, Max | 0.3 | [P : 8] ⁷ /ISO-10370/D 4530/D 524 |
| v) | Cetane index ¹⁰ , Min | 45 | ISO 4264 ⁷ /D 4737 |
| vi) | Pour Point ¹¹ , Max | | [P : 10] ⁷ /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] ⁷ /ISO 2160/D 130 |
| viii) | Distillation, percent (v/v), recovered | | [P : 18] ⁷ /ISO 3405/D 86 |
| | a) at 350°C, Min | 85 | |
| | b) at 370°C Min | 95 | |
| ix) | Flash Point Pensky Martens closed cup °C, Min | 66 | [P : 21] ⁷ /ISO 2719/D 93 |
| x) | Kinematic viscosity, cSt, at 40°C | 2.0 to 5.0 | [P : 25] ⁷ /ISO 3104/D 445/D 7042 |
| xi) | Density ¹² at 15°C, kg/m ³ , Max | 860 | [P : 16] ⁷ /ISO 3675/ISO 12185/D 4052 |
| xii) | Total sulphur ¹³ , % by mass, Max | 0.20 | D 4294 ⁷ /ISO 14596/D 2622/ISO 8754 |
| xiii) | Water content, ppm, max. | 500 | ISO 12937 ⁷ /ISO 6296/D 6304 |
| xiv) | Cold filter plugging point (CFPP), °C | To report | [P : 110] ⁷ /D 6371/IP 309 |
| xv) | Oxidation Stability ¹⁴ , g/m ³ , Max | 25 | [P : 154] ⁷ /D 2274/IP 388 |
| xvi) | Lubricity ¹⁵ , 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), High Flash High Speed Diesel fuel conforming to standard IS:16861, it appeared in accordance with the intelligence, that the goods being imported appeared to be mis-declared and 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. | 2025444 | 07.02.2024 | 10 | High Flash High Speed Diesel fuel conforming to standard IS: 16861 |
| 2. | 2071959 | 09.02.2024 | 10 | High Flash High Speed Diesel fuel conforming to standard IS: 16861 |
| 3. | 2239930 | 21/02/2024 | 14 | Gas Oil |

Thus, it appeared that the samples drawn from consignments pertaining to two BEs viz- 2025444 Dt. 07.02.20224 and 2071959 Dt. 09.02.2024, appear to conform to specification of IS:16861 which pertains to High Flash High Speed Diesel fuel, while consignments pertaining to the BE 2239930 Dt. 21/02/2024 appear 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 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 CRCI, the goods imported under BE2239930 Dt. 21/02/2024, appear to be liable to be classified under CTH: 27101941 under the description Gas Oil while the goods imported under BEs 2025444 Dt. 07.02.20224 and 2071959 Dt. 09.02.2024 appeared to be liable to be classified under CTH 27101949. The relevant description of CTH 27101941 and 27101949 as per Customs Tariff Act'1985 are as below:

| | | | | | | | | | |
|--|--|------|------|---|-------|------|--------|---------------------------|--|
| 4/10/19 39 | — Aviation turbine fuels, kerosene kg. type conforming to standard IS 1571 | 5.00 | 5.00 | — | 11.00 | 0.50 | 17.105 | State Trading Enterprises | Exemption: See Nta 52/2017-Cus. dated 30.06.2017 Import as per Policy Condition (5) of Chapter 27 ACD Nil by Nta 32/2022-Cus Excise Duty by Nta 11/2017-CE dated 30.06.2017 |
| — Gas oil and oils obtained from gas oil | | | | | | | | | |

| | | | | | | | | | |
|------------|---|-----------|------|---|------------------------------|------|------------------------------|---------------------------|--|
| 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 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 14660 | kg. 10.00 | 5.00 | — | 14% - Rs. 15 per litre | 0.15 | 14% - Rs. 15 per litre | State Trading Enterprises | Import as per Policy Condition (5) of Chapter 27 |
| — | | | | | | | | | |
| 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 | 14% - Rs. 15 per litre | State Trading Enterprises | Import as per Policy Condition (5) of Chapter 27 |
| — | | | | | | | | | |

Chapter Heading 27101941

| | | | | | | | | | |
|------------|---|-----------|------|---|------------------------------|------|------------------------------|---------------------------|--|
| 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 14660 | kg. 10.00 | 5.00 | — | 14% - Rs. 15 per litre | 0.15 | 14% - Rs. 15 per litre | State Trading Enterprises | Import as per Policy Condition (5) of Chapter 27 |
| — | | | | | | | | | |
| 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 | 14% - Rs. 15 per litre | State Trading Enterprises | Import as per Policy Condition (5) of Chapter 27 |
| — | | | | | | | | | |

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:---- 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. |
|----------|---|--------------------------|---|

| | | | |
|----------|---|--------------------------|---|
| 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 R&D 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 R&D and emission testing purposes only | | |
| 5 | Import allowed through IOC subject to para 2.21 of Foreign Trade Policy, except for the companies who have been granted rights for marketing of transportation fuels in terms of Ministry of P&NGs Resolution No. P23015/1/2001-MKT. Dated 8.3.2002 including HPCL, BPCL and IBP who have been marketing transportation fuels before this date. | 08/2023 | 29/05/2023 |

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

9. Further, during the course of the investigation, it appeared that the authorised CHA of the Importer was actively involved in assisting and facilitating the improper import and clearance of the restricted goods namely "Gas Oil", "High Flash High-Speed Diesel fuel conforming to standard IS

16861" as mentioned above, therefore the search was attempted at the premises of CHA M/s Airtrax Freight Logistics, however the address of the firm M/s Airtrax Freight Logistics was found non-existent. Outcome of the visit was submitted by the Intelligence Officer, DRI in his visit note dated 30/04/2024 (RUD-10).

