



सीमा शुल्क(अपील) आयुक्त का कार्यालय, अहमदाबाद

OFFICE OF THE COMMISSIONER OF CUSTOMS (APPEALS), AHMEDABAD,

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DIN - 20260171MN0000313013

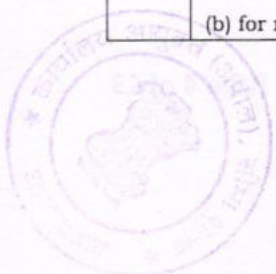
क	फ़ाइल संख्या FILE NO.	S/49-207/CUS/MUN/2024-25
ख	अपील आदेश संख्या ORDER-IN-APPEAL NO. (सीमा शुल्क अधिनियम, 1962 की धारा 128क के अंतर्गत)(UNDER SECTION 128A OF THE CUSTOMS ACT, 1962)	MUN-CUSTM-000-APP-639-25-26
ग	पारितकर्ता PASSED BY	Shri Amit Gupta Commissioner of Customs (Appeals), Ahmedabad
घ	दिनांक DATE	19.01.2026
ङ	उदभूत अपील आदेश की सं. व दिनांक ARISING OUT OF ORDER-IN-ORIGINAL NO.	Order-in-Original no. MCH/ADC/AK/105/2024-25 dated 25.07.2024
च	अपील आदेश जारी करने की दिनांक ORDER- IN-APPEAL ISSUED ON:	19.01.2026
छ	अपीलकर्ता का नाम व पता NAME AND ADDRESS OF THE APPELLANT:	M/s Shree Ashapura Tradelink Pvt Ltd, A3, FF, Natraj Estate, Opp Nagarvel Hanuman, Amraiwadi, Ahmedabad- 380026



1	यह प्रति उस व्यक्ति के निजी उपयोग के लिए मुफ्त में दी जाती है जिनके नाम यह जारी किया गया है।
	This copy is granted free of cost for the private use of the person to whom it is issued.
2.	सीमाशुल्क अधिनियम 1962 की धारा 129 डी डी (1) (यथा संशोधित) के अधीन निम्नलिखित श्रेणियों के मामलों के सम्बन्ध में कोई व्यक्ति इस आदेश से अपने को आहत महसूस करता हो तो इस आदेश की प्राप्ति की तारीख से 3 महीने के अंदर अपर सचिव/संयुक्त सचिव (आवेदन संशोधन), वित्त मंत्रालय, (राजस्व विभाग) संसद मार्ग, नई दिल्ली को पुनरीक्षण आवेदन प्रस्तुत कर सकते हैं।
	Under Section 129 DD(1) of the Customs Act, 1962 (as amended), in respect of the following categories of cases, any person aggrieved by this order can prefer a Revision Application to The Additional Secretary/Joint Secretary (Revision Application), Ministry of Finance, (Department of Revenue) Parliament Street, New Delhi within 3 months from the date of communication of the order.
	निम्नलिखित सम्बन्धित आदेश/Order relating to :
(क)	बैंगेज के रूप में आयातित कोई माल.
(a)	any goods exported
(ख)	भारत में आयात करने हेतु किसी वाहन में लादा गया लेकिन भारत में उनके गन्तव्य स्थान पर उतारे न गए माल या उस गन्तव्य स्थान पर उतारे जाने के लिए अपेक्षित माल उतारे न जाने पर या उस गन्तव्य स्थान पर उतारे गए माल की मात्रा में अपेक्षित माल से कमी हो.
(b)	any goods loaded in a conveyance for importation into India, but which are not unloaded at their place of destination in India or so much of the quantity of such goods as has not been unloaded at any such destination if goods unloaded at such destination are short of the quantity required to be unloaded at that destination.
(ग)	सीमाशुल्क अधिनियम, 1962 के अध्याय X तथा उसके अधीन बनाए गए नियमों के तहत शुल्क वापसी की अदायगी.
(c)	Payment of drawback as provided in Chapter X of Customs Act, 1962 and the rules made thereunder.
3.	पुनरीक्षण आवेदन पत्र संगत नियमावली में विनिर्दिष्ट प्रारूप में प्रस्तुत करना होगा जिसके अन्तर्गत उसकी जांच की जाएगी और उस के साथ निम्नलिखित कागजात संलग्न होने चाहिए :
	The revision application should be in such form and shall be verified in such manner as may be specified in the relevant rules and should be accompanied by :
(क)	कोर्ट फी एक्ट, 1870 के मद सं.6 अनुसूची 1 के अधीन निर्धारित किए गए अनुसार इस आदेश की 4 प्रतियां, जिसकी एक प्रति में पचास पैसे की न्यायालय शुल्क टिकट लगा होना चाहिए.
(a)	4 copies of this order, bearing Court Fee Stamp of paise fifty only in one copy as prescribed under Schedule 1 item 6 of the Court Fee Act, 1870.
(ख)	सम्बद्ध दस्तावेजों के अलावा साथ मूल आदेश की 4 प्रतियां, यदि हो
(b)	4 copies of the Order-in-Original, in addition to relevant documents, if any
(ग)	पुनरीक्षण के लिए आवेदन की 4 प्रतियां
(c)	4 copies of the Application for Revision.
(घ)	पुनरीक्षण आवेदन दायर करने के लिए सीमाशुल्क अधिनियम, 1962 (यथा संशोधित) में निर्धारित फीस जो अन्य रसीद, फीस, दण्ड, जब्ती और विविध मदों के शीर्ष के अधीन आता है में रु. 200/- (रूपए दो सौ मात्र) या रु. 1000/- (रूपए एक हजार मात्र), जैसा भी मामला हो, से सम्बन्धित भुगतान के प्रमाणिक चलान टी.आर.6 की दो प्रतियां. यदि शुल्क, मांगा गया ब्याज, लगाया गया दंड की राशि और रूपए एक लाख या उससे कम हो तो ऐसे फीस के रूप में रु. 200/- और यदि एक लाख से अधिक हो तो फीस के रूप में रु. 1000/-
(d)	The duplicate copy of the T.R.6 challan evidencing payment of Rs.200/- (Rupees two Hundred only) or Rs.1,000/- (Rupees one thousand only) as the case may be, under the Head of other receipts, fees, fines, forfeitures and Miscellaneous Items being the fee prescribed in the Customs Act, 1962 (as amended) for filing a Revision Application. If the