10. And whereas, summons were issued to the importer M/s Venkateshwara Chemical Industries Private Limited on 21.06.2024 (RUD-11) for appearance on 04.07.2024. No one appeared on the said date so further summons were again issued to M/s Venkateshwara Chemical Industries Private Limited on 05.07.2024 (RUD-12) for appearance on 17.07.2024. On non-compliance of the said summons, fresh summons were again issued for the importer on 24.07.2024 (RUD-13) for appearance on 02.08. 2024. Shri Arun Kumar Saxena, S/o Shyam Bihari Lal Saxena, director of M/s Venkateshwara Chemical Industries Private Ltd, appeared on 06.08.2024 and tendered his voluntary statement on 06.08.2024, under Section 108 of the Customs Act 1962 (RUD- 14) wherein he inter-alia stated:

- I hereby state that I am the one of the Directors of the company M/s Venkateshwara Chemical Industries Private Ltd. Other Director of the company is Shri Prakash Paswan, who however is not actively involved in the running of the business and I look after all the work related to the company. M/s Venkateshwara Chemical Industries Private Ltd. was established in 2021 and was involved in the manufacturing and trading of various chemical items such as smoke remover, perfuming items, etc then in the year 2022 the company got its IEC code and eventually started the import of various oils such as Distillate Oil, Base Oils and Mix Hydrocarbon Oil in Feb 2023. The registered office of the Company is -201, metro Plaza, Meerut City, Meerut, Uttar Pradesh-250002. There are currently two employees working for the firm who looks after the accounting and normal routine work related to the company.*

As far as my personal details are concerned, I am a B.Com graduate from Meerut University, I worked various jobs as accountant in various companies, and in year 2014 I started a small business of Tour and travels. Then in year 2020 I started working for M/s Venkateshwara Chemical Industries Private Ltd and in February 2023 I became the director of the company and started the Import of various oils as mentioned above. I am married to Ms Shraddha Saxena and I live with my wife, one daughter and one Son 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. 40 consignments of oil till now including the ones that 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 import through various suppliers which are mentioned in the table below along with the contact persons details who looks after the sales of these suppliers:

| S.No | Supplier | Contact Person Details: |
|------|-------------------------------|-------------------------------|
| 1 | M/s Emit International FZ LLC | Sh. Karan - +971504251901 |
| 2 | M/s Chevron General Trading | Sh Gulshan - +971509630447 |
| 3 | M/s AAR Energy FZE | Sh. Ajay Gupta- +971585838144 |
| 4 | M/s Kquality Lubricant and GR | Sh Rajesh - +971569828008 |
| 5 | M/s Prolific Energy FZE | Sh Das - +971569919192 |

| | | |
|---|-------------------------------------|---|
| 6 | <i>M/s Sun Star Trading FZE</i> | <i>Sh Rajesh - +971569828008</i> |
| 7 | <i>M/s Bright Commodities FZE</i> | <i>ShWasi- +971529937433</i> |
| 8 | <i>M/s Prime Petroleum FZC</i> | <i>ShWasi- +971529937433</i> |
| 9 | <i>M/s Taurus International FZE</i> | <i>Sh Arvind Awasthi- +971509463963</i> |

- **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, full advance payment is made through SWIFT then the overseas suppliers send the consignment to the designated port in India.
- **Question 7:** Please describe your product viz MHO (Mix 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 in various industries for industrial purpose only.
- **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: 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 the consignment of MHO (Mix hydrocarbon Oil) imported by you.

Answer: I am submitting copies of the chemical analysis report provided by the suppliers in respect of the consignments that are put on hold by your office.
- **Question 10:** Your kind attention is invited to the said Chemical Analysis reports which have been issued by the suppliers viz. M/s Taurus International FZE and M/s Sun Star Trading FZE of the consignment and not any Technically qualified laboratory. In such a case how can this be termed as chemical analysis report?

Answer: This is the only report that has been provided by the supplier and therefore are submitted for information.
- **Question 11:** In the said reports it has been mentioned that the test reports are as per ASTM testing standards. In the light of your reply to question no.5 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 of his technical qualification and competency to issue the lab report but since these reports were provided by the supplier, I have submitted the same.
- **Question 12:** Please state whether the goods pertaining to the said consignment has been declared as MHO (Mix/mixed Hydrocarbon Oil) in the invoice, packing list on the basis of the parameters mentioned in the chemical analysis report?

Answer: I am not sure but I think the supplier has considered these parameters while declaring the goods declared so in the import documents.
- **Question 13:** 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. Our CHA only guided us in the classification of the same as MHO.

- *Question 14: 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 15: 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 chemical Analysis/test report provided by the overseas suppliers for the Bill of Entries that have been put on hold by your office. I do not have the Chemical Analysis Report provided by the original manufacturer. I have submitted the invoices pertaining to the consignment that was put on hold by your office. Further, I am not aware of the address and details of the traders as sought by you.

- *Question 16: In the light of your reply to question no 13 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 17: 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 18: Please refer to the reply of Question 02 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 19: Please provide details of key officials (name and designation) of your company.*

Answer: I look after all the work related to the firm. There are two employees in the company who looks after the accounting-related works of the company.

- *Question 20: 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 Venkateshwara Chemical Industries Private Ltd, has imported about 40 Consignments of Mix/mixed Hydrocarbon oil since june 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 has been put on hold by DRI Noida Regional Unit.

- *Question 21: Please provide a Certified copy of bank statement indicating payments made to suppliers for consignments.*

Answer: I am submitting the SWIFT transaction receipt related to my consignments, that have been put on hold by your office.

- Question 22. Please provide the details of the warehouse/storage place where the imported goods are stored after their import by your firm.

Answer. M/s Venkateshwara Chemical Industries Private Ltd 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 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 2239930 Dt. 21/02/2024. As per the parameters described in the test report, the conclusion arrived at, regarding the goods is "Gas Oil". Please peruse the said report and offer your comments.

Answer. I have seen the copy of the test report dated 03.06.2024 of the CRCL Vizag in respect of the sample drawn from the consignment covered under BOE no 2239930 Dt. 21/02/2024 pertaining to M/s Venkateshwara Chemical Industries Private Ltd 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 the goods can be concluded as "Gas Oil".

- 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 2071959 Dt. 09.02.2024. 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 03.06.2024 of the CRCL Vizag in respect of the sample drawn from the consignment covered under BOE no 2071959 Dt. 09.02.2024 pertaining to M/s Venkateshwara Chemical Industries Private Ltd 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 the goods can be concluded as "HFHSD as per IS 16861:2018".

- 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 2025444 Dt. 07.02.20224. 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 03.06.2024 of the CRCL Vizag in respect of the sample drawn from the consignment covered under BOE no 2025444 Dt. 07.02.20224 pertaining to M/s Venkateshwara Chemical Industries Private Ltd 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 the goods can be concluded as "HFHSD as per IS 16861:2018".

- Question 26. Your kind attention is invited to the conclusion of the test report wherein it suggests that the oil is "Gas Oil", whereas you have declared the same as Mixed Hydrocarbon Oil in BOE no 2239930 Dt. 21/02/2024, 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 2239930 Dt. 21/02/2024, 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 Mix 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, I request that the same may be re-exported back to the supplier.

- Question 27. Your kind attention is invited to the conclusion of the test report wherein it suggests that the oil is "HFHSD as per IS 16861:2018", whereas you have declared the

same as Mixed Hydrocarbon Oil in BOE no 2071959 Dt. 09.02.2024, 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 2071959 Dt. 09.02.2024, 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 Mix 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, 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 it suggests that the oil is "HFHSD as per IS 16861:2018", whereas you have declared the same as Mixed Hydrocarbon Oil in BOE no 2025444 Dt. 07.02.20224, 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 2025444 Dt. 07.02.20224, 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 Mix 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, I request that the same may be re-exported back to the supplier.

- Question 29. Your kind attention is again invited to the conclusion of the test report pertaining to BOE no. 2239930 Dt. 21/02/2024 wherein the oil has been found to be "Gas Oil", on the basis of the test report of CRCL, Vizag. 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 2239930 Dt. 21/02/2024 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 2239930 Dt. 21/02/2024 is under CTH 27101941, however, we had ordered for Mixed Hydrocarbon oil only, classifiable under CTH 27101990.

- Question 29. Your kind attention is again invited to the conclusion of the test report pertaining to BOE no. 2071959 Dt. 09.02.2024 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 27 above, do you agree that HFHSD as per IS 16861:2018, imported by you in consignment covered under BOE no 2071959 Dt. 09.02.2024 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 2071959 Dt. 09.02.2024 is under CTH 27101949, however, we had ordered for Mixed Hydrocarbon oil only, classifiable under CTH 27101990.

- Question 30. Your kind attention is again invited to the conclusion of the test report pertaining to BOE no. 2025444 Dt. 07.02.20224 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 27 above, do you agree that HFHSD as per IS 16861:2018, imported by you in consignment covered under BOE no 2025444 Dt. 07.02.20224 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 2025444 Dt. 07.02.20224 is under CTH

27101949, however, we had ordered for Mixed Hydrocarbon oil only, classifiable under CTH 27101990.

- Question 31. Please refer to your reply to questions number 28, 29 and 30 above wherein you have agreed that as per the correct classification of the oils i.e. HFHSD as per IS 16861:2018 is 27101949 and Gas Oil is 27101941. These however are restricted items and can only be imported by STEs (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 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 26, 27 and 28 above, I once again request that the consignment may be reexported back to the overseas supplier.

11. And whereas, summons were also issued to CHA M/s Airtrax Freight Logistics on 05.07.2024 (**RUD-15**) for appearance on 17.07.2024. On non-compliance of the summons, a further fresh summons was issued to CHA M/s Airtrax Freight Logistics on 24.07.2024 (**RUD-16**) for appearance on 09.08.2024. Shri Shri Bhupathi Maddu S/o Late Shri M Kamaraju, Manager of M/s Airtrax Freight Logistics, appeared on 09.08.2024 (**RUD-17**) and tendered his voluntary statement under Section 108 of the Customs Act'1962 wherein he inter-alia stated:

- I submit that I completed my B. Com from Andhra University, Vishakhapatnam in the year 2009, after that I worked in Oil Field Warehouse, Mundra till 2017. Then I started working with M/s Mundra Oil Pvt Ltd from 2017 to 2022. After that, I switched my job and started working with M/s Airtrax Freight Logistics at Mundra Port. I am handling documentation work and providing customs clearance services to various importers on behalf of M/s Airtrax Freight Logistics at Mundra Port. I am living with my wife Ms Raveena Maddu along with my son on the above-mentioned local address in Mundra;
- Question 1: Please explain the business of M/s Airtrax Freight Logistics.
Answer: M/s Airtrax Freight Logistics is Proprietorship Firm in which, Shri Ramakrishnan Murugan is the Proprietor of the firm. As per my knowledge the firm is engaged in the custom clearance of import and export consignments at Nhava Sheva Port, Chennai port, Mundra port and Delhi. I am the manager of M/s Airtrax Freight Logistics and handled all the customs clearance related work at Mundra Port.
- Question 2: Please state the present location of M/s Airtrax Freight Logistics.
Answer: The local office of M/s Airtrax Freight Logistics was located at Rishabh Corner, 2nd floor, Office No. 93, Sector-8, Gandhidham, which was closed in March 2024. Right now, there is no office at Mundra port. The head office of M/s Airtrax Freight Logistics situated at Plot No. 59/60, Masilamani Nagar, Thirumazhisai, Chennai.
- Question 3: How many people are working in M/s Airtrax Freight Logistics? Please provide their details, designation, responsibilities and Mobile no.
Answer: There are 7 employees including me working in M/s Airtrax Freight Logistics at Mundra Port. Their details are as under:

| Name | Designation/ Work Assigned | Mobile No. |
|--------------------|--------------------------------------|------------|
| Shri Uttam Kumar | Executive, Field Work at Mundra Port | 6306358733 |
| Shri Gopal Krishna | Executive, Field Work at Mundra Port | 8962602390 |
| Shri Bharat Malam | Executive, Field Work at Mundra Port | 8160288652 |
| Shri Satyanarayan | Documentation Executive | 9979889463 |
| Shri Avinash | Field Work at Mundra Port | 8638737296 |
| Ms. Preeti Joshi | G-Card Hold, Customs related | 9727655425 |

- Question No 4: Please elaborate the nature of field work of the staff detailed above?
Answer. These employees mainly handle logistic work like loading and unloading of cargo, grounding of container for examination and, dispatch of the consignment after examination and out of charge is given by the Customs.