	amount of duty and interest demanded, fine or penalty levied is one lakh rupees or less, fees as Rs.200/- and if it is more than one lakh rupees, the fee is Rs.1000/-.
4.	मद सं. 2 के अधीन सूचित मामलों के अलावा अन्य मामलों के सम्बन्ध में यदि कोई व्यक्ति इस आदेश से आहत महसूस करता हो तो वे सीमाशुल्क अधिनियम 1962 की धारा 129 ए (1) के अधीन फॉर्म सी.ए.-3 में सीमाशुल्क, केन्द्रीय उत्पाद शुल्क और सेवा कर अपील अधिकरण के समक्ष निम्नलिखित पते पर अपील कर सकते हैं
	In respect of cases other than these mentioned under item 2 above, any person aggrieved by this order can file an appeal under Section 129 A(1) of the Customs Act, 1962 in form C.A.-3 before the Customs, Excise and Service Tax Appellate Tribunal at the following address :
	सीमाशुल्क, केन्द्रीय उत्पाद शुल्क व सेवा कर अपीलिय अधिकरण, पश्चिमी क्षेत्रीय पीठ
	<b>Customs, Excise &amp; Service Tax Appellate Tribunal, West Zonal Bench</b>
	दूसरी मंज़िल, बहुमाली भवन, निकट गिरधरनगर पुल, असारवा, अहमदाबाद-380016
	2 <sup>nd</sup> Floor, Bahumali Bhavan, Nr.Girdhar Nagar Bridge, Asarwa, Ahmedabad-380 016
5.	सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (6) के अधीन, सीमाशुल्क अधिनियम, 1962 की धारा 129 ए (1) के अधीन अपील के साथ निम्नलिखित शुल्क संलग्न होने चाहिए-
	Under Section 129 A (6) of the Customs Act, 1962 an appeal under Section 129 A (1) of the Customs Act, 1962 shall be accompanied by a fee of -
(क)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए या उससे कम हो तो एक हज़ार रूपए.
(a)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is five lakh rupees or less, one thousand rupees;
(ख)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पाँच लाख रूपए से अधिक हो लेकिन रुपये पचास लाख से अधिक न हो तो; पाँच हज़ार रूपए
(b)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than five lakh rupees but not exceeding fifty lakh rupees, five thousand rupees ;
(ग)	अपील से सम्बन्धित मामले में जहां किसी सीमाशुल्क अधिकारी द्वारा मांगा गया शुल्क और व्याज तथा लगाया गया दंड की रकम पचास लाख रूपए से अधिक हो तो; दस हज़ार रूपए.
(c)	where the amount of duty and interest demanded and penalty levied by any officer of Customs in the case to which the appeal relates is more than fifty lakh rupees, ten thousand rupees
(घ)	इस आदेश के विरुद्ध अधिकरण के सामने, मांगे गए शुल्क के 10% अदा करने पर, जहां शुल्क या शुल्क एवं दंड विवाद में है, या दंड के 10% अदा करने पर, जहां केवल दंड विवाद में है, अपील रखा जाएगा।
(d)	An appeal against this order shall lie before the Tribunal on payment of 10% of the duty demanded where duty or duty and penalty are in dispute, or penalty, where penalty alone is in dispute.
6.	उक्त अधिनियम की धारा 129 (ए) के अन्तर्गत अपील प्राधिकरण के समक्ष दायर प्रत्येक आवेदन पत्र- (क) रोक आदेश के लिए या गलतियों को सुधारने के लिए या किसी अन्य प्रयोजन के लिए किए गए अपील : - अथवा (ख) अपील या आवेदन पत्र का प्रत्यावर्तन के लिए दायर आवेदन के साथ रुपये पाँच सौ का शुल्क भी संलग्न होने चाहिए.
	Under section 129 (a) of the said Act, every application made before the Appellate Tribunal-
	(a) in an appeal for grant of stay or for rectification of mistake or for any other purpose; or
	(b) for restoration of an appeal or an application shall be accompanied by a fee of five Hundred rupees.



**ORDER-IN-APPEAL**

Appeal has been filed by M/s Shree Ashapura Tradelink Pvt Ltd, A3, FF, Natraj Estate, Opp Nagarvel Hanuman, Amraiwadi, Ahmedabad- 380026, (hereinafter referred to as the 'Appellant') in terms of Section 128 of the Customs Act, 1962, challenging the Order-in-Original nos. MCH/ADC/AK/105/2024-25 dated 25.07.2024 (hereinafter referred to as 'the impugned order') issued by the Additional Commissioner, Customs, Mundra(hereinafter referred to as 'the adjudicating authority').

2. Facts of the case, in brief, are that the appellant filed Bill of Entry No.2416641 dated 04.03.2024 for import of "Fuel Oil (For Industrial Use Only)" under CTH-27101959. The details declared in the Bill of Entry are as under:

Bill of Entry No. & Date	Description of goods	Qty. Kgs	Value declared in.Ass.	Duty Payable declared
2416641 dated 04.03.2024	Fuel Oil (For Industrial Use Only)	214270	Rs.70,90,004/-	Rs. 15,06,271/-

2.1 The examination of the cargo imported vide Bill of Entry 2416641 dated 04.03.2024 was done under the supervision of the Superintendent (DE) in the presence of CB representative. During the examination representative sample was drawn vide Test Memo no. 1207554 dated 11.03.2024 and forwarded to CECL, Vadodara lab for testing purpose. The goods/ cargo of the said bill of entry were stuffed in the 10\*20 containers. The said Bill of Entry was pushed to PAG from FAG with following remarks by the appraising officer-

*"As per the CRCL test report, the imported item is off specification fuel oil/waste oil & hazardous waste in terms of circular no.33/2021-Customs. Hence, the B/E may be pushed to local port for adjudication & further necessary action please"*

2.2 The CECL, Vadodara vide Test Report Lab No. 6317 dated 28.03.2024 submitted report stating that-

*"The sample as received is in the form of brownish black oily liquid having following constants:*

- *Density at 15 degree Celsius.g/cm<sup>3</sup> = 1.1519*



- Flash Point (Abel), = 38.5 degree Celsius
- K.V. at 40 degree Celsius = 59.718~Cst
- Ash Content 1.50%
- Water Content - Nil
- Sediment Content = 1.81%
- Acidity, inorganic, mg of KOH/gm= 13.16
- Gross Calorific value, Cal/gm - 5775.20
- Sulphur Content 0.443%
- PCBs,mg/Kg = 0.26
- PAHs, % = 0.022
- Lead content = 27.43 ppm
- Arsenic content = 0.427 ppm
- Cadmium+Chromium+Nickel = 68.27 ppm