- Question 5: Please name the companies/firms for whom M/s Airtrax Freight Logistics are providing customs clearance services?

Answer: Our major clients include:

- M/s Venkateshwara Chemical Industries pvt Ltd
- M/s Shree Ram Trading
- M/s Sardar Trading
- M/s Venkateshwara Mint
- M/s Penta Tradelink

M/s Airtrax Freight Logistics provides customs clearance services at Mundra Port. But I have no knowledge regarding the head office client's details. Only Shri Ramakrishnan Murugan Proprietor of the firm can provide this information.

- Question 6: What are the other ports where you are providing customs clearance services?

Answer: Our major business is at Nhava Sheva, Mundra, Chennai and Delhi.

- Question 7: How do M/s Airtrax Freight Logistics provide customs clearance facilities? Please explain the same with regard to the functioning of your firm.

Answer: The clients forward the import documents on our email airtraxfreightmundra@gmail.com and sometimes they deliver the documents on WhatsApp also. Documents are examined by the staff who later on prepare check list which is sent to the clients for approval. Once the checklist is approved, the bill of entry is filed online on the ICEGATE website. Shri Satyanarayan employee files Bill of entry online. After it is approved, the examination of the cargo is conducted by the customs officers in the presence of the Authorised representative 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 8: Please define payment terms of M/s Airtrax Freight Logistics with the mentioned firms in Sl. No.5. What is the amount of salary that you get from the said firm.

Answer: M/s Airtrax Freight Logistics charge a fee of Rs 59000/- plus GST per container from the importer. I get 50,000/- per month as salary.

- Question 9: Please state, who gets the examination conducted at the port for the import consignment of M/s Airtrax Freight Logistics?

Answer: The examination at the Mundra port is conducted by Sh. Uttam Kumar, Shri Gopal Krishna and Shri Bharat Malam facilitate customs clearance at Mundra port

- Question 10: 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, DRI Noida Regional Unit has put on hold some consignments of MHO as detailed below:

| Sl. No | IEC Name | BOE No. | No of containers |
|--------|--|-------------------------|------------------|
| 1 | M/S Shree Ram Trading, | 2239931 Dt. 21/02/2024 | 20 |
| | | 2240118 Dt. 21/02/2024 | 10 |
| | | 2014315 Dt. 06.02.2024 | 4 |
| 2 | M/S Venkateshwara Chemical Industries Private Limited, | 2025444 Dt. 07.02.20224 | 10 |
| | | 2071959 Dt. 09.02.2024 | 10 |
| | | 2239930 Dt. 21/02/2024 | 14 |

- Question 11: What were the documents that were provided by the importer in respect of containers put on hold and as mentioned in question above?

Answer: M/s Shree Ram Trading and M/S Venkateshwara Chemical Industries Private Limited provided invoices, packing list and Bill of Lading through mail on the basis of which we file the respective bill of entry.

- *Question 12: 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 M/s Shree Ram Trading and M/S Venkateshwara Chemical Industries Private Limited?*

Answer: As per my knowledge mixture of all kind of petroleum products is MHO..

- *Question 13: Please state, what is the use of MHO?*

Answer: As per the information provided by the importer it is for industrial Use.

- *Question 14: Please specifically state and clarify the industrial use as mentioned in your reply to question no 13 above.*

Answer: I am not aware of the specific industrial use of the product. This can be clarified by the importer only.

- *Question 15: Have you been provided with any chemical analysis report/ test report of the product by the importer issued by the supplier.*

Answer: Yes, we have been provided with chemical analysis reports or test reports by the importer which was provided by the supplier, which were filed along with Bill of entry. However, I'm submitting copies of the same again for your information

- *Question 16: On perusal of the said test reports submitted by you in reply to above question, it is seen that the same are simply parameters which have been mentioned by the supplier on his letter pad which cannot be considered as test reports. Please elaborate.*

Answer: These are the only test reports which were provided by the importer at the time of filing of the Bills of entry.

- *Question 17: What was the basis of classification of the product under Chapter Heading 27101990 in the category of item "Others"*

Answer: The CTH was mentioned on the invoice and the packing list of the supplier itself which were provided by the importer. On the basis of these documents, the Bill of entry was filed.

- *Question 18: 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 10 above. The test results of each of the consignment have been summarized in the table below:*

| S.No | IEC Name | BOE Name | Sample NO | Test Report | Lab |
|------|--------------------------|------------------------|----------------------|-------------|------|
| 1 | M/S Shree Ram Trading, - | 2239931 21/02/2024 | Dt. SRA1- A217681 | Kerosene | CRCL |
| 2 | | 2240118 21/02/2024 | Dt. SRC3- A215387 | HFHSD | |
| 3 | | 2014315 06.02.2024 | Dt. SRB2- A217707 | HFHSD | |
| 4 | | 2025444 07.02.20224 | Dt. VB2- A217716 | HFHSD | |
| 5 | | 2071959 09.02.2024 | Dt. VC1- A215399 | HFHSD | |
| 6 | | 2239930 21/02/2024 | Dt. VAI- A217685 | Gas Oil | |

Please peruse the test reports and offer your comments.