Above tested parameters sample u/r does not meet the requirement of Fuel Oil as per IS:1593:2018 in respect of Ash content, sediment content acidity inorganic, Flash point and Gross Calorific value. It is off specification fuel oil/waste oil. The sample was further tested as per Circular no.33/2001-Cus dated 4th June, 2001. It is hazardous waste. Sealed remnant sample returned herewith"

2.3 Further, the appellant vide letter dated 03.04.2024 submitted that they do not agree with the test report and requested for re-testing of the goods. The competent authority approved the request of the appellant for retesting and accordingly remnant samples were forwarded to CRCL, New Delhi as per Board Circular No.30/217- Cus dated 18.07.2017. The CRCL New Delhi vide letter F.No. 27-Cus/C-21/2024-25 dated 30.05.2024 submitted the retest report as below:

"The sample is in the form of brown coloured viscous liquid. It is composed of polyester based resinous material, water and organic solvent. Hydrocarbon content is less than 70% by wt." It has following constants:

S. No.	Characteristics	Requirement of Fuel oil as per IS:1593:2018	Test result
1	Acidity, Inorganic, mg KOH/g	Nil	16.14
2	Ash, percent by mass, Max	0.1	1.85
3	Carbon residue, mass percent, Max	14 to 20	1.36



S. No.	Characteristics	Requirement of Fuel oil as per IS:1593:2018	Test result
4	Density at 15 degree Celsius, kg/m <sup>3</sup>	To be reported	1151.5
5	Flash Point (PMCC), degree Celsius	66	36.7
6	K.V at 50 degree Celsius, cSt	Upto 380	62.52
7	Sediment, % by mass, Max	0.25	4.70
8	Total Sulphur content % by mass, Max	3.5 to 4.5	0.08
9	Water content % by Vol.	1.0	12.0
10	Non-volatile residue % by mass	-	44.04
11	Polychlorinated biphenyl (PCBs), ppm	-	ND(LOQ-0.01)
12	Polyaromatic hydrocarbons (PAHs), (% by mass)	-	0.0080

*"The sample u/r is other than "Fuel Oil". The hazardous concentration limit of Polychlorinated biphenyl(PCBs) and Polyaromatic hydrocarbon(PAHs) are under the limit as per Hazardous and other Waste (Management and Transboundary) Rules, 2016. 39Note: Based on the composition, the sample u/r is not identifiable as "fuel oil" and has presence of significant amount of polyester bases resinous matter and therefore needs further investigation at your end keeping revenue & safeguard in view"*

2.4 Further, a clarification in respect of the above-mentioned test report was sought from CRCL, New Delhi and a reply in this regard was received vide letter F.No. 27-Cus/C-29/2024-25 dated 05.07.2024 as below:

*"In this regard, it is stated that the percentage of Non-volatile resinous matter of sample had already mentioned in re-test report. Non-volatile resinous matter is mainly composed of polyester based polymeric compound."*

2.5 From the test report and its clarification, it was confirmed that the goods were other than the declared goods and the goods did not appear classifiable under CTH-27101959 as the sample had presence of significant amount of polyester based polymeric compound with water and organic solvent



having hydrocarbon contents less than 70% by wt. The test report also confirmed the non-hazardous nature of goods as the hazardous concentration limit of Polychlorinated biphenyl (PCBs) and Polyaromatic hydrocarbon (PAHs) are under the limit as per Hazardous and other Waste(Management and Transboundary) Rules. 2016. The appellant was asked to comment on the appropriate classification of the goods with technical literature/ end use etc. from supplier end in respect of the test report and clarification received from the lab. The appellant vide their letter dated 15.07.2024 submitted reply as below:

*"The sample is clearly other than the fuel oil and it is non-hazardous in nature. Seeing the tested parameters of the product, it appears that it is a preparation containing polyester based resinous material, water, organic solvent and hydrocarbon content is less than 70% as mentioned in the test report issued by the CRCL, New Delhi dated 30.05.2024. So the product may be classified in CTH-340319, so we have agreed in test report and we have no objection to change the CTH 27101959 to 340319 and please assess the bill of entry."*

2.6 In view of the test reports received from CRCL clarification and description of CTH 27101959 & 34031900, it was evident that the imported goods did not merit classification under CTH-27101959. Further, going through the description of CTH 3403, it appeared that the chapter covers the lubricating preparation excluding the preparation containing, as basic constituents, 70% or more by weight of petroleum oils. In the instant case, as per the test report, the weight of petroleum oils is less than 70%, therefore, it appeared that the imported goods were more appropriately classifiable under CTH-34031900. In view of above, it was evident that the appellant has mis-declared their goods as "Fuel Oil (CTH-27101959) which is actually Other Lubricating Preparation classifiable under (CTH-34031900). Whereas, the imported goods classifiable under CTH-34031900 attracts 27.735% of duty(BCD-7.5%,SWS-0.75%, IGST-18%) on the other hand the CTH- 27101959 declared by the appellant for the goods attracts 24.490% of duty (BCD-2.5%.SWS-0.250% & IGST-18%).

2.7 The appellant in their reply dated 16.07.2024 submitted they do not want personal hearing and show cause notice in the matter and informed that they are accepting the process of Adjudication by the Customs and also accept the fine and penalties if any applicable on them.



2.8 Consequently, the Adjudicating Authority passed the order as under:

- i. He ordered to reject the declared description and classification i.e. Fuel Oil, CTH-27101959 of the goods imported vide Bill of Entry No. 2416641 dated 04.03.2024 and order to classify the goods imported vide Bill of Entry No. 2416641 dated 04.03.2024 under CTH 34031900.
- ii. He ordered to reassess the Bill of Entry No. 2416641 dated 04.03.2024 as per Section 17 of the Customs Act, 1962.
- iii. He ordered for confiscation of the goods imported vide Bill of Entry No. 2416641 dated 04.03.2024 declared as "Fuel Oil (CTH-27101959" weighing 214270 Kgs having Assessable Value of Rs. 70,90,004 (Rupees Seventy Lakhs Ninety thousand and four Only)) imported vide Bill of Entry No. 2416641 dated 04.03.2024 under Section 111(m) of the Customs Act, 1962. However, he gave an option to the appellant to redeem the confiscated goods on payment of redemption fine of Rs. 8,20,000/- (Rs. Eight lakh Twenty Thousand Only) under Section 125 of the Customs Act, 1962.
- iv. He imposed a penalty of Rs. 30,000/- (Rs. Thirty Thousand only) on the appellant under Section 112 (a) (ii) of the Custom Act, 1962.

**SUBMISSIONS OF THE APPELLANT:**

3. Being aggrieved with the impugned order, the Appellant has filed the present appeal against the order passed by the Additional Commissioner, Customs, Mundra. The Grounds of Appeal are not reproduced in detail for sake of brevity, as the copy of the same is available with the Appellant as well Respondent. However, the same have been examined and the brief is as under:

3.1 The appellant contends that the adjudicating authority erred by arbitrarily reclassifying the imported goods without properly appreciating the facts of the case. They argue that the order was passed in a mechanistic manner without providing cogent reasons for the reclassification, resulting in a miscarriage of justice. The appellant asserts that they have a consistent history of importing "Fuel Oil (Only for industrial use)" for use in boilers and road




construction, typically classified under Chapter 27101959 or 27101990 depending on the port of entry.

3.2 A central dispute involves the test reports from the CECL and CRCL. The appellant notes that while the samples did not meet certain requirements for Fuel Oil (such as flash point and ash content) and were even labeled as "hazardous waste," the CRCL report was ultimately ambiguous and failed to definitively identify the goods. They claim the Department forced them to accept a change in classification to CTH 34031900, which the adjudicating authority then adopted based on the assumption that the petroleum oil content was less than 70%. The appellant argues this classification is incorrect because the goods do not possess the characteristics of lubricating preparations or other items covered under Chapter 34, such as soaps or waxes.

3.3 The appellant further submits that if the goods failed the screening test for Fuel Oil, they should have been classified as "waste oil" under Chapter 27109100 according to Circular No. 33/2001-Customs. They emphasize that the composition of the product is determined by the refinery and influenced by natural factors beyond their control, meaning there was no intent to misdeclare the goods to save duty. They point out that the duty difference between the declared and reclassified goods is only 3.245%, which does not justify the allegation of intentional misclassification for duty avoidance.