Answer: I have perused all the test reports detailed above. I have also gone through the parameters mentioned in the test reports and signed the test reports as a token of having seen the same. After testing of the sample, 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 19: Do you agree with the outcome of the test reports and the result mentioned therein?*

Answer: Yes, I agree with the result arrived at by the lab as mentioned in all the test reports

- *Question 20: 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: I agree that the goods identified by the laboratory as per the test reports and the declaration made in the Bill of Entry are different.
- *Question 21. Your kind attention is invited to the conclusion of the test report for the sample of M/S Shree Ram Trading wherein the oil has been found to be "Kerosene as per IS 1459:1974 (Reaffirmed 2006)", on the basis of the conclusion of CRCL lab, and hence are classifiable under CTH 27101932. Do you agree that the Kerosene imported in consignment covered under BOE no 2239931 Dt. 21/02/2024 filed by M/s Airtrax Freight Logistics and imported by M/S Shree Ram Trading, is correctly classifiable under CTH 27101932 and not 27101990 as classified 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 2239931 Dt. 21.02.2024 should be under CTH 27101932. The declaration of the item made in the bill of entry is incorrect and wrong.
- *Question 22. Your kind attention is invited to the conclusion of the test report for the sample of M/S Shree Ram Trading wherein the oil has been found to be "HFHSD as per IS 16861:2018". On the basis of the conclusion of CRCL lab, the goods are actually HFHSD as per IS 16861:2018 and are hence classifiable under CTH 27101949. Do you agree that the HFHSD as per IS 16861:2018 imported in consignment covered under BOE no 2240118 Dt. 21/02/2024 filed by M/s Airtrax Freight Logistics and imported by M/S Shree Ram Trading, is correctly classifiable under CTH 27101949 and not 27101990 as classified in the bill of entry filed by you.*
Answer: in view of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2240118 Dt. 21/02/2024 should be under CTH 27101949. The declaration of the item made in the bill of entry is also incorrect and wrong
- *Question 23. Your kind attention is invited to the conclusion of the test report for the sample of M/S Shree Ram Trading wherein the oil has been found to be "HFHSD as per IS 16861:2018". On the basis of the conclusion of CRCL lab, the goods are actually HFHSD as per IS 16861:2018 and are hence classifiable under CTH 27101949. Do you agree that the HFHSD as per IS 16861:2018 imported in consignment covered under BOE no 2014315 Dt. 06.02.2024 filed by M/s Airtrax Freight Logistics and imported by M/S Shree Ram Trading, is correctly classifiable under CTH 27101949 and not 27101990 as classified in the bill of entry filed by you.*
Answer: in view of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2014315 Dt. 06.02.2024 should be under CTH 27101949. The declaration of the item made in the bill of entry is also incorrect and wrong
- *Question 24. Your kind attention is invited to the conclusion of the test report for the sample of M/S Venkateshwara Chemical Industries Private Limited wherein the oil has been found to be "HFHSD as per IS 16861:2018"9 On the basis of the conclusion of CRCL lab, the goods are actually HFHSD as per IS 16861:2018 and are hence classifiable under CTH 27101949. Do you agree that the HFHSD as per IS 16861:2018 imported in consignment covered under BOE no.2025444 Dt. 07.02.2024 filed by M/s Airtrax Freight Logistics and imported by M/S Venkateshwara Chemical Industries Private Limited, is correctly classifiable under CTH 27101949 and not 27101990 as classified in the bill of entry filed by you.*
Answer: in view of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2025444 Dt. 07.02.2024 should be under CTH 27101949. The declaration of the item made in the bill of entry is also incorrect and wrong
- *Question 25. Your kind attention is invited to the conclusion of the test report for the sample of M/S Venkateshwara Chemical Industries Private Limited wherein the oil has been found to be "HFHSD as per IS 16861:2018", On the basis of the conclusion of CRCL lab, the goods are actually HFHSD as per IS 16861:2018 and are hence classifiable under CTH 27101949. Do you agree that the HFHSD as per IS 16861:2018 imported in consignment covered under BOE*

no. 2071959 Dt. 09.02.2024 filed by M/s Airtrax Freight Logistics and imported by M/S Venkateshwara Chemical Industries Private Limited, is correctly classifiable under CTH 27101949 and not 27101990 as classified in the bill of entry filed by you.

Answer: in view of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2071959 Dt. 09.02.2024 should be under CTH27101949. The declaration of the item made in the bill of entry is also incorrect and wrong.

- Question 26. Your kind attention is invited to the conclusion of the test report for the sample of M/S Venkateshwara Chemical Industries Private Limited wherein the oil has been found to be "Gas Oil". On the basis of the conclusion of CRCL labs the goods are actually Gas Oil and are hence classifiable under CTH 27101941. Do You agree that the Gas Oil imported in consignment covered under BOE no. 2239930 Dt. 21/02/2024 filed by M/s Airtrax Freight Logistics and imported bY M/S Venkateshwara Chemical Industries Private Limited, is correctly classifiable under CTH 27101941 and not 27101990 as classified in the bill of entry filed by you.

Answer: in view of the CRCL report, I agree that the correct classification of the oil in the consignment covered under BOE no 2239930 Dt. 21/02/2024 should be under CTH27101941. The declaration of the item made in the bill of entry is also incorrect and wrong

- Question 27: Please take cognizance of your reply to the question no 21 and 26 above and state whether the goods declared in the Bills of entries were misdeclared.

Answer: I agree that the goods identified by the labs and the one declared in the Bills of entry are different. 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 importer.

- Question 28: Please take cognizance of the reply to question no 27 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 again submit that the Bill of entry was filed on the basis of documents and information provided by the importer in which the CTH was already mentioned and declared in the invoice and the packing list of the supplier. The issue of mis-declaration can only be explained by the importer and the supplier.

12. 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 14.08.2024 (RUD-18).