3.4 Finally, the appellant challenges the confiscation of goods under Section 111(m) and the imposition of penalties under Section 112. Relying on legal precedents, they argue that a mere enhancement of assessable value or a difference in duty does not automatically prove mens rea or justify confiscation. They maintain that because there is no evidence of intentional misdeclaration, the confiscation and subsequent penalties lack the sanction of law and should be set aside.

**PERSONAL HEARING:**

4. Personal hearing was granted to the Appellant on 11.09.2025 following the principles of natural justice wherein Shri Anil Gidwani, Advocate, appeared on behalf of the Appellant. He reiterated the submissions made at the time of filing the appeal.



**DISCUSSION AND FINDINGS:**

5. I have carefully gone through the case records, impugned order passed by the Additional Commissioner, Customs, Mundra and the defense put forth by the Appellant in their appeal. I find that ample opportunities for personal hearing have been given to the Appellant in the matter but they have failed to appear for the same.

5.1 On going through the material on record, I find that the following issues need to be addressed:

(i) Whether the delay in filing the appeal can be condoned.

(ii) Whether the re-classification of the goods from CTH 27101959 to CTH 34031900 is legally valid based on chemical test reports and HSN Notes.

(iii) Whether the goods are liable for confiscation and the Appellant liable for redemption fine and penalty.

5.2 Section 128 of the Customs Act, 1962, provides for a period of sixty days for filing an appeal, with a further grace period of thirty days if sufficient cause is shown for the delay. In this case, the appeal was filed with a delay of twenty-eight days beyond the initial sixty-day period, but within the extended thirty-day period. The Appellant has attributed the delay to the reason that they were in the process of releasing goods and finding legal counsel. While parties are expected to exercise due diligence, minor delays attributable to administrative oversights, especially when the appellant acts promptly upon discovering the issue, are generally condoned by appellate authorities to ensure that justice is not denied on mere technicalities. Considering the explanation provided, which indicates no deliberate inaction or gross negligence, I find that the Appellant has shown "sufficient cause" for the delay. Therefore, the miscellaneous application for condonation of delay is allowed in the interest of natural justice and the appeal is admitted.

5.3 The fundamental dispute centers on the chemical composition of the imported goods and their subsequent alignment with the Customs Tariff Act, 1975. The Appellant declared the goods as "Fuel Oil" under CTH 27101959. For a product to qualify under CTH 2710, it must meet the criteria set forth in




Chapter Note 2 to Chapter 27, which mandates that the preparation must contain, by weight, 70% or more of petroleum oils or oils obtained from bituminous minerals. The technical investigation conducted by the Department provides a stark contradiction to the Appellant's declaration. The CRCL, New Delhi Test Report (dated 30.05.2024) and the subsequent clarification (dated 05.07.2024) are categorical. The reports established that:

- The sample is "other than Fuel Oil."
- It is a preparation composed of polyester-based resinous material, water, and organic solvents.
- Most critically, the hydrocarbon content is less than 70% by weight.
- The non-volatile resinous matter (mainly polyester-based polymeric compounds) was recorded at 44.04%.

5.4 Furthermore, the CECL, Vadodara Report (dated 28.03.2024) confirmed that the sample failed to meet the specifications of Fuel Oil as per IS:1593-2018. It showed an Ash content of 1.5% (max limit 0.1%), Sediment of 1.81% (max limit 0.25%), and high Inorganic Acidity (13.16 mg of KOH/gm, whereas the limit is 'Nil'). These parameters align with Circular No. 33/2001-Cus, which stipulates that product failing these screening tests must be classified as off-specification/waste oil or preparations. Given that the petroleum oil content is established as being below 70%, the goods are excluded from Chapter 27. Consequently, Chapter 34 becomes the appropriate classification. CTH 3403 covers "Lubricating preparations... but excluding preparations containing, as basic constituents, 70% or more by weight of petroleum oils." The presence of significant polyester resinous matter (polymeric compounds) further supports its classification as a lubricating preparation under CTH 34031900. Thus, the Adjudicating Authority's application of GRI 1 and 6 to re-classify the goods is scientifically and legally sound.