13. Further, in view of the Test Reports, it appeared that the imported goods were mis-declared as "Mixed Hydrocarbon Oil" and mis-classified under CTH: 27101990 instead of CTH: 27101941 and CTH: 27101949 by the importer with the intent of importing "Gas Oil" and "High Flash High Speed Diesel fuel conforming to standard IS 16861" 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 2025444 Dt. 07.02.20224, 2071959 Dt. 09.02.2024 and 2239930 Dt. 21/02/2024 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 | 2025444 Dt. 07.02.20224 | 202409DDZ800000156670 (RUD-19) | 13.09.2024 |
| 2 | 2071959 Dt. 09.02.2024 | 202409DDZ80000444A33 (RUD-20) | 13.09.2024 |
| 3 | 2239930 Dt. 21/02/2024 | | |

14. LEGAL PROVISIONS

14.1 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. 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 | --- | State trading enterprises | Import as per policy conditions (5) of Chapter 27 |
| 27101949 | --- | State trading enterprises | Import as per policy conditions (5) of Chapter 27 |

14.2 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.*

14.3. 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.

14.4. 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;

14.5 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;

14.6 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.

14.7 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 ;

14.8 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;

14.9 Section 17 of the Customs Act, 1962:

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.

14.10. 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.

14.11. 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 [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"

14.12. 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.

14.13 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.

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

The Central Government may make 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.*

14.15 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.*

14.16 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.*

14.17 Rule 25 of Petroleum Act, 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.

14.18 Rule 30 of Petroleum Act, 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.

14.19 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.*

15. Discussion and Findings:

Whereas it appears from the foregoing paras that:

- (i) As per Condition No.5 of Import Policy of Chapter 27, the import of High Flash High Speed Diesel Fuel and Gas Oil which were imported by way of mis-declaration by M/S Venkateshwara Chemical Industries Private Limited in the consignment seized by DRI, 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 Venkateshwara Chemical Industries Private Limited appeared to be well aware about the said restrictions imposed by the Policy. As such in order to circumvent the said provision, in collusion with the CHA namely Airtrax Freight Logistics, as well as Overseas Suppliers namely M/s Taurus International(FZE) and M/s Sun Star Trading FZE in Dubai devised a modus operandi to import High Flash High Speed Diesel fuel and Gas Oil - (restricted commodities), in the garb of importing freely importable goods.
- (iii) In accordance with the said modus operandi, the importer resorted to the import of High Flash High Speed Diesel fuel and Gas Oil by declaring the same as "Mix/Mixed Hydrocarbon Oil (MHO)". They classified the said goods i.e "Mix/Mixed Hydrocarbon Oil (MHO)" under Customs Tariff Heading (CTH) 27101990 which pertains to "Others" where no restriction is prescribed in the Import Policy. In accordance with said modus operandi, the suppliers namely M/s Taurus International (FZE) and M/s Sun Star Trading FZE in Dubai appear to have deliberately declared the said goods in the import documents viz invoices and the corresponding packing list as "Mix/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 Venkateshwara Chemical Industries Private Limited filed Bill of Entries wherein they declared the goods as "Mix/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 Venkateshwara Chemical Industries Private Limited 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 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 Venkateshwara Chemical Industries Private Limited 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 Venkateshwara Chemical Industries Private Limited 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 -2025444 Dt. 07.02.20224 and 2071959 Dt. 09.02.2024 on being tested and analysed, indicate that they 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 under 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 2239930 Dt. 21/02/2024 on being tested and analysed, suggests that "The sample has the characteristics of Gas Oil, meet to the requirement of IS:17789:2022". Further the Amendment to IS:17789 dated 2023 specifically mentions that Indian Refineries may opt for lower sulphur content as per the agreement between the seller and purchaser. The sulphur content in the commodity is only a quality parameter and has no relation with the identity of the commodity.

(viii) The commodity sought to be actually imported viz, High Flash High Speed Diesel fuel and Gas Oil under the subject consignments find specific mention in different tariffItem and not the tariffItem 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/Mixed 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 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 restricted goods namely High Flash High Speed Diesel fuel and Gas Oil has been accepted and acknowledged in their respective voluntary statements by M/s Venkateshwara Chemical Industries Private Limited and the CHA M/s Airtrax Freight Logistics.

(x) M/s Venkateshwara Chemical Industries Private Limited are not an STE entity and hence they are not eligible to import the said restricted goods. Therefore they appeared to have resorted to the act of mis-declaration and mis-classification so as to import the said restricted goods.

(xi) M/s Venkateshwara Chemical Industries Private Limited failed to submit any document in support of the item Mixed Hydrocarbon Oil declared by the supplier in the import

documents and Bills of Entries filed by M/s Airtrax Freight Logistics. 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 bill of entries.

(xii) M/s Venkateshwara Chemical Industries Private Limited failed to provide specific use of the item "Mix/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 Arun Kumar Saxena, Director of M/s Venkateshwara Chemical Industries Private gave vague reply that the MHO was used for industrial purposes. But he failed to provide information about the specific industry which used the Mix/Mixed Hydrocarbon Oil. Further, he could not state anything about the parameters /specification of Mixed Hydrocarbon Oil. Further even the CHA 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 "Mix/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 and Class C 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 Venkateshwara Chemical Industries Private in the greed for earning illicit profits have put the public and the environment at great risk.

(xiv) Shri Arun Kumar Saxena, Director of M/s Venkateshwara Chemical Industries Private Limited on 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 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-declaration upon the supplier and has claimed that the issue of the mis-declaration can be explained by the supplier. He has sought to project his innocence in the case which however does not appear to be 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 Venkateshwara Chemical Industries Private limited.

(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 down 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 Venkateshwara Chemical Industries Private Limited and the CHA M/s Airtrax Freight Logistics appear to 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 Arun Kumar Saxena, Director of M/s Venkateshwara Chemical Industries Private Limited 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 had 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 Venkateshwara Chemical Industries Private Limited 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 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 Airtrax Freight Logistics was actively involved in facilitating and assisting the customs clearance of the restricted goods namely High Flash High Speed Diesel fuel and Gas Oil in the garb of Mix/Mixed Hydrocarbon Oil. The CHA appear to have failed to fulfil the following

(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 Airtrax Freight Logistics appear to have not advised their client 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 misclassification to the notice of the Deputy Commissioner of Customs or Assistant Commissioner of Customs as required under regulation (d). 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. Further, M/s Airtrax Freight Logistics 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 entry in support of the goods misdeclared as Mix/Mixed Hydrocarbon Oil. M/s Airtrax Freight Logistics 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 Airtrax Freight Logistics appear to have acted in tandem with the importer- M/s Venkateshwara Chemical Industries Private Limited 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 it appears that they have not observed and complied with the obligations prescribed under the Customs Broker Licensing Regulation 2018.