5.5 The Appellant has contested the charge of misdeclaration under Section 111(m), arguing that misclassification alone should not lead to confiscation. However, I find this argument untenable in the context of the current Self-Assessment regime introduced under Section 17 of the Customs Act. Under this regime, the importer bears the legal obligation to ensure the accuracy and completeness of the information provided in the Bill of Entry (Section 46(4A)). The discrepancy here is not merely a legal interpretation of the tariff but a factual misstatement regarding the composition of the goods. By



declaring the goods as Fuel Oil, the Appellant suppressed the fact that the hydrocarbon content was significantly below 70% and that the product contained substantial resinous polymeric matter. This led to an attempt to avail a lower Basic Customs Duty (BCD) of 2.5% instead of 7.5%.

5.6 The appellant's reliance on *Shashi Dhawal Hydraulics Pvt. Ltd. vs. Commissioner of Customs (2019 (370) ELT 999)* is misplaced. That ruling specifically addressed valuation doubts under Rule 10A where the transaction value itself was not proven to be false. In contrast, the present case involves Section 111(m), which triggers confiscation when goods do not correspond with the entry made in any particular (description, composition, etc.). The Supreme Court in *Pine Chemical Suppliers vs. Collector of Customs* has clearly established that declaring the nature of a product incorrectly to circumvent duty or prohibitions constitutes a valid ground for confiscation under Section 111(m).

5.7 The Appellant's contention regarding a "forced" letter of consent dated 16.07.2024 is noted. However, as an Appellate Authority, I must evaluate the case based on objective evidence. Even if the letter is set aside as having been obtained under administrative pressure, the Test Reports from CRCL and CECL remain valid, independent, and corroborative pieces of evidence. The Appellant had the opportunity to provide a counter-test report from an accredited laboratory to challenge the CRCL findings but failed to do so. Therefore, the scientific findings of the Department's laboratories stand as the primary evidence. Regarding the "Res Judicata" argument concerning clearances at Nhava Sheva, it is a settled position in fiscal laws that an error in one assessment does not create a precedent or a "right" to a similar error in another jurisdiction. Each Bill of Entry is a separate cause of action, and the discovery of a misdeclaration in the current instance must be dealt with as per the law.

5.8 The Adjudicating Authority calculated a differential duty of ₹4,60,141/-. Under Section 125, when goods are not prohibited, the owner must be given an option to pay a fine in lieu of confiscation. The market value of the goods is substantially higher than the redemption fine of ₹8,20,000/-. This is consistent with the objective of wiping out the "margin of profit" sought to be earned through the misdeclaration. Similarly, the penalty of ₹30,000/- under Section 112(a)(ii) is exceptionally lenient, being less than 10% of the duty sought to be evaded. This penalty is necessary to uphold the integrity of the self-assessment process and act as a deterrent against the declaration of "off-specification" materials as regular refinery products.




5.9 The technical analysis definitively proves that the imported product does not meet the statutory definition of Fuel Oil under Chapter 27. The Appellant's failure to correctly declare the composition resulted in an attempt to evade the appropriate duty. Therefore, while the delay in filing is condoned, the appeal fails on all substantive merits.

6. In view of the detailed discussions above, I find no infirmity in the impugned Order-in-Original. The findings of the Adjudicating Authority regarding are upheld. I pass the following order:

I. The Miscellaneous Application for Condonation of Delay is allowed.

II. The Appeal filed by M/s Shree Ashapura Tradelink Pvt Ltd. is rejected on merits.

III. The Order-in-Original No. MCH/ADC/AK/105/2024-25 dated 25.07.2024 is upheld in its entirety.

7. The Appeal filed by M/s Shree Ashapura Tradelink Pvt Ltd. is hereby rejected.



सत्यापित/ATTESTED  
अधीक्षक/SUPERINTENDENT  
सीमा शुल्क (अपील), अहमदाबाद.  
CUSTOMS (APPEALS), AHMEDABAD.

(AMIT GUPTA)  
Commissioner (Appeals),  
Customs, Ahmedabad

F. No. S/49-207/CUS/MUN/2024-25  
5275

Date: 19.01.2026

By SpeedPost/E-Mail

To,  
M/s Shree Ashapura Tradelink Pvt Ltd,  
A3, FF, Natraj Estate,  
Opp Nagarvel Hanuman,  
Amraiwadi, Ahmedabad- 380026

Copy to:

1. The Chief Commissioner of Customs, Gujarat, Custom House, Ahmedabad.
2. The Principal Commissioner of Customs, Custom House, Mundra.
3. The Additional Commissioner of Customs, Custom House, Mundra.
4. Guard File.