(xix) The consignments consisting of 34 containers pertaining to 3 BEs as discussed above, therefore appear to be imported by way of mis-declaration and mis-classification as Mix/Mixed Hydrocarbon Oil in the manner as discussed above in contravention of Section 17 (1), Section 46(4) and 46(4A), and appear liable for confiscation in terms of Section 111(d), (f), (l) and (m) of Customs Act, 1962. Further, M/S Venkateshwara Chemical Industries Private Limited, Shri Arun Kumar Saxena, Director of M/S Venkateshwara Chemical Industries Private Limited, M/s Airtrax Freight Logistics, Shri Bhupati Maddu, Manager of M/s Airtrax Freight Logistics, 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.

16. Role played by various entities:

A. M/s Venkateshwara Chemical Industries Private Limited

Whereas it appears that M/s Venkateshwara Chemical Industries Private Limited deliberately resorted to illicit import of restricted goods (High Flash High Speed Diesel fuel and Gas Oil) under the guise of "Mix/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 Venkateshwara Chemical Industries Private Limited colluded with suppliers (M/s Taurus International FZE and M/s Sun Star Trading FZE) to submit falsified invoices, packing lists, and chemical Analysis Reports that misrepresented the true nature of the goods. They further appeared to have failed to declare the correct classification and description of goods during self-assessment under Section 17(1) of the Customs Act, 1962. They appear to have provided inaccurate and incomplete information in the Bills of Entry, violating Sections 46(4) and 46(4A) of the Customs Act, 1962. It appears that M/s Venkateshwara Chemical Industries Private Limited were fully aware that the imported items were restricted commodities (High Flash High Speed Diesel fuel and Gas Oil) and not "Mix/Mixed Hydrocarbon Oil," as evidenced by voluntary statements. It appears that they deliberately withheld key documents, including buyer-seller agreements and export declarations, to prevent the identification of the goods. The mis-declared goods namely High Flash High Speed Diesel fuel and Gas Oil have been categorized as hazardous Class B and Class C petroleum products (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 Venkateshwara Chemical Industries Private Limited appear to be confirmed from the fact that they accepted the findings of the lab tests conducted by CRCL, which confirmed the goods as 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 Venkateshwara Chemical Industries Private Limited 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 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 Venkateshwara Chemical Industries Private Limited 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.

B. Role played by the CHA- M/s Airtrax Freight Logistics

Similarly, it appears that M/s Airtrax Freight Logistics the CHA of the Importer-M/s Venkateshwara Chemical Industries Private Limited was also equally involved in the illicit import of the restricted goods namely restricted items (High Flash High Speed Diesel fuel and Gas Oil) under the guise of freely importable goods labelled as "Mix/Mixed Hydrocarbon Oil (MHO)." As a Customs House Agent, they did not advise M/s Venkateshwara Chemical Industries Private Limited 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 "Mix/Mixed Hydrocarbon Oil (MHO)." M/s Airtrax Freight Logistics 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 Airtrax Freight Logistics appear to have 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 amounts to smuggling in accordance with Section 2(39) of the Customs Act'1962, M/s Airtrax Freight Logistics

appeared to have rendered themselves liable for penalty under the provisions of Sections 112 (a) or (b) and 114 AA of the Customs Act'1962

C. Role Played by Shri Bhupati Maddu (M/s Airtrax Freight Logistics):

Shri Bhupati Maddu has been found to be working in the capacity of Manager of M/s Airtrax Freight Logistics. In his voluntary statement tendered under Section 108 of the Customs Act'192, he has stated that he is handling documentation work and providing customs clearance services to various importers on behalf of M/s Airtrax Freight Logistics at Mundra Port. Thus he is in a key and important position in the firm. He appears to have not discharged his responsibility properly and thus appears to have facilitated the illicit import of restricted goods by M/s Venkateshwara Chemical Industries Private Limited. As he has himself submitted that he was looking after documentation, he appears to have not exercised due diligence while scrutinizing and thereafter filing of the Bills of Entry. He also appears to have played a role in the misclassification of the goods under the category of "Others" of Chapter 2710. He should have refrained and advised M/s Venkateshwara Chemical Industries Private Limited from indulging in illicit and illegal import of the restricted goods. For his failure to discharge his duties responsibly and in accordance with the obligations laid down in the Regulation 10 of Customs Broker Licensing Regulation 2018, Shri Bhupati Maddu appears to have rendered himself liable for penalty under the provisions of Sections 112 (a) or (b) and 114 AA of the Customs Act'1962 for his role in the in the case as discussed supra.

17. Now therefore M/s **Venkateshwara Chemical Industries Private Limited** (IEC-AAICV1692C) 180 Sqf Area at, Unit No B-201, Metro Plaza, Metro Plaza, Meerut, Meerut, Uttar Pradesh, 250002 are hereby called upon to show cause in writing to the Additional/Joint Commissioner of Customs, 5B, Port User Building, Mundra Port, Mundra, Gujarat – 370421 as to why:-

- (i) The declared classification impugned goods i.e. High Flash High Speed Diesel fuel conforming to IS:16861 having total quantity 379.290 MTS mis-declared as Mixed Hydrocarbon Oil under Customs Tariff Item 27101990 under Bill of Entry no. 2025444 Dt. 07.02.20224 and 2071959 Dt. 09.02.2024, should not be denied and re-classified under the Customs Tariff Item 27101949.
- (ii) The declared classification impugned goods i.e. Gas Oil having total quantity 276.180 MTS mis-declared as Mix Hydrocarbon Oil under Customs Tariff Item 27101990 under Bill of entry no. 2239930 Dt. 21/02/2024, , should not be denied and re-classified under the Customs Tariff Item 27101941
- (iii) High Flash High Speed Diesel fuel and Gas Oil sought to be imported by them in 34 containers pertaining to 3 BOEs having declared value of Rs 2,51,70,087/-seized under Section 110 of the Customs Act'1962 vide Seizure Memorandums dated 13.09.2024 lying seized at Mundra Port should not be confiscated under Sections 111(d), (f), (l)& (m) of the Customs Act'1962.
- (iv) Penalty should not be imposed upon them under Section 112 (a) or (b) and 114 AA of the Customs Act'1962.

18. Now therefore Shri Arun kumar Saxena, Director of M/s Venkateshwara Chemical Industries Private Limited, (HNo-E-533A, Sector 11, Pratap Vihar, Vijay Nagar, Ghaziabad, Uttar Pradesh-201009), is hereby called upon to show cause in writing to the Additional/Joint Commissioner of Customs, 5B, Port User Building, Mundra Port, Mundra, Gujarat – 370421 for his act and omission as discussed above, as to why penalty should not be imposed upon him under Section 112 (a) or (b) and 114 AA of the Customs Act'1962.

19. Now therefore M/s Airtrax Freight Logistics, Customs House Agent-CHA (Plot no 59/60, Masilamani Nagar, Thirumazhisai, Chennai) are hereby called upon to show cause in writing to the Additional/Joint Commissioner of Customs, 5B, Port User Building, Mundra Port, Mundra, Gujarat – 370421 as to why penalty should not be imposed upon them under Section

112 (a) or (b) and 114 AA of the Customs Act'1962,for their role in the illicit import of restricted commodity namely High Flash High Speed Diesel fuel and Gas Oilin the manner as discussed above.

20. Now therefore Shri Bhupati Maddu, Manager of M/s Airtrax Freight Logistics- CHA, (House No. 1-27, Maddi Street, Thotavuru, Vjrapukotturu, Srikakulam, Andhra Pradesh), is hereby called upon to show cause in writing to the Additional/Joint Commissioner of Customs, 5B, Port User Building, Mundra Port, Mundra, Gujarat – 370421for his act and omission as discussed above, as to why penalty should not be imposed upon him under Section 112 (a) or (b) and 114 AA of the Customs Act'1962.

21. The Noticees should state in their written reply to this notice to the Adjudicating Authority i.e. the Additional/Joint Commissioner of Customs, 5B, Port User Building, Mundra Port, Mundra, Gujarat – 370421 as to whether they desire to be heard in person. If no reply to this notice is received from them within 30 days from the date of receipt of this notice or if they fail to appear for the personal hearing on the date and time intimated to them, the case is liable to be decided ex parte on the basis of evidences available on record without any further reference to them

22. The Noticees has an option to make an application under Section 127(B) of the Customs Act, 1962 prior to adjudication of this case, to the Settlement Commission to have the case settled, in such form and in such manner, specified in the rulesand also inform the same to the Adjudicating Authority

23. The copies of the documents relied upon in this Show Cause Notice are enclosed.

24. The Department reserves its rights to add, alter, amend, modify or supplement this Show Cause Notice at any time on the basis of any evidence, material facts related to import of goods in question and/or persons who could not be traced out during the investigation, which may come to the notice of the department after issuance of this notice and prior to the adjudication of the case. This Show Cause Notice is issued under Section 124 of Customs Act, 1962 without prejudice to any other action that may be taken against the persons / firms mentioned herein above or any other person under the Customs Act, 1962 or any other law for the time being in force in India.

25. A copy of the Show Cause Notice is also transmitted to the noticees at their e-mail-id as under in terms of clause (c) of sub-section 1 of section 153 of the Customs Act, 1962, so that such service through e-mail shall be deemed to have been received by the noticees in terms of clause (c) of sub-section 1 of section 153 of the Customs Act, 1962.

| S. No. | Name of the Noticee | Email-id |
|--------|---|--------------------------------|
| 1. | M/s Venkateshwara Chemical Industries Private Limited | |
| 2. | Shri Arun Kumar Saxena, Director of M/s Venkateshwara Chemical Industries Private Limited | vciplkv@gmail.com |
| 3. | M/s Airtrax Freight Logistics | |
| 4. | Shri BhupatiMaddu, Manager of M/s Airtrax Freight Logistics | Airtraxfreightmundra@gmail.com |

Encl: RUDs of the SCN.

**Additional Commissioner
Custom House, Mundra**

फाइल संख्या/F. No. VIII/48-02/Adj./ADC/MCH/2024-25
DIN/ दस्तावेज़ पहचान संख्या: 20250271MO000000E8A7

1. **M/s Venkateshwara Chemical Industries Private Limited (IEC- AAICV1692C)**
180 Sqf Area at Unit No B-201,
Metro Plaza, Metro Plaza,
Meerut, Uttar Pradesh, 250002
2. **Shri Arun Kumar Saxena,**
Director of M/s Venkateshwara Chemical Industries Private Limited
HNo- E-533A, Sector 11,
Pratap Vihar, Vijay Nagar,
Ghaziabad, Uttar Pradesh-201009
3. **M/s Airtrax Freight Logistics.**
(Through its Proprietor-Shri Ramakrishnan Murugan)
Plot no 59/60, Masilamani Nagar,
Thirumazhisai, Chennai
4. **Shri Bhupati Maddu, Manager of M/s Airtrax Freight Logistics,**
House No. 1-27, Maddi Street,
Thotavuru, Vrapukotturu,
Srikakulam, Andhra Pradesh

Copy to:-

1. The Deputy Director, DRI, Noida Regional Unit, Noida(E-mail: dri-noida@gov.in)
2. The Deputy/Assistant Commissioner, Group-I, Custom House, Mundra.
3. The Supdt. (EDI), Customs House, Mundra to upload a copy on the website